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federal register

Wednesday
February 23, 1983

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Presidential Documents

Title 3—

The President

Executive Order 12406 of February 18, 1983

President's Commission on Strategic Forces

By the authority vested in me as President by the Constitution and laws of the United States of America, and specifically the Federal Advisory Committee Act, as amended (5 U.S.C. App. I), it is hereby ordered that Executive Order No. 12400, establishing the President's Commission on Strategic Forces, is amended as follows:

Section 1. Section 2(b) of the Order is amended to provide as follows:

"(b) The Commission shall report to the President no later than April 15, 1983.".

Sec. 2. Section 4(b) of the Order is amended to provide as follows:

"(b) The Commission shall terminate 60 days after it has reported to the President, unless sooner extended.".

Ronald Reagan

THE WHITE HOUSE,
February 18, 1983.

[FR Doc. 83-4710
Filed 2-22-83; 10:12 am]
Billing code 3195-01-M

Rules and Regulations

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DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

10 CFR Part 792

[Docket No. CE-RM-82-702]

Loans for Geothermal Reservoir Confirmation Projects; Final Program Provision

AGENCY: Office of Conservation and Renewable Energy, Department of Energy.

ACTION: Final rule; technical amendments.

SUMMARY: This document corrects a final rule published at 47 FR 34770, August 11, 1982 relating to loans for geothermal reservoir confirmation projects.

EFFECTIVE DATE: September 10, 1982.

FOR FURTHER INFORMATION CONTACT:

Terri Crane, Office of Conservation and Renewable Energy, Geothermal and Hydropower Technologies Division, 1000 Independence Avenue, SW., Room 5G-030, Washington, DC 20585, (202) 252-8078
Lawrence R. Oliver, Office of General Counsel, GC-44, 1000 Independence Avenue, SW., Room 6F-067, Washington, DC 20585, (202) 252-2440

List of Subjects in 10 CFR Part 792

Classified information, Nuclear materials, Security measures.

Issued in Washington, D.C., February 8, 1983.

Joseph J. Tribble,
Assistant Secretary, Conservation and Renewable Energy.

In consideration of the foregoing, Title 10 of the Code of Federal Regulations is amended by establishing a new Part 792 as follows:

PART 792—LOANS FOR RESERVOIR CONFIRMATION PROJECTS

Through inadvertence, the regulations entitled "Loans for Reservoir Confirmation Projects", were published at 47 FR 34770, August 11, 1982 as Part 795. Existing Part 795—Safeguarding of Restricted Data published at 41 FR 56785, December 30, 1976, remains in effect. Part 795 as published on August 11, 1982 is renumbered as Part 792 and all the section numbers and cross references are changed accordingly.

[FR Doc. 83-4423 Filed 2-22-83; 8:45 am]
BILLING CODE 6450-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 436

Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures

AGENCY: Federal Trade Commission.

ACTION: Temporary partial stay of rules; extension of comment period.

SUMMARY: The period of time for filing comments on the petitions of several automobile companies for an exemption from the requirements of the Franchise Rule regarding disclosure requirements and prohibitions concerning franchising and business opportunity ventures is extended for thirty-eight (38) days to February 28, 1983, due to a request by the National Automobile Dealers Association (NADA).

DATE: Written comments on the petitions for exemption will be accepted until February 28, 1983.

ADDRESS: Written comments may be filed in person or mailed to: FTC/S, Federal Trade Commission, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: FTC/PC-B-800-9, Neil J. Blickman, Esq., Federal Trade Commission, 600 E. St., NW., (8th Floor), Washington, D.C. 20580. (202) 376-2805.

SUPPLEMENTARY INFORMATION: Petitions for exemption from the Federal Trade Commission's Regulation Rule entitled "Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures" from Volkswagen of America, Inc. and eleven independently owned and operated corporations engaged in the regional distribution of Subaru and Toyota motor vehicles were published in the **Federal Register** on November 22, 1982, 47 FR 52410. The Commission solicited written public comments on the petitions during a sixty (60) day period, until January 21, 1983. On January 21, 1983, the Commission received a comment and a request from the National Automobile Dealers Association (NADA) for an extension of time within which to file additional comments on such petitions, particularly with respect to whether or not Petitioners engage in unfair or deceptive acts or practices in the offer and sale of motor vehicle franchises.

The issues raised by the petitions in this proceeding will critically affect NADA's member-automobile dealers who apparently have not had an opportunity to thoroughly evaluate the exemption petitions; and staff believes that NADA's views could significantly benefit the Commission in making a final decision with respect to the exemption requests. Therefore, to best serve the public interest, notice is hereby given that the Commission has granted a thirty-eight (38) day extension in which all interested parties can file written comments on the automobile company petitions for exemption.

Written comments will be accepted until February 28, 1983. Comments may be filed in person or mailed to: Secretary, Federal Trade Commission, 6th and Pennsylvania Avenue NW., Washington, D.C. 20580. Comments should be identified as "Auto Industry Franchise Rule Exemption Comment" and, if possible, be submitted with five copies.

By direction of the Commission.

Carol M. Thomas,
Secretary.

[FR Doc. 83-4513 Filed 2-22-83; 8:45 am]
BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404 and 416

Determining Disability and Blindness; Eligibility; Experiments and Demonstration Projects Under the Disability Insurance and Supplemental Security Income Programs

AGENCY: Social Security Administration, HHS.

ACTION: Final rules.

SUMMARY: The Social Security Administration (SSA) is amending its regulations to implement section 505 of the Social Security Disability Amendments of 1980 (Pub. L. 96–265). Section 505(a) requires the Secretary to conduct experiments and demonstration projects to test alternative conditions and limitations for stimulating the return to work of disabled title II beneficiaries and to otherwise improve the administration of the title II disability program. To the extent necessary to thoroughly evaluate these alternative methods, the Secretary may waive compliance with benefit requirements under titles II and XVIII of the Social Security Act. Section 505(b) authorizes the Secretary to waive or add to the requirements, conditions, or limitations in title XVI of the Act to the extent necessary to conduct experimental, pilot, and demonstration projects which are likely to promote the objectives or improve the administration of the SSI program. Section 505(b) also authorizes the Secretary to reimburse States for the non-Federal share of title XIX funds expended to provide medical assistance to title XVI participants in experimental, pilot, or demonstration projects who are not eligible for such medical benefits.

EFFECTIVE DATE: February 23, 1983.

FOR FURTHER INFORMATION CONTACT: Henry D. Lerner, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, telephone (301) 594–7414.

SUPPLEMENTARY INFORMATION: We published a notice of proposed rulemaking (NPRM) covering the provisions of experiments and demonstration projects under the disability insurance and supplemental security income programs on April 12, 1982 (47 FR 15602). Section 505 of the Social Security Disability Amendments of 1980 (Pub. L. 96–265) gives authority for demonstration projects in the title II and title XVI programs. Section 505(a) provides that, for the purpose of conducting experiments or demonstration projects in the title II disability program, the Secretary is authorized to waive compliance with the benefit requirements of the title II (cash benefits) and XVIII (Medicare) programs. Section 505(b) authorizes the Secretary to waive any of the requirements, conditions, or limitations of title XVI of impose additional requirements, conditions, or limitations for the purpose of conducting experimental, pilot, or demonstration projects in the title XVI program. Section 505(b) also authorizes the Secretary to reimburse States for the non-Federal share of title XIX funds expended to provide medical assistance to title XVI participants in experimental, pilot or demonstration projects who are not eligible for such medical benefits.

These regulations provide for altering the requirements for title II benefits and SSI benefits for those selected to participate in any experiment or demonstration project under section 505.

The principal objectives of the experiments and demonstrations under section 505(a) will be to determine the relative advantages and disadvantages of various alternative methods of treating work activity and altering other limitations and conditions for title II disabled beneficiaries. The considerations that are to be tested may include lengthening the trial work period, altering the provisions for Medicare entitlement for individuals with severe impairments, reducing benefits based on earnings if a person continues to work after the trial work period, and stimulating new forms of rehabilitation. The goals of these tests are to see whether permanent Trust Fund savings can be achieved by restoring work ability to disabled individuals and to determine to what extent program administration can be improved.

The objectives of experiments under section 505(b) will be to test the advantages of altering the requirements, conditions or limitations of the SSI program and to test different administrative methods that may improve the SSI program.

Title II Work Incentive Experiments and Vocational Rehabilitation Demonstrations

Under the provisions of section 505(a) of Pub. L. 96–265, the Secretary is directed to develop and carry out experiments and demonstration projects designed to determine a more effective way of encouraging disabled beneficiaries to return to work and leave the benefit rolls.

1. *Brief Description of Experiments.* The proposed experiments involve the testing of alternative program requirements and methods of administration. The experiments may include:

(a) Reducing, rather than not paying, benefits because of the amount of earnings in excess of the substantial gainful activity (SGA) amount when a disabled beneficiary is working;

(b) Extending the benefit eligibility period that follows 9 months of trial work, perhaps coupled with benefit reductions related to earnings;

(c) Extending Medicare entitlement for severely impaired beneficiaries who return to work even though they may no longer be entitled to monthly cash benefits;

(d) Altering the initial 24-month waiting period for Medicare entitlement; and

(e) Stimulating new forms of rehabilitation.

2. *Beneficiary Participation.* A probability sample of participants for the experiments will be selected from disability insurance beneficiaries. The work incentive experiments and rehabilitation demonstrations will focus on those beneficiaries who might be able to do substantial work despite continuing severe impairments.

3. *Time Limits and Reports to Congress.* A full description of each experiment or project concerned with work incentives, vocational rehabilitation or improving the administration of the title II disability program will be reported in writing to the Committee on Ways and Means of the House of Representatives and the Committee on finance of the Senate at least 90 days before it becomes operational. The Secretary will also submit progress reports to those committees from time to time. An interim report on the results of work incentive experiments and rehabilitation demonstrations will be submitted to the Congress no later than January 1, 1983. A final report on all experimental projects will be submitted to the Congress no later than June 9, 1985, even though some projects might continue after that date to assure the validity of the research.

4. *Waiver of Benefit Requirements.* These regulations implement the Secretary's authority to waive compliance with entitlement and payment requirements for benefits for some participants in the experimental projects to the extent necessary for a thorough evaluation of the different kinds of requirements being tested. These waivers will not disadvantage participants with respect to requirements which would otherwise apply to them. Benefit requirements will be waived only for those who are selected to participate in an experimental project.

Experimental, Pilot, and Demonstration Projects in the SSI Program

Under the provisions of section 505(b) of Pub. L. 96–265, the Secretary is authorized to develop and carry out experimental, pilot, and demonstration projects to promote the objectives and improve the administration of the SSI program.

1. *Brief Description of Projects.* These experimental, pilot, and demonstration projects may include participants who are aged, blind or disabled. The statute requires that the experiments include (1) projects on the feasibility of treating alcoholics and drug addicts to prevent future permanent disability and (2) to the extent feasible, recipients who are under age 18 as well as adults.

2. *Beneficiary Participation.* Participation in the SSI experimental, pilot, and demonstration projects will be on a voluntary basis. An individual's participation in these projects under title XVI must not result in a substantial reduction of his or her total income and resources. These projects will be designed not to disadvantage any of the participants. The voluntary participation of persons in any project will be obtained through informed written consent. The agreement of participation may be revoked by the person at any time.

3. *Time Limits and Report to Congress.* A final report on all projects will be submitted to the Congress no later than June 9, 1985, even though some projects might continue after that date to assure the validity of the research.

4. *Waiver of Requirements, Limitations and Conditions.* Section 505(b) of Pub. L. 96–265 introduces a new concept to the Supplemental Security Income program. This concept is to temporarily set aside existing requirements, limitations and conditions of the Social Security Act or to impose additional requirements, limitations and conditions to test experimentally the effects of various alternative provisions to promote the objectives and improve the administration of the SSI program.

Comments Received Following Publication of the Notice of Proposed Rulemaking (Published April 12, 1982 (47 FR 15602))

Most of the comments that we received suggested alternative experiments and demonstration projects. They also suggested including experiments and demonstration projects with certain groups of disabled persons. These comments have been referred to the SSA component that will be conducting the experiments and demonstration projects. The two comments that were received regarding the proposed rules are discussed below.

Comment: One commenter stated that while proposed § 416.250(c)(1) offers some limited guarantee that income will not be reduced "substantially", proposed § 404.1599(c)(1) offers no such assurance.

Response: Section 505(b) of Pub. L. 96–265 amended section 1110 of the Social Security Act by adding subsection (b)(2)(A), which ensures that an individual's participation in an experiment or demonstration project under title XVI will not result in a substantial reduction in the individual's total income and resources. Section 505(a) did not contain a similar provision for the work incentive experiments under title II. However, both title II and title XVI participants would generally only be advantaged by participation in the experiments because requirements for benefits are to be waived.

Comment: One commenter stated that the proposed rules made no mention about the effect of benefit requirement waivers on Medicaid eligibility. The proposed rules indicate that title II and title XVI waivers shall not disadvantage project participants. They do not discuss the effect of a title II or XVI waiver upon title XIX benefits. A liberalization of title II or XVI requirements without a change in title XIX requirements may cause ineligibility for Medicaid benefits. Loss of Medicaid benefits due to a liberalization of title II or XVI requirements is an undesirable effect when the purpose of the project is to provide continuous or undiminished support to the participant so that he may become self-sufficient in the future. The commenter suggested that some statement of policy regarding Medicaid be made so that there is no uncertainty.

Response: We are adopting this suggestion in part by adding a policy statement to § 416.250(b) of the final regulations, since section 505(b) of Pub. L. 96–265 specifically authorizes the Secretary to reimburse States for Medicaid expenditures if he requests them to make Medicaid payments to title XVI project participants not otherwise eligible. Section 505(a) does not have similar language and does not authorize extension of Medicaid coverage to title II project participants.

Regulatory Procedures

Executive Order 12291—These regulations have been reviewed under Executive Order 12291 and do not meet any of the criteria for a major regulation. Therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act of 1980—These regulations impose no reporting or recordkeeping requirements requiring OMB clearance.

Regulatory Flexibility Act—We certify that these regulations do not have a significant economic impact on small entities because these rules affect only individuals. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act, is not required.

(Catalog of Federal Domestic Assistance Program No. 13802, Disability Insurance; No. 13807, Supplemental Security Income Program)

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Death benefits, Disabled, Old-age, survivors, and disability insurance.

20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disabled, Public assistance programs, Supplemental security income (SSI).

Dated: November 30, 1982.

John A. Svahn,

Commissioner of Social Security.

Approved: February 1, 1983.

Richard S. Schweiker,

Secretary of Health and Human Services.

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

Subpart P of Part 404 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Subpart P of Part 404 reads as follows:

Authority: Secs. 202, 205, 216, 221, 222, 223, 225 and 1102 of the Social Security Act, as amended; 49 Stat. 623, as amended, 53 Stat. 1368, as amended, 68 Stat. 1080, 1081 and 1082, as amended, 70 Stat. 815 and 817, as amended, 49 Stat. 647, as amended; 42 U.S.C. 402, 405, 416, 421, 422, 423, 425 and 1302; Sections 505(a) and (c) of Pub. L. 96–265, 94 Stat. 473.

2. Section 404.1599 is added to read as follows:

§ 404.1599 Work incentive experiments and rehabilitation demonstration projects in the disability program.

(a) *Authority and purpose.* Section 505(a) of the Social Security Disability Amendments of 1980, Pub. L. 96–265, directs the Secretary to develop and conduct experiments and demonstration projects designed to provide more cost-effective ways of encouraging disabled beneficiaries to return to work and leave

benefit rolls. These experiments and demonstration projects will test the advantages and disadvantages of altering certain limitations and conditions that apply to title II disabled beneficiaries. The objective of all work incentive experiments or rehabilitation demonstrations is to determine whether the alternative requirements will save Trust Fund monies or otherwise improve the administration of the disability program established under title II of the Act.

(b) *Altering benefit requirements, limitations or conditions.* Notwithstanding any other provision of this part, the Secretary may waive compliance with the entitlement and payment requirements for disabled beneficiaries to carry our experiments and demonstration projects in the title II disability program. The projects involve altering certain limitations and conditions that currently apply to applicants and beneficiaries to test their effect on the program.

(c) *Applicability and scope.*

(1) *Participants and nonparticipants.* If you are selected to participate in an experiment or demonstration project, we may temporarily set aside one or more of the current benefit entitlement or payment requirements, limitations or conditions and apply alternative provisions to you. We may also modify current methods of administering the Act as part of a project and apply alternative procedures or policies to you. The alternative provisions or methods of administration used in the projects will not disadvantage you in contrast to current provisions, procedures or policies. If you are not selected to participate in the experiments or demonstration projects (or if you are placed in a control group which is not subject to alternative requirements and methods) we will continue to apply to you the current benefit entitlement and payment requirements, limitations and conditions and methods of administration in the title II disability program.

(2) *Alternative provisions or methods of administration.* The alternative provisions or methods of administration that apply to you in an experiment or demonstration project may include (but are not limited to) one or more of the following:

(i) Reducing your benefits (instead of not paying) on the basis of the amount of your earnings in excess of the SGA amount;

(ii) Extending your benefit eligibility period that follows 9 months of trial work, perhaps coupled with benefit reductions related to your earnings;

(iii) Extending your Medicare benefits if you are severely impaired and return to work even though you may not be entitled to monthly cash benefits;

(iv) Altering the 24-month waiting period for Medicare entitlement; and

(v) Stimulating new forms of rehabilitation.

(d) *Selection of participants.* We will select a probability sample of participants for the work incentive experiments and demonstration projects from newly awarded beneficiaries who meet certain pre-selection criteria (for example, individuals who are likely to be able to do substantial work despite continuing severe impairments). These criteria are designed to provide larger subsamples of beneficiaries who are not likely either to recover medically or die. Participants may also be selected from persons who have been receiving DI benefits for 6 months or more at the time of selection.

(e) *Duration of experiments and demonstration projects.* A notice describing each experiment or demonstration project will be published in the **Federal Register** before each experiment or project is placed in operation. The work incentive experiments and rehabilitation demonstrations will be activated in 1982. A final report on the results of the experiments and projects is to be completed and transmitted to Congress by June 9, 1985. However, the authority for the experiments and demonstration projects will not terminate at that time. Some of the alternative provisions or methods of administration may continue to apply to participants in an experiment or demonstration project beyond that date in order to assure the validity of the research. Each experiment and demonstration project will have a termination date (up to 10 years from the start of the experiment or demonstration project).

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart B of Part 416 of Chapter III of Title 20 of the Code of Federal Regulations is amended to read as follows:

1. The authority citation for Subpart B of Part 416 reads as follows:

Authority: Secs. 1102, 1110, 1602, 1611, 1614, and 1631 of the Social Security Act, as amended; 49 Stat. 647, as amended, 94 Stat. 474, 86 Stat. 1465, 1466, 1471 and 1475; 42 U.S.C. 1302, 1310, 1381a, 1382, 1382c, and 1383.

2. Section 416.250 is added to read as follows:

§ 416.250 Experimental, pilot, and demonstration projects in the SSI program.

(a) *Authority and purpose.* Section 1110(b) of the Act authorizes the Secretary to develop and conduct experimental, pilot, and demonstration projects to promote the objectives or improve the administration of the SSI program. These projects will test the advantages of altering certain requirements, conditions, or limitations for recipients and test different administrative methods that apply to title XVI applicants and recipients.

(b) *Altering benefit requirements, limitations or conditions.* Notwithstanding any other provision of this part, the Secretary is authorized to waive any of the requirements, limitations or conditions established under title XVI of the Act and impose additional requirements, limitations or conditions for the purpose of conducting experimental, pilot, or demonstration projects. The projects will alter the provisions that currently apply to applicants and recipients to test their effect on the program. If, as a result of participation in a project under this section, a project participant becomes ineligible for Medicaid benefits, the Secretary shall make arrangements to extend Medicaid coverage to such participant and shall reimburse the States for any additional expenses incurred due to such continued participation.

(c) *Applicability and scope.*

(1) *Participants and nonparticipants.* If you are selected to participate in an experimental, pilot, or demonstration project, we may temporarily set aside one or more current requirements, limitations or conditions of eligibility and apply alternative provisions to you. We may also modify current methods of administering title XVI as part of a project and apply alternative procedures or policies to you. The alternative provisions or methods of administration used in the projects will not substantially reduce your total income or resources as a result of your participation or disadvantage you in comparison to current provisions, policies, or procedures. If you are not selected to participate in the experimental, or pilot, or demonstration projects (or if you are placed in a control group which is not subject to the alternative requirements, limitations, or conditions) we will continue to apply the current requirements, limitations or conditions of eligibility to you.

(2) *Alternative provisions or methods of administration.* The alternative requirements, limitations or conditions that apply to you in an experimental,

pilot, or demonstration project may include any of the factors needed for aged, blind, or disabled persons to be eligible for SSI benefits. Experiments that we conduct will include, to the extent feasible, applicants and recipients who are under age 18 as well as adults and will include projects to ascertain the feasibility of treating drug addicts and alcoholics.

(d) *Selection of participants.* Participation in the SSI project will be on a voluntary basis. The voluntary written consent necessary in order to participate in any experimental, pilot, or demonstration project may be revoked by the participant at any time.

(e) *Duration of experimental, pilot, and demonstration projects.* A notice describing each experimental, pilot, or demonstration project will be published in the **Federal Register** before each project is placed in operation. A final report on the results of the projects is to be completed and transmitted to Congress by June 9, 1985; however, the authority for the experimental, pilot, and demonstration projects will not terminate. Some of the alternative provisions or methods of administration may continue to apply to participants in a project beyond that date in order to assure validity of the research. Each experimental, pilot and demonstration project will have a termination date (up to 10 years from the start of the project).

[FR Doc. 83-4527 Filed 2-22-83; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 942

Approval of Modification of the Tennessee Permanent Regulatory Program Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Interim final rule.

SUMMARY: OSM is announcing interim final approval of a modification of the Tennessee permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA) which redesignates the State agency authorized to implement, administer and enforce the approved regulatory program.

By executive order effective February 15, 1983, Governor Lamar Alexander transferred the Division of Surface Mining in the Department of Conservation and its responsibilities and authorities for administration of the Tennessee surface coal mining regulatory program to the Department of Public Health. OSM is approving a modification of the Tennessee permanent program under SMCRA to designate the Department of Public Health as the regulatory authority authorized to implement, administer and enforce the State regulatory program which was approved by the Secretary on August 10, 1982.

DATES: Effective February 15, 1983. Public comment is invited on the action set forth herein. Written comments must be received on or before 4:00 p.m. on March 25, 1983.

ADDRESSES: Written comments should be mailed or hand delivered to Mr. James Curry, Field Office Director, Office of Surface Mining Reclamation and Enforcement, 530 Gay Street, SW., Suite 400, Knoxville, Tennessee 37902.

A copy of the Governor's Executive Order and of a letter received by OSM from Tennessee dated January 25, 1983, which notifies OSM of the program modification will be available for review at the OSM Headquarters Office and the OSM Tennessee Field Office, listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Office of Surface Mining Reclamation and Enforcement, Administrative Record Room, 1100 "L" Street, NW., Washington, D.C. 20240, or

Office of Surface Mining Reclamation and Enforcement, Knoxville Field Office, 530 Gay Street, S.W., Suite 400, Knoxville, Tennessee 37903, telephone (615) 523-9523.

FOR FURTHER INFORMATION CONTACT: Mr. James Curry, Field Office Director, Office of Surface Mining Reclamation and Enforcement, 530 Gay Street, SW., Suite 400, Knoxville, Tennessee 37902.

SUPPLEMENTARY INFORMATION: The Tennessee program under SMCRA was conditionally approved by the Secretary on August 10, 1982 (47 FR 34724-34754). Information pertinent to the general background, revisions, modifications and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and explanation of the conditions of approval of the Tennessee program can be found in the August 10, 1982 **Federal Register** (47 FR 34724-34754).

By letter dated January 25, 1983, Tennessee notified OSM that Governor Lamar Alexander was expected to issue an Executive Order to take effect February 15, 1982, which would direct a transfer of the Division of Surface Mining in the Department of Conservation and its responsibilities and authorities for administration and enforcement of the Tennessee Surface Coal Mining and Reclamation Program under SMCRA to the Tennessee Department of Public Health.

Findings

Section 723.17(b)(2) of OSM's regulations stipulate that the State shall promptly notify the Director, in writing, of any changes in the authority of the regulatory authority to implement, administer or enforce the approved program. As noted above, in accordance with this provision, Tennessee notified OSM of the impending transfer of the Division of Surface Mining from the Department of Conservation to the Department of Public Health by letter dated January 25, 1983. On February 15, 1983, the State provided OSM with a copy of the Executive Order signed by the Governor on that date which officially authorized the transfer.

After reviewing these documents, OSM has determined that the transfer of the Division of Surface Mining from one agency to another requires that an amendment be made to the approved Tennessee program to designate the Department of Public Health and Environment rather than the Department of Conservation as the regulatory authority authorized to implement, administer and enforce the approved regulatory program under SMCRA. Accordingly, 30 CFR Part 942 is amended as set forth herein to reflect the redesignation of the regulatory authority. The Director has found that this modification of Tennessee's program meets the criteria for approval of State program amendments set forth under 30 CFR 732.17 and 732.15(b). The Executive Order stipulates that the Department of Health shall assume *all* authorities and responsibilities for administration of the regulatory program previously held by the Department of Conservation, including all appropriate State and Federal laws, rules and regulations, investigation and enforcement activities, memorandums of agreement with other agencies and the appropriate requirements outlined in the November 5, 1982, Memorandum of Understanding between the Division of Surface Mining of the Department of Conservation and OSM.

Further, the Division of Surface Mining, which administered the program under the Department of Conservation, has been transferred, intact, to the Department of Health and Environment and will continue to administer the program under that agency. Therefore, the Director has determined that the

newly designated regulatory authority has the capability to implement, administer and enforce the approved program provisions consistent with 30 CFR 732.15(b).

The approval of this modification to the Tennessee program is effective as of February 15, 1983. This retroactive approval will ensure that there is no lapse in the State's authority to implement and enforce its approved program. To satisfy the public participation requirements for approval or disapproval of State program amendments, the Director is inviting public comment for 30 days on the action set forth herein. Following OSM's review of the comments received, OSM will issue a final rule to announce the Director's final decision on this modification of the Tennessee program.

Additional Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C 601 *et seq.*). This rule does not impose any new requirements; rather, it ensures that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 942

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Accordingly, 30 CFR Part 942 is amended as set forth herein.

Dated: February 17, 1983.

J. R. Harris,

Director, Office of Surface Mining.

PART 942—[AMENDED]

1. 30 CFR Part 942.10 is revised to read as follows:

§ 942.10 State regulatory program approval.

The Tennessee State program, as submitted on February 28, 1980, as amended and clarified on June 11, 1980 and June 19, 1980, and revised in material submitted May 13, 1982, was conditionally approved, effective August 1, 1982. Beginning on that date, the Tennessee Department of Conservation was deemed the regulatory authority in Tennessee for all surface coal mining and reclamation operations and all exploration operations on non-federal and non-Indian lands. By executive order effective February 15, 1983, the Governor of Tennessee transferred all authorities and responsibilities for administering the Tennessee State program from the Department of Conservation to the Department of Public Health. Effective February 15, 1983, the Director approved a modification of Tennessee's program to designate the Department of Public Health as the regulatory authority starting on that date. Only surface coal mining and reclamation operations on non-federal and non-Indian lands shall be subject to the provisions of the Tennessee permanent regulatory program. Copies of the approved program, together with copies of the letter of the Department of Conservation agreeing to the conditions of 30 CFR 942.11, are available at:

Administrative Record Room, Office of Surface Mining, Room 5315, 1100 "L" Street, NW., Washington, D.C. 20240;
Administrative Record Room, Office of Surface Mining, 530 Gay Street, SW., Suite 500, Knoxville, Tennessee 37902;
Division of Surface Mining, 701 Broadway, Nashville, Tennessee 37203; or
Division of Surface Mining, Dempster Building, 305 West Springdale Avenue, Knoxville, Tennessee 37919.

Appendix [1]

On February 15, 1983, Tennessee transmitted to OSM a copy of Executive Order No. 40 effecting the transfer on February 15, 1983. Following is the full text of the Executive Order:

[1] The text of this appendix will not appear in the Code of Federal Regulations.

An Order Transferring the Division of Surface Mining in the Department of Conservation and Its Functions to the Department of Public Health

Whereas, it is in the interest of a more economical and efficient state service to reduce administrative duplication and to streamline the operation of state government; and

Whereas, it is in the interest of a more economical and efficient state service to combine into one department related service delivery and regulatory programs in order to facilitate the operation of these programs; and

Whereas, the present function of regulating surface mining is located in the Division of Surface Mining and Reclamation of the Department of Conservation in accordance with Tennessee Code Annotated, Sections 59-8-201, *et seq.*, 59-8-301, *et seq.*, and 59-10-101, *et seq.* and relates to the protection of the environment; and

Whereas, the Department of Public Health has the responsibility to administer and coordinate many regulatory programs to protect the environment; and

Whereas, both the Department of Public Health and the Department of Conservation are departments created and established in Tennessee Code Annotated, Section 4-3-101;

Now, therefore, I, Lamar Alexander, Governor of the State of Tennessee, by virtue of the power and authority vested in me by the Tennessee Constitution and by Tennessee Code Annotated, Sections 4-4-102 and 4-4-117, do hereby order and direct the following:

1. The Division of Surface Mining and Reclamation in the Department of Conservation be transferred to the Department of Public Health and that from and after February 15, 1983, all functions of the Division of Surface Mining and Reclamation except those functions of the Division of Surface Mining and Reclamation pertaining to the Federal Abandoned Mine Reclamation Fund established by Tennessee Code Annotated, Section 59-8-327 shall be administered by and shall be under the control of the Commissioner of Public Health.

2. From and after the effective date of this transfer, the Commissioner of Public Health shall perform all such duties and shall have the responsibilities heretofore vested in the Division of Surface Mining and Reclamation and the Commissioner of Conservation in accordance with the provisions of Tennessee Code Annotated, Sections 59-8-201, *et seq.*, 59-8-301, *et seq.* and 59-10-101, *et seq.* with the exception of those duties and responsibilities set out in Tennessee Code Annotated, Section 59-8-327. Such responsibilities shall include the administration of the Surface Mining and Reclamation program including all appropriate state and federal laws, rules and regulations, investigation and enforcement activities, memoranda of agreements with other agencies and the appropriate requirements as outlined in the Memorandum of Understanding between the Tennessee Department of Conservation, Division of Surface Mining and the Office of Surface Mining, U.S. Department of Interior,

Tennessee Field Office having an effective date of November 5, 1982.

3. That on or before February 15, 1983, the Department of Conservation and the Department of Public Health, with the assistance and approval of the Department of Personnel, shall cause to be transferred to the Department of Public Health the employees of the Division of Surface Mining and Reclamation and any unfilled, authorized and funded positions assigned to the division together with any employees of or positions of the Department of Conservation assigned primarily to provide support services to the Division of Surface Mining and Reclamation with the exception of those employees and positions which are assigned to the Federal Abandoned Mine Reclamation Fund established by Tennessee Code Annotated, Section 59-8-327.

4. That on or before February 15, 1983, in accordance with Chapter 916, Section 15, Item 3, Public Acts of 1982, the appropriation of the Department of Conservation except for the operation of the Federal Abandoned Mine Reclamation Fund activities, for the remainder of the 1982-1983 fiscal year shall be transferred to the Department of Public Health and that the Department of Finance and Administration shall revise the present budgets as well as all future budgets of the Department of Conservation and the Department of Public Health to reflect the effect of this executive order.

5. That on or before February 15, 1983, all personal property, equipment and other materials made available by the Department of Conservation for use by the Division of Surface Mining and Reclamation shall be transferred to the custody and control of the Department of Public Health with the exception of that property, equipment and material used in performing the responsibilities set out in Tennessee Code Annotated, Section 59-8-327.

6. That all contracts or leases entered into prior to February 15, 1983 by the Department of Conservation with respect to any program or function transferred herein with any entity, corporation, agency, enterprise or person shall continue in full force and effect as to all essential provisions in accordance with the terms and conditions of the contract in existence on February 14, 1983, to the same extent as if such contracts had originally been entered into by and between such entity, corporation, agency, enterprise or person and the Department of Public Health, unless and until such contracts or leases are amended or modified by the parties thereto.

7. That on or after February 15, 1983, the Department of Public Health through its chief executive officer shall have the authority to receive, administer and supervise any and all grants and funds from whatever source, including but not limited to the federal, state, county and municipal governments, with respect to the programs or functions of the Department of Conservation herein transferred to the Department of Public Health.

8. That all rules, regulations, orders and decisions heretofore issued or promulgated by the Department of Conservation shall remain in full force and effect and shall hereafter be administered and enforced by the Department of Public Health. To this end, the Department of Public Health through its chief executive officer shall have the authority, consistent with the statutes and regulations pertaining to the programs and functions transferred herein, to modify and rescind orders or rules and regulations heretofore issued and to adopt, issue or promulgate new orders or rules and regulations as may be necessary for the administration of the program or function herein transferred.

In witness whereof, I have subscribed my signature and caused the Great Seal of the State of Tennessee to be affixed this 11th day of February, 1983.

Lamar Alexander,

Governor.

Attest:

_____,

Secretary of State.

[FR Doc. 83-4621 Filed 2-22-83; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA Docket No. 107-VA-3; A-3-FRL 2280-8]

Designation of Areas for Air Quality Planning Purposes Approval of State Implementation Revision and Section 107; Designation for the Commonwealth of Virginia

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA announces the approval of a revision submitted by the Commonwealth of Virginia redesignating the Roanoke, Peninsula and Southeastern areas and Stafford County as attainment of the National Ambient Air Quality Standard (NAAQS) for Ozone (O_3). All other Section 107 designations for the Commonwealth of Virginia not discussed in this notice remain intact.

EFFECTIVE DATE: March 25, 1983.

ADDRESSES: Copies of the revision and accompanying documents are available during normal business hours at the following offices:

EPA, Public Information Reference Unit, Library Systems Branch, 401 "M" Street SW., Washington, D.C. 20460;

The Office of the Federal Register, Room 8401, 1100 "L" Street NW., Washington, D.C. 20460;

U.S. Environmental Protection Agency, Region III, Air Programs and Energy Branch, Curtis Building, Second Floor, Sixth and Walnut Streets, Philadelphia, PA 19106; Attn: Eileen M. Glen; or

Virginia State Air Pollution Control Board, Room 801, Ninth Street Office Building, Richmond, VA 23219; Attn: John M. Daniel, Jr.

FOR FURTHER INFORMATION CONTACT: Eileen M. Glen (3AW13) at the EPA, Region III address above or call 215/597-8187.

SUPPLEMENTARY INFORMATION: Section 107(d)(1) of the Clean Air Act (Act) requires the States to submit to the Administrator a list identifying all air quality control areas, or portions thereof, that have not attained the National Ambient Air Quality Standards. The Act further requires that the Administrator promulgate this list, with such modifications as he deems necessary, as required by Section 107(d)(2) of the Act. On March 3, 1978, the Administrator promulgated nonattainment designations for the Commonwealth of Virginia for Ozone (O_3), 44 FR 8962. These designations were effective immediately and public comment was solicited. On September 12, 1978, in response to the comments received, the Administrator revised and amended some of the original designations, 43 FR 40502. The Act also provides that a State, from time to time, may review and revise its designations list and submit these revisions to the Administrator for promulgation (Section 107(d)(5) of the Act). The criteria and policy guidelines governing these revisions and the Administrator's review of them are the same that were used in the original designations and which are summarized in the Federal Register on March 3, 1978, 43 FR 8962, September 11, 1978, 43 FR 40412; and September 12, 1978, 43 FR 40502. The Commonwealth of Virginia has revised its designations list and, on December 16, 1981, submitted these revisions to EPA. The monitoring data supporting this redesignation was submitted to EPA's SAROADS system on April 7, 1982.

The Commonwealth of Virginia has revised the O_3 designations for the areas cited below from "Does not meet primary standards" to "Cannot be classified or better than national standards."

Nonattainment area	*Localities included*
Roanoke	Roanoke City, Salem City, Roanoke County.
Stafford County	Stafford County.
Peninsula	Hampton City, Newport News City.
Southeastern	Chesapeake City, Norfolk City, Portsmouth City, Suffolk City, Virginia Beach City.

EPA reviewed the redesignation, evaluated the supporting data, and, on

August 31, 1982, published a Proposed Rulemaking at 47 FR. 38364 approving the redesignation. As a result of the **Federal Register** notice, EPA received numerous comments regarding the proposed redesignation for the Peninsula and Southeastern areas. These comments are addressed in detail in the Technical Support Document. The comments dealt primarily with probable incorrect rounding-off techniques of actual 3-digit measurements, SAROADS data, the operation of certain monitors, and the allegation that there were more than three days of violations at certain monitors over the past three years. EPA forwarded all the comments received to the Commonwealth for review and response as well as conducting its own independent evaluation. We found that on several occasions the Commonwealth did not follow established EPA procedures when rounding-off actual measurements. Although the Commonwealth is not in total agreement with EPA's position, they have agreed to revise the SAROADS data to reflect the proper procedures. The only monitor significantly affected by this is Cheriton (95-A) in that the SAROADS data now shows three violations for the three year period 1979 through 1981. This is still within the limits allowed by EPA and does not adversely affect the Commonwealth's requested redesignations.

This issue and others raised during the public comment period are addressed in detail in the Commonwealth's letter of October 25, 1982 and EPA's Technical Support Document. EPA believes all issues have been adequately addressed and that none of the issues raised justify disapproval of the Commonwealth's request for redesignation.

In addition to the above redesignations, the Commonwealth also requested EPA take certain actions with respect to its ozone SIP.

On May 27, 1981 the Commonwealth requested that those portions of the January 11, 1979 revision of Chapter 10 relative to Items 2 through 5 for the Southeastern and Peninsula areas be withdrawn. They do not propose to evaluate, adopt, or implement any future transportation measures.

Now, because two of the areas are able to attain the ambient air quality standard before December 31, 1982 without the implementation of any transportation control measures, EPA can approve the deletions to chapter 10, Transportation Source Measures for the Southeastern and Peninsula areas.

On December 17, 1979, the Commonwealth submitted a revised Part D plan for all nonattainment areas that addressed attainment of the .12 ppm ozone standard. This submittal revised the RACT regulatory language to state that the regulations applied only to sources in those areas listed in Appendix P. Because Appendix P did not list the Roanoke area, previously approved (August 19, 1980, 45 FR 55180), RACT regulations (Round I CTG's) are deleted and the RACT regulations dealing with the Round II CTG's (CTG's published by EPA between January 1978 and January 1979) would not be imposed in the Roanoke area.

EPA did not act on this request when submitted (47 FR 19523, May 6, 1982) because the redesignation action was still under review. Now that EPA has completed its evaluation of the redesignation request, we are approving the December 17, 1979 revision to Chapter 3 of the Roanoke plan and Appendix P.

Conclusion

EPA is today approving the Commonwealth's request to redesignate the Roanoke, Peninsula, and Southeastern areas and Stafford County as "attainment" for the National Ambient Air Quality Standard (NAAQS) for Ozone. All other Section 107 designations for the Commonwealth of Virginia remain intact.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b), the Administrator has certified that redesignations do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

Under Section 307 (b)(1) of the Clean Air Act, judicial review of this action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Act, the requirements which are the subject of today's Notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

List of Subjects

40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Note.—Incorporation by reference of the State Implementation Plan for the Commonwealth of Virginia was approved by the Director of the **Federal Register** on July 1, 1982.

(Sec. 107(d), 110, 172, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410—7642))

Dated: January 28, 1983.

Anne M. Gorsuch,

Administrator.

PART 52—[AMENDED]

Part 52 of Title 40, Code of Federal Regulations is amended as follows:

Subpart VV—Virginia

1. In Section 52.2420, Identification of Plan, paragraph (c) is revised by adding subparagraph (73) to read as follows:

§ 52.2420 Identification of plan.

* * * * *

(c) * * *

(73) A revision submitted by the Commonwealth of Virginia on December 17, 1979 consisting of revisions to Chapter 3 of the Roanoke Plan and a revised Appendix P.

PART 81—[AMENDED]

Part 81 of Title 40, Code of Federal Regulations is amended as follows:

Subpart C—Section 107 Attainment Status Designations

1. In § 81.347, Virginia, the table entitled "Virginia–O_3" is revised to read as follows:

§ 81.347 Virginia.

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
I. Southwest Virginia—Tennessee Interstate AQCR.		X.
II. Valley of Virginia Intrastate AQCR.		X.
III. Central Virginia Interstate AQCR.		X.
IV. Northeastern Virginia Interstate AQCR.		X.
V. State Capital Intrastate AQCR.		
Richmond City	X	
Henrico County	X	
Chesterfield City	X	
Remainder of AQCR		X.
VI. Hampton Roads Interstate AQCR.		X.
VII. National Capital Interstate AQCR.	X	

[FR Doc. 83-4477 Filed 2-22-83; 8:45 am]

BILLING CODE 6560-50-M

Proposed Rules

Federal Register
Vol. 48, No. 37
Wednesday, February 23, 1983

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 925

Grapes Grown in Designated Area of Southeastern California

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice invites written comments on a proposal which would establish, during the period May 1–August 15, 1983, quality requirements for table grapes grown in southeastern California. Such grapes would be required to meet the minimum grade and size requirements for U.S. No. 1 Table grade, as defined in the U.S. Standards for Grades of Table Grapes (European or Vinifera type), and minimum maturity standards as defined in the Administrative Code of California. Also proposed are the following regulations: container and pack requirements, pack specifications, container markings, the amount of grapes packed in each container, experimental containers, organically-grown grapes, grapes for by-products, and packing holidays. These actions are needed to assure the shipment of ample supplies of grapes of acceptable quality and to promote orderly marketing in the interests of producers and consumers.

DATES: Comments must be submitted on or before March 25, 1983.

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, (202) 447–5975.

SUPPLEMENTARY INFORMATION: This proposed 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, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California desert grape crop for the benefit of producers and consumers, and will not substantially affect costs for the persons directly regulated.

The proposed southeastern California table grape regulation is issued under marketing agreement and Order No. 925 (7 CFR Part 925), regulating the handling of table grapes grown in a designated area of southeastern California. This marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The quality, container, and pack requirements, and other requirements for southeastern California table grapes were recommended by the California Desert Grape Administrative Committee (CDGAC). The committee recommended such requirements following discussion at a public meeting on November 30, 1982.

The proposed regulation would require southeastern California table grapes to meet the minimum grade and size requirements of U.S. No. 1 Table Grade as specified in the U.S. Standards for Grades of Table Grapes (European or Vinifera type). In addition, such grapes would also be required to meet the minimum maturity requirements for table grapes as specified in the California Administrative Code. These requirements are necessary to assure the shipment of ample supplies of acceptable quality table grapes.

The proposed regulation would also require standard pack, container, and container marking requirements in order to facilitate standardized packing practices. Containers to be used are those specified in the California Administrative Code. The regulation also allows the use of experimental containers approved by the committee (CDGAC). Most containers would be required to contain a minimum net weight of grapes of 22 pounds and such containers would also be required to bear the minimum net weight of the grapes contained therein, the name of the grape variety, the name of the shipper, and the lot stamp inspection number on the outside of the container. These requirements are designed to facilitate identification of shipments and promote orderly marketing of these grapes. The proposed packing holidays on Saturdays and Sundays and certain holidays during the regulation period are designed to prevent an accumulation of excessive supplies of table grapes at distribution points during periods of reduced demand or market inactivity. Exemptions from regulation are provided for "organically-grown" table grapes, and table grapes for processing if certain conditions and safeguards are met.

Certain maturity, container, and pack requirements cited in the proposed regulation are specified in the Administrative Code of California (Title 3), and are incorporated by reference. Copies of such requirements are available from William J. Boyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

List of Subjects in 7 CFR Part 925

Marketing agreements and orders, Grapes, California.

PART 925—[AMENDED]

The proposal would add a new § 925.302 to read as follows:

§ 925.302 California Desert Grape Regulation 3.

During the period May 1, 1983, through August 15, 1983, no person shall handle any variety of grapes unless such grapes meet the following requirements: *Provided*, That no person shall pack pack any such grapes on any Saturday or Sunday, or on May 30 or July 4, 1983, unless approved in accordance with paragraph (e)—

(a) *Grade, size, and maturity.* Such grapes shall meet the minimum grade and size requirements specified in § 51.884 for U.S. No. 1 Table Grade, as set forth in the U.S. Standards for Grades of Table Grapes (European or Vinifera type, 7 CFR 51.880 through 51.912), and minimum maturity standards in accordance with applicable sampling and testing procedures specified in sections 1436.3 through 1436.17 of the Administrative Code of California (Title 3).

(b) *Container and Pack.* (1) Such grapes shall be packed in one of the following containers, which are new and clean, and which otherwise meet the requirements of sections 1359 (a), (b), (d), 1380.19, 1436.35, 1436.37, 1436.38 and

1436.40 of the Administrative Code of California (Title 3):

(i) Sawdust pack with inside dimensions of 7¾×14 13/16×18¾ inches, specified as container 28;

(ii) Polystyrene lug with inside dimensions of 6¾×12½×15¾ inches, specified as container 38J;

(iii) Standard grape lug with dimensions in inches of 4½ to 8½ (inside) ×13½ to 14½ (outside) ×16¾ to 17½ (outside); specified as container 38K;

(iv) Polystyrene lug with inside dimensions of 6¾ or 8¾×11½×18¾ inches, specified as container 38Q;

(v) Grape lug with dimensions in inches of 4 to 7 inches (inside) ×15¾ (outside) ×19 1/16 (outside), specified as container 38R;

(vi) Such other types and sizes of containers as may be approved by the committee for experimental or research purposes.

(2) The minimum net weight of grapes in any such containers, except for containers containing grapes packed in sawdust, cork, excelsior or similar packing material, and experimental containers, shall be 22 pounds based on the average net weight of grapes in a representative sample of containers.

(3) Such containers of grapes shall be plainly marked with the minimum net weight of grapes contained therein (with numbers and letters at least one-forth inch in height), the name of the variety of the grapes and the name of the shipper.

(4) Such containers of grapes shall be plainly marked with the lot stamp number corresponding to the lot inspection conducted by an authorized inspector, except that such requirement shall not apply to containers in the center tier of a lot palletized in a 3 box by a 3 box pallet configuration.

(c) *Organically grown grapes.* Organically grown grapes (defined to mean grapes which have been grown for market as natural grapes by performing all the normal cultural practices, but not using any inorganic fertilizers or agricultural chemicals including insecticides, herbicides, and growth regulators, except sulfur) need not meet the minimum individual berry size requirements of this section if the following conditions and safeguards are met: (10 The handler of such grapes has registered and certified with the committee on a date specified by the committee the location of the vineyard, the acreage and variety of grapes, and such other information as may be needed by the committee to carry out these provisions; (2) each container of organically grown grapes bears the words "organically grown" on one outside end of the container in plain letters in addition to requirements specified under paragraph (b)(3) of this section.

(d) *By-product grapes.* The handling of grapes for processing (raisins, crushing and other by-products) is exempt from requirements specified in paragraphs (a), (b), and (c) of this section if the committee determines that the person handling such grapes has secured the appropriate permit or order from the County Agricultural Commissioner, and the by-product plant or packing plant to which the grapes are shipped has adequate facilities for commercial processing, grading, packing or manufacturing of by-products for resale.

(e) *Suspension of packing holidays.* Upon approval of the committee, the prohibition against packing grapes on any Saturday or Sunday, or on May 30 or July 4, 1983, may be modified or suspended to permit the handling of grapes provided such handling complies with procedures and safeguards specified by the committee.

Dated February 16, 1983.

D. S. Kuryloski,

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

[FR Doc. 83-4512 Filed 2-22-83; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No. 812 3079]

Chicago Metropolitan Pontiac Dealer's Association, Inc. and Competitive Edge, Inc.; Proposed Consent Agreements With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreements.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, these consent agreements, accepted subject to final Commission approval, would rquire a Wheaton, Ill. Pontiac dealers' association and an Albuquerque, N.M. advertising agency, among other things, to cease failing to make clear and conspicuous credit disclosures in T.V. advertisements promoting consumer credit. Under the orders, credit terms would be required to be displayed in the video portion of the ad for at least five seconds, and rates of finance charges must be quoted as an "annual percentage rate." Further, the corporations would be prohibited from using certain credit terms in advertisements promoting credit sales unless those advertisements also include statutorily required information in the manner prescribed by the Truth In Lending Act and its implementing Regulation Z.

DATE: Comments must be received on or before April 25, 1983.

ADDRESS: Comments should be directed to: FTC/S, Office of the Secretary, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: George R. Bellack, Chicago Regional Office, Federal Trade Commission, 55 East Monroe St., Suite 1437, Chicago, IL 60603. (312) 353–5533.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreements containing consent orders to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Advertising, Consumer credit.

UNITED STATES OF AMERICA BEFORE FEDERAL TRADE COMMISSION

[File No. 812 3079]

Agreement Containing Consent Order to Cease and Desist

In the matter of *Chicago Metropolitan Pontiac Dealers' Association, Inc.*, a corporation.

The Federal Trade Commission having initiated an investigation of certain acts and practices of the Chicago Metropolitan Pontiac Dealers' Association, Inc., a corporation (hereinafter referred to as "proposed respondent"), and it now appearing that proposed respondent is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between Chicago Metropolitan Pontiac Dealers' Association, Inc., by its duly authorized officer, and its attorney, and counsel for the Federal Trade Commission that:

1. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that any facts (other than jurisdictional facts) which are alleged in the attached draft compliant are true, or that any law has been violated.

2. Proposed respondent Chicago Metropolitan Pontiac Dealers' Association, Inc., is a corporation organized, existing and doing business under and by virtue of the

laws of the State of Illinois, with its office and principal place of business located at 208 North West Street, in the City of Wheaton, State of Illinois.

3. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

4. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review of otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

5. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby and related material pursuant to Rule 2.34, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify proposed respondent, in which event it will take such action as it m ay consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to Section 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the compliant and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent shall not be deemed to have violated the requirements of the order entered pursuant to this agreement if it shows that any alleged violation was not intentional and resulted from a bona fide error within the meaning of Section 130(c) of the Truth in Lending Act, notwithstanding the maintenance of procedures reasonably adapted to avoid any such violation, provided that on discovering the violation, proposed respondent shall correct it as soon as possible and shall take reasonable steps to avoid its recurrence.

8. Proposed respondent shall not be deemed to have violated the requirements of the order entered pursuant to this agreement by virtue of any independent action of any broadcaster or other independent third party; provided that on discovering the violation, proposed respondent takes reasonable steps to avoid its recurrence.

9. In any proceeding to enforce compliance with the order entered pursuant to this agreement, respondent shall be entitled to all rights granted by Section 23 of the Federal Trade Commission Act, 15 U.S.C. § 57b–4. It shall be a defense for proposed respondent to show that it acted in good faith reliance on any rule, regulation, statement of interpretation or commentary issued by or authorized by the Board of Governors of the Federal Reserve System.

10. The order entered pursuant to this agreement has been entered into based upon the existing provisions of the Truth in Lending Act, 15 U.S.C. § 1601 *et seq.*, as amended, and its implementing Regulation Z, 12 CFR § 226, as amended. In the event any applicable section of the Federal Trade Commission Act or the Truth in Lending Act or Regulation Z is amended or repealed, the provisions of the order shall be modified automatically to conform to such amendment or repeal.

11. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I. It is ordered that respondent Chicago Metropolitan Pontiac Dealers' Association, Inc., its successors and assigns, member dealers, and respondent's officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with any television advertisement to promote, directly or indirectly, any extension of consumer credit, as "advertisement" and "consumer credit" are defined in Regulation Z (12 CFR § 226), the implementing regulation of the Truth in Lending Act, 15 U.S.C. § 1601 *et seq.*,[1] do forthwith cease and desist from:

1. Stating the amount or percentage of any downpayment, the number of payments or period of repayment, the amount of any payment, or the amount of any finance charge, unless the following terms are also stated, as required by Section 226.24(c)(2) of Regulation Z:

(a) The amount or percentage of the downpayment;

(b) The terms of repayment; and

(c) The "annual percentage rate," using that term, and, if the rate may be increased after consummation, that fact.

The terms which are required by Section 226.24(c)(2) of Regulation Z are subject to the general "clear and conspicuous" standard set forth in Section 226.17(a)(1) of Regulation Z and Section 226.24–1 of the Official Federal Reserve Board Staff Commentary on Regulation Z.

2. Failing to disclose the terms required by Section 226.24(c)(2) of Regulation Z in the video portion of any television advertisement subject to this order for at least five (5) seconds' duration.

3. Failing in an advertisement which states a rate of finance charge to state the rate as an "annual percentage rate," using that term as required by Section 226.24(b) of Regulation Z.

II. It is further ordered that:

1. Respondent shall distribute a copy of this order to each person having decision-making authority to determine all or part of the contents of an advertisement which is subject to this order, and to the president or chief executive officer of each of respondent's members and shall secure from each such person a signed statement acknowledging receipt of said order.

2. Respondent shall notify the Commission at least thirty (30) days prior to any proposed change in the respondent such as dissolution, assignment or sale, resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this order.

3. Respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a written report setting forth in detail the manner and form in which it has compiled with this order.

[File No. 812 3079]

Agreement Containing Consent Order to Cease and Desist

In the matter of *The Competitive Edge, Inc.* a corporation.

The Federal Trade Commission having initiated an investigation of certain acts and practices of The Competitive Edge, Inc., a corporation (hereinafter sometimes referred to as "proposed respondent"), and it now appearing that proposed respondent is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between The Competitive Edge, Inc., by its duly authorized officer, and its attorneys, and counsel for the Federal Trade commission that:

1. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that any facts (other than jurisdictional facts) which are alleged in the attached draft complaint are true, or that any law has been violated.

2. Proposed respondent the Competitive Edge, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Mexico, with its office and principal place of business located at Number 3 American Financial Center, 2400 Louisiana Boulevard, N.E., Albuquerque, New Mexico 87190.

[1] All references to the Truth in Lending Act and Regulation Z contained in this Order shall refer to the Truth in Lending Act as amended to March 31, 1980, and Regulation Z as amended to April 1, 1981.

3. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

4. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or other wise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

5. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement ia accepted by the Commission, it, together with the draft of complaint contemplated thereby and related material pursuant to Rule 2.34, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so noitify proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to Section 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent shall not be deemed to have violated the requirements of the order entered pursuant to this agreement if it shows that any alleged violation was not intentional and resulted from a bona fide error within the meaning of Section 130(c) of the Truth in Lending Act, notwithstanding the maintenance of procedures reasonably adapted to avoid any such violation, provided that on discovering the violation, proposed respondent shall correct it as soon as possible and shall take reasonable steps to avoid its recurrence.

8. Proposed respondent shall not be deemed to have violated the requirements of the order entered pursuant to this agreement by virtue of any independent action of any broadcaster or other independent third party; provided that on discovering the violation, proposed respondent takes reasonable steps to avoid its recurrence.

9. In any proceeding to enforce compliance with the order entered pursuant to this agreement, respondent shall be entitled to all rights granted by Section 23 of the Federal Trade Commission Act, 15 U.S.C. § 57b–4. It shall be a defense for proposed respondent to show that it acted in good faith reliance on any rule, regulation, statement of interpretation or commentary issued by or authorized by the Board of Governors of the Federal Reserve System.

10. The order entered pursuant to this agreement has been entered into based upon the existing provisions of the Truth in Lending Act, 15 U.S.C. § 1601 *et seq.*, as amended, and its implementing Regulation Z, 12 CFR § 226, as amended. In the event any applicable section of the Federal Trade Commission Act or the Truth in Lending Act or Regulation Z is amended or repealed, the provisions of the order shall be modified automatically to conform to such amendment or repeal.

11. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I. It is ordered that respondent The Competitive Edge, Inc., its successors and assigns, and respondent's officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with any television advertisement to promote, directly or indirectly, any extension of consumer credit, as "advertisement" and "consumer credit" are defined in Regulation Z (12 C.F.R. § 226), the implementing regulation of the Truth in Lending Act, 15 U.S.C. § 1601 *et seq.*,[1] do forthwith cease and desist from:

1. Stating the amount or percentage of any downpayment, the number of payments or period of repayment, the amount of any payment, or the amount of any finance charge, unless the following terms are also stated, as required by Section 226.24(c)(2) of Regulation Z:

(a) The amount or percentage of the downpayment;

(b) The terms of repayment; and

(c) The "annual percentage rate," using that term, and, if the rate may be increased after consummation, that fact.

The terms which are required by Section 226.24(c)(2) of Regulation Z are subject to the general "clear and conspicuous standard set forth in Section 226.17(a)(1) of Regulation Z and Section 226.24–1 of the Official Federal Reserve Board Staff Commentary on Regulation Z.

2. Failing to disclose the terms required by Section 226.24(c)(2) of Regulation Z in the video portion of any television advertisement subject to this order for at least five (5) seconds' duration.

3. Failing in any advertisement which states a rate of finance charge to state the rate as an "annual percentage rate," using that term as required by Section 226.24(b) of Regulation Z.

II. It is further ordered that:

1. Respondent shall distribute a copy of this order to the most senior person employed in each of its operating divisions and to each person having decision-making authority to determine all or part of the contents of an advertisement which is subject to this order, and shall secure from each such person a signed statement acknowledging receipt of said order.

2. Respondent shall notify the Commission at least thirty (30) days prior to any proposed change in the respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this order.

3. Respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a written report setting forth in detail the manner and form in which it has complied with this order.

Analysis of Proposed Consent Orders to Aid Public Comment

The Federal Trade Commission has provisionally accepted agreements to proposed consent orders from Chicago Metropolitan Pontiac Dealers' Association, Inc., and The Competitive Edge, Inc.

The proposed consent orders have been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreements and the comments received and will decide whether it should withdraw from the agreements or make final the agreements' proposed orders.

The complaints allege violation of the Truth in Lending Act and of the implementing Federal Reserve Board Regulation Z, in television advertisements designed to promote consumer credit. The advertisements were produced by The Competitive Edge, Inc., and caused to be broadcast by that firm and by the Chicago Metropolitan Pontiac Dealers' Association, Inc., during January and February, 1981. The complaints allege that the advertisements disclosed the required credit terms for an insufficient

[1] All references to the Truth in Lending and Regulation Z contained in this Order shall refer to the Truth in Lending Act as amended to March 31, 1980, and Regulation Z as amended to April 1, 1981.

time for the viewer to read them, thereby detracting from the clarity and conspicuousness of the required disclosures, and that the annual percentage rate was not stated as an "annual percentage rate" using that term. The complaints, therefore, allege that the failure to make clear and conspicuous disclosures and to use the term "annual percentage rate" violated Regulation Z and the Truth in Lending Act.

The orders require that future television advertisements containing credit disclosures state the required credit terms clearly and conspicuously, for at least five (5) seconds' duration in the video portion. If these advertisements state a rate of finance charge, they must also state that rate as an "annual percentage rate", using that term.

These are the first Truth in Lending consent orders provisionally accepted by the Commission since Congress passed the Truth in Lending Simplification and Reform Act. The overriding purpose of this Act was to simplify consumer credit disclosures, facilitating compliance by creditors and improving the dissemination of meaningful information. To implement this purpose, Regulation Z was revised, resulting in fewer required disclosures and requiring these disclosures under fewer circumstances.

Consistent with the purpose of the revised Act and Regulation, these orders limit the circumstances under which disclosures must be made in television advertisements and reduce the number of terms which must be disclosed under these circumstances.

In addition, the orders provide for greater flexibility in the requirement that the credit term disclosures in the television advertisements subject to the order be "clear and conspicuous." In past Truth in Lending orders,[1] the Commission has defined this phrase by requiring certain disclosure formats, type sizes and similar restrictions. While the Commission based its definition of "clear and conspicuous" in these cases on factors set forth in the Commission's Statement of Enforcement Policy, CCH Trade Regulation Reporters, ¶7569.09 (Oct. 21, 1970), which applies to television advertising generally, such precise definition is no longer consistent with the revised Act and Regulation, as applied to credit advertising. Indeed, the Federal Reserve Board, in its Official Staff Commentary on revised Regulation Z, stated that the "clear and conspicuous" standard is to be viewed as a flexible one. Section 226.24–1 of the Commentary, therefore, provides that there are

> no specific rules for the format of the necessary disclosures. The credit terms need not be printed in a certain type size nor need they appear in any particular place in the advertisement.

The Commission believes that, in the context of credit advertisements subject to Regulation Z, it should apply the "clear and conspicuous" disclosure standard articulated in the Official Staff Commentary. Accordingly, the orders simply refer to the Commentary, rather than defining the phrase "clear and conspicuous."

The purpose of this analysis is to facilitate public comment on the proposed orders, and it is not intended to constitute an official interpretation of the agreements and proposed orders or to modify in any way their terms.

Carol M. Thomas,

Secretary.

[FR Doc. 83-4484 Filed 2-22-83; 8:45 am]

BILLING CODE 6450-01-M

[1] *E.g. George Irvin Chevrolet Company*, 98 F.T.C. 447 (1981).

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 841

[Docket No. R-83-1016]

Public Housing Development, Revision of Requirements

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

ACTION: Proposed rule.

SUMMARY: This proposed rule would prohibit Public Housing Agencies from transfering existing city, county or State-assisted projects to the public housing program under the U.S. Housing Act of 1937, except with the prior written approval of the Assistant Secretary for Housing. The same prohibition would apply to projects funded pursuant to Program Reservations issued prior to October 1, 1980. The Department believes that, as a general matter, the transfer of such projects to the public housing program does not contribute to the goal of providing additional low-income housing units, but instead only provides additional subsidy for projects developed and funded under State law. The effect of the rule will be to control the extent of such transfers by requiring the written approval of the Assistant Secretary for Housing.

DATE: Comment Due Date: April 25, 1983.

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

FOR FURTHER INFORMATION CONTACT: Raymond W. Hamilton, Director, Public Housing Development Division, Office of Public Housing, Office of the Deputy Assistant Secretary for Public and Indian Housing, Room 4232, Department of Housing and Urban Development, Washington, D.C. 20410 (202–426–0938). This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Public Housing Development regulations were codified (at 24 CFR Part 841) for the first time in February 1977. An interim rule amending Part 841 was published April 16, 1979 (44 FR 22678), effective May 16, 1979. On September 12, 1980, a complete revision of Part 841 was published as a final rule (45 FR 60836), effective October 1, 1980. The preamble to the final rule provided that projects for which a Program Reservation had been issued before October 1, 1980 would continue to be processed in accordance with the regulations as amended in 1979.

The Department has heretofore provided a mechanism to Public Housing Agencies (PHAs) for HUD approval of the transfer of city, county, or State-assisted PHA-owned projects to the public housing program under the U.S. Housing Act of 1937 in order to obtain operating subsidies and funding for rehabilitation activities. In June and August 1981, the Department suspended processing of such projects which had not reached Annual Contributions Contract execution and requested information from its Field Offices on the extent of this activity. At that time some 65,000 units had been approved or were pending approval in five Field Offices, with an estimated annual requirement for operating subsidy of $108 million (assuming all projects were transferred). The Department has determined as a general matter that the transfer of city, county or State-assisted PHA-owned projects does not contribute to meeting the goals of the Department in providing additional low-income housing units, but only provides additional subsidy for projects developed and funded under

State law. Therefore, the Department intends to exclude prospectively such types of properties from eligibility under 24 CFR Part 841. This policy is also being made applicable to approximately 10,000 units for which processing had been suspended before receipt of proposed approvals. Appropriate changes will be made to HUD Handbooks 7417.1 and 7417.1 REV-1, to reflect this policy.

In recognition of this policy determination, the Department proposes to provide explicitly in its regulations that proposals for inclusion of city, couty, or State-assisted projects under Annual Contributions Contract require the written approval of the Assistant Secretary for Housing.

This proposed rule does not constitute a "major rule," as that term is defined in Section 1(b) of Executive Order 12291 on Federal Regulation issued by the President on February 17, 1981. Analysis of the proposed rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect 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.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50 which implement Section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours in the office of the Rules Docket Clerk at the address set forth above.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. Since these requirements will not result in a change to the existing status of locally assisted projects, the economic impact on PHAs will not be significant.

This rule is listed at 47 FR 48432 as item H-33-82 in the Department's Semiannual Agenda of Regulations published on October 28, 1982, pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

(The Catalog of Federal Domestic Assistance number is 14.146, Low-Income Housing-Assistance Program.)

List of Subjects in 24 CFR Part 841

Loan programs, Housing and community development, Public housing, Prototype costs, Cooperation agreements, Turnkey, Conventional.

PART 841—[AMENDED]

Accordingly, it is proposed that 24 CFR Part 841, be amended by revising § 841.206 to read as follows:

§ 841.206 Eligible properties.

(a) *Properties assisted under the Act.* Proposals involving properties already assisted under the Act, or which received assistance within one year of the date the application or proposal is submitted to the Field Office, may not be approved without the prior written approval of the Assistant Secretary for Housing.

(b) *Local or State Properties.* Proposals (including, for purposes of this subsection only, Development Programs pursuant to Program Reservations issued prior to October 1, 1980) for the transfer of existing PHA-owned, city, county or State-assisted projects to the Federal public housing program under the U.S. Housing Act of 1937 may not be approved, except with the prior written approval of the Assistant Secretary for Housing.

(Sec. 7(d) Department of HUD Act, 42 U.S.C. 3535(d); U.S. Housing Act of 1937 42 U.S.C. 1437.)

Dated: October 22, 1982.

Philip Abrams,

General Deputy Assistant Secretary—Deputy Federal Housing Commissioner.

[FR Doc. 83-4366 Filed 2-22-83; 8:45 am]

[BILLING CODE 4210-27-M

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24 CFR Parts 880, 881, 883, 884, and 886

[Docket No. R-83-1035]

Section 8 Housing Assistance Payments Program for New Construction, Section 8 Housing Assistance Payments Program for Substantial Rehabilitation, Section 8 Housing Assistance Payments Program—State Housing Agencies; Section 8 Housing Assistance Payments Program, New Construction Set-Aside for Section 515 Rural Rental Housing Projects; Section 8 Housing Assistance Payments Program—Special Allocations

AGENCY: Office of Assistance Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend those Section 8 Housing Assistance Payments Program regulations which involve newly constructed or substantially rehabilitated housing. The amendments are needed to comply with Section 325(l) of the Housing and Community Development Amendments of 1981, which requires that each contract to make assistance payments for newly constructed or substantially rehabilitated housing under Section 8 of the U.S. Housing Act of 1937, as amended, provide that during the term of the contract the owner shall make available for occupancy by families which are eligible for assistance, at the time of their initial occupancy, the number of units for which assistance is committed under the contract. The proposed rule would apply also to existing housing assisted under the Part 886 Assistance Program for the Disposition of HUD-Owned Projects and the Part 886 Additional Assistance Program for Projects with HUD-Insured and HUD-Held Mortgages.

DATE: Comment Due Date: April 25, 1983.

ADDRESS: Interested persons are invited to submit comments regarding this rule to the Office of General Counsel, Rules Docket Clerk, Room 10278, Department of Housing and Urban Development, 451 7th Street, SW., 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: James J. Tahash, Program Planning Division, Office of Multifamily Housing Management and Occupancy, Room 6178, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, telephone (202) 755-5654; or Monica Sussman, State Agency Finance Division, Office of State Agency and Bond Financed Programs, Room 6118, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, telephone (202) 755-7172. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: Section 325(l) of the Housing and Community Development (HCD) Amendments of 1981 amended Section 8(b)(2) of the U.S. Housing Act of 1937 to require that all contracts to make assistance payments for newly constructed or substantially rehabilitated Section 8 housing entered into after the effective date of Section 325(l) provide that, during the term of

the contract, the owner shall make available for occupancy by families which are eligible for assistance, at the time of their initial occupancy, the number of units for which assistance is committed under the contract. Section 371(b) of the HCD Amendments of 1981 further states that this provision shall apply only with respect to contracts entered into on and after October 1, 1981.

The Department administers six Section 8 programs that involve newly constructed or substantially rehabilitated housing and which are, therefore, affected by Section 325(l) of the HCD Amendemints of 1981. They are the Section 8 New Construction Program, the Substantial Rehabilitation Program, the State Housing Agencies Program (insofar as it involves new construction and substantial rehabilitation), the New Construction Set-Aside for Section 515 Rural Rental Housing Projects Program, the Section 202 Loans for Housing for the Elderly or Handicapped Program, and the Section 8 Housing Assistance Program for the Disposition of HUD-Owned Projects (insofar as it involves substantial rehabilitation).

Except for the Section 202 Loans for Housing for the Elderly or Handicapped Program, current regulations permit Section 8 project owners to lease up to 10 percent of the assisted units (up to 20 percent in the Set-Aside Program for Rural Rental Housing Projects) to ineligible families. The proposed rule would amend these regulations to conform with the statutory requirement that, during the term of the Housing Assistance Payments Contract, all assisted units will be made available for occupancy by eligible families.

There currently are no regulations on this matter for the Section 202 Loans for Housing for the Elderly or Handicapped Program. The Department is preparing a regulation amending Part 885 which, among other matters, would incorporate this amendment and other statutory changes to Section 8 programs affected by the HCD Amendments of 1981.

The proposed rule would eliminate the authority of a Section 8 project owner to lease a percentage of assisted units to ineligible families without prior approval of the contract administrator. The authority to lease assisted units to ineligible families with prior approval of the contract administrator would be retained to cover situations in which temporary market conditions prevent leasing all assisted units to eligible families.

The proposed rule would authorize HUD to reduce the number of assisted units if an owner fails to make those units available to eligible families. Approval to lease assisted units to ineligible families would not relieve a Section 8 project owner of the obligation to continue making assisted units which become vacant available for occupancy by eligible families. The proposed rule also would authorize HUD to reduce the number of assisted units notwithstanding its prior approval to lease to ineligible families, if HUD determines that the inability to lease to eligible families is not a temporary problem.

The proposed rule is also intended to make it clear that Section 8 project owners of newly constructed or substantially rehabilitated housing who executed Agreements to Enter into Housing Assistance Payments Contracts on or after the effective date of the HCD Amendments of 1981 are subject to this statutory requirement, notwithstanding the fact that their Contracts may not contain such an express provision, since Section 325(l) constituted law in effect at the time the Agreements were executed. A Section 8 project owner of newly constructed or substantially rehabilitated housing who, prior to the effective date of this rule and consistent with then current regulations, had leased an assisted unit to an ineligible family could continue to lease the unit to that family. However, the Section 8 project owner would be required to make the unit available for occupancy by eligible families whenever the ineligible family vacates the unit.

The Section 8 Housing Assistance Program for the Disposition of HUD-Owned Projects (24 CFR Part 886, Subpart C) involves existing housing in addition to substantially rehabilitated housing. The Additional Assistance Program for Projects with HUD-Insured and HUD-Held Mortgages (24 CFR Part 886, Subpart A) involves only existing housing. HUD proposes to extend the rule to owners of existing housing under these Programs because the subsidy is project based and the Programs should be treated similarly to new construction and substantial rehabilitation for the purposes of this proposed rule. However, the proposed rule would apply only to a Section 8 project owner of existing housing who executes a Contract on or after the effective date of this proposed rule, since application of the rule to an owner of existing housing is not mandated by Section 325(l) of the HCD Amendments of 1981.

The proposed rule would not affect the obligations of (1) a Section 8 project owner of newly constructed or substantially rehabilitated housing who entered a Housing Assistance Payments Contract pursuant to an Agreement to Enter a Housing Assistance Payment Contract executed before October 1, 1981 or (2) a Section 8 project owner of existing housing assisted under Part 886 who entered a Contract before the effective date of this rule. Such an owner would be subject to those restrictions on making assisted units available to ineligible families as are in the owner's Contract.

A Finding of No Significant Impact with respect to the environment has been made in accordances with HUD regulations in 24 CFR Part 50, which implement Section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Room 10278, 451 Seventh Street, SW., Washington, D.C. 20410.

This rule does not constitute a "major rule" as that term is defined in Section 1 (b) of Executive Order 12291 on Federal Regulation issued by the President on February 17, 1981. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, state or local government agencies, or geographic regions; or (3) have a significant adverse effect 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.

Pursuant to 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. This proposed rule reflects a statutory requirement which applies to all Section 8 newly constructed, or substantially rehabilitated, housing without regard to the size of the entities involved.

This rule was listed at 47 FR 48425 as Item H–138–82 in the Department's Semiannual Agenda of Regulations published on October 28, 1982, pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

(The Catalog of Federal Domestic Assistance program number and title is 14.156, Lower Income Housing Assistance Program)

List of Subjects

24 CFR Part 880

Grant programs—housing and community development, Rent subsidies.

24 CFR Part 881

Grant programs—housing and community development, Rent subsidies, Low and moderate income housing.

24 CFR Part 883

Grant programs—housing and community development, Rent subsidies, New construction and substantial rehabilitation.

24 CFR Part 884

Grant programs—housing and community development, Rent subsidies, Rural area, Low and moderate income housing.

24 CFR Part 886

Grant programs—housing and community development, Low and moderate income housing, Rent subsidies.

Accordingly, the Department proposes to amend 24 CFR Parts 880, 881, 883, 884, and 886 as follows:

PART 880—[AMENDED]

1. Section 880.504 is amended by revising paragraphs (a), (b), and (d) to read as follows:

§ 880.504 Leasing to eligible families.

(a) *Availability of Units for Occupancy by Eligible Families.* During the term of the Contract, an owner shall make available for ocupancy by eligible families the total number of units for which assistance is committed under the Contract. For purposes of this section, making units available for occupancy by eligible families means that the owner: (1) Is conducting marketing in accordance with § 880.601(a); (2) has leased or is making good-faith efforts to lease the units to eligible and otherwise acceptable families, including taking all feasible actions to fill vacancies by renting to such families; and (3) has not rejected any such applicant family except for reasons acceptable to the contract administrator. If the owner is temporarily unable to lease all these units to eligible families, one or more units may be leased to ineligible families with prior approval of the contract administrator. Failure on the part of the owner to comply with these requirements is a violation of the Contract and grounds for all available legal remedies, including specific performance of the Contract, suspension or debarment from HUD programs, and reduction of the number of units under the Contract as set forth in paragraph (b) of this section.

(b) *Reduction of Number of Units Covered by Contract.* HUD (or the PHA at the direction of HUD, as appropriate) may reduce the number of units covered by the Contract to the number of units available for occupancy by eligible families if:

(1) The owner fails to comply with the requirements of paragraph (a) of this section; or

(2) Notwithstanding any prior approval by the contract administrator to lease such units to ineligible families, HUD (or the PHA at the direction of HUD, as appropriate) determines that the inability to lease units to eligible families is not a temporary problem.

* * * * *

(d) *Applicability.* In accordance with Sections 325(l) and 371(b) of the Housing and Community Development Amendments of 1981, paragraphs (a) and (b) of this section apply only to Contracts entered pursuant to Agreements executed on or after October 1, 1981. An owner, who is subject to paragraphs (a) and (b) of this section and who, before [the effective date of this rule] and consistent with regulations in effect at the time, had leased an assisted unit to an ineligible family may continue to lease the unit to that family. The owner must make the unit available for occupancy by eligible families when the ineligible family vacates the unit.

PART 881—[AMENDED]

2. Section 881.504 is amended by revising paragraphs (a), (b), and (d) to read as follows:

§ 881.504 Leasing to eligible families.

(a) *Availability of Units for Occupancy by Eligible Families.* During the term of the Contract, an owner shall make available for occupancy by eligible families the total number of units for which assistance is committed under the Contract. For purposes of this section, making units available for occupancy by eligible families means that the owner: (1) Is conducting marketing in accordance with § 881.601(a); (2) has leased or is making good-faith efforts to lease the units to eligible and otherwise acceptable families, including taking all feasible actions to fill vacancies by renting to such families; and (3) has not rejected any such applicant family except for reasons acceptable to the contract administrator. If the owner is temporarily unable to lease all these units to eligible families, one or more units may be leased to ineligible families with prior approval of the contract administrator. Failure on the part of the owner to comply with these requirements is a violation of the Contract and grounds for all available legal remedies, including specific performance of the Contract, suspension or debarment from HUD programs, and reduction of the number of units under the Contract as set forth in paragraph (b) of this section.

(b) *Reduction of Number of Units Covered by Contract.* HUD (or the PHA at the direction of HUD, as appropriate) may reduce the number of units covered by the Contract to the number of units available for occupancy by eligible families if:

(1) The owner fails to comply with the requirements of paragraph (a) of this section; or

(2) Notwithstanding any prior approval by the contract administrator to lease such units to ineligible families, HUD (or the PHA at the direction of HUD, as appropriate) determines that the inability to lease units to eligible families is not a temporary problem.

* * * * *

(d) *Applicability.* In accordance with sections 325(l) and 371(b) of the Housing and Community Development Amendments of 1981, paragraphs (a) and (b) of this section apply only to Contracts entered pursuant to Agreements executed on or after October 1, 1981. An owner, who is subject to paragraphs (a) and (b) of this section and who, before [the effective date of this rule] and consistent with regulations in effect at the time, had leased an assisted unit to an ineligible family may continue to lease the unit to that family. The owner must make the unit available for occupancy by eligible families when the ineligible family vacates the unit.

PART 883—[AMENDED]

3. Section 883.605 is amended by revising paragraphs (a), (b), and (d) to read as follows:

§ 883.605 Leasing to eligible families.

(a) *Availability of Units for Occupancy by Eligible Families.* During the term of the Contract, an owner shall make available for occupancy by eligible families the total number of units for which assistance is committed under the Contract. For purposes of this section, making units available for occupancy by eligible families means that the owner: (1) Is conducting marketing in accordance with § 883.702(a); (2) has leased or is making good-faith efforts to lease the units to eligible and otherwise acceptable families, including taking all feasible actions to fill vacancies by renting to such families; and (3) has not rejected any such applicant family except for reasons acceptable to the Agency. If the

owner is temporarily unable to lease all these units to eligible families, one or more units may be leased to ineligible families with prior approval of the Agency. Failure on the part of the owner to comply with these requirements is a violation of the Contract and grounds for all available legal remedies, including specific performance of the Contract, suspension or debarment from HUD programs, and reduction of the number of units under the Contract as set forth in paragraph (b) of this section.

(b) *Reduction of Number of Units Covered by Contract.* HUD and the Agency may reduce the number of units covered by the Contract to the number of units available for occupancy by eligible families if:

(1) the owner fails to comply with the requirements of paragraph (a) of this section; or

(2) Notwithstanding any prior approval by the Agency to lease such units to ineligible families, HUD and the Agency determine that the inability to lease units to eligible families is not a temporary problem.

* * * * *

(d) *Applicability.* In accordance with Sections 325(l) and 371(b) of the Housing and Community development Amendments of 1981, paragraphs (a) and (b) of this section apply only to Contracts entered pursuant to Agreements executed on or after October 1, 1981. An owner, who is subject to paragraphs (a) and (b) of this section and who, before [the effective date of this rule] and consistent with regulations in effect at the time, had leased an assisted unit to an ineligible family may continue to lease the unit to that family. The owner must make the unit available for occupancy by eligible families when the ineligible family vacates the unit.

PART 884—[AMENDED]

4. Section 884.223 is amended by revising paragraphs (a), (b), and (d) to read as follows:

§ 884.223 Leasing to eligible families.

(a) *Availability of Units for Occupancy by Eligible Families.* During the term of the Contract, an owner shall make available for occupancy by eligible families the total number of units for which assistance is committed under the Contract. For purposes of this section, making units available for occupancy by eligible families means that the owner: (1) Is conducting marketing in accordance with § 884.214; (2) has leased or is making good-faith efforts to lease the units to eligible and otherwise acceptable families, including taking all feasible actions to fill vacancies by renting to such families; and (3) has not rejected any such applicant family except for reasons acceptable to HUD (or the PHA at the direction of HUD, as appropriate). If the owner is temporarily unable to lease all these units to eligible families, one or more units may be leased to ineligible families with prior approval of HUD (or the PHA at the direction of HUD, as appropriate). Failure on the part of the owner to comply with these requirements is a violation of the Contract and grounds for all available legal remedies, including specific performance of the Contract, suspension or debarment from HUD programs, and reduction of the number of units under the Contract as set forth in paragraph (b) of this section.

(b) *Reduction of Number of Units Covered by Contract.* HUD (or the PHA at the direction of HUD, as appropriate) may reduce the number of units covered by the Contract to the number of units available for occupancy by eligible families if:

(1) The owner fails to comply with the requirements of paragraph (a) of this section; or

(2) Notwithstanding any prior approval by HUD (or the PHA at the direction of HUD, as appropriate) to lease such units to ineligible families, HUD (or the PHA at the direction of HUD, as appropriate) determines that the inability to lease units to eligible families is not a temporary problem.

* * * * *

(d) *Applicability.* In accordance with Sections 325(l) and 371(b) of the Housing and Community Development Amendments of 1981, paragraphs (a) and (b) of this section apply only to Contracts entered pursuant to Agreements executed on or after October 1, 1981. An owner, who is subject to paragraphs(a) and (b) of this section and who, before [the effective date of this rule] and consistent with regulations in effect at the time, had leased an assisted unit to an ineligible family may continue to lease the unit to that family. The owner must make the unit available for occupancy by eligible families when the ineligible family vacates the unit.

PART 886—[AMENDED]

5. Section 886.129 is revised to read as follows:

§ 886.129 Leasing to eligible families.

(a) *Availability of Units for Occupancy by Eligible Families.* During the term of the Contract, an owner shall make available for occupancy by eligible families the total number of units for which assistance is committed under the Contract. For purposes of this section, making units available for occupancy by eligible families means that the owner: (1) Is conducting marketing in accordance with § 886.121; (2) has leased or is making good-faith efforts to lease the units to eligible and otherwise acceptable families, including taking all feasible actions to fill vacancies by renting to such families; and (3) has not rejected any such applicant family except for reasons acceptable to HUD. If the owner is temporarily unable to lease all these units to eligible families, one or more units may be leased to ineligible families with prior approval of HUD. Failure on the part of the owner to comply with these requirements is a violation of the Contract and grounds for all available legal remedies, including specific performance of the Contract, suspension or debarment from HUD programs, and reduction of the number of units under the Contract as set forth in paragraph (b) of this section.

(b) *Reduction of Number of Units Covered by Contract.* HUD may reduce the number of units covered by the Contract to the number of units available for occupancy by eligible families if:

(1) The owner fails to comply with the requirements of paragraph (a) of this section; or

(2) Notwithstanding any prior approval by HUD to lease such units to ineligible families, HUD determines that the inability to lease units to eligible families is not a temporary problem.

(c) *Restoration.* HUD may agree to an amendment of the Contract, as appropriate, to provide for subsequent restoration of any reduction made pursuant to paragraph (a) or (b) of this section if HUD determines that the restoration is justified as a result of changes in demand and in the light of the owner's record of compliance with his or her obligations under the Contract and if annual contributions contract and budget authority are available; and HUD may take such steps authorized by section 8(c)(6) of the Act as may be necessary to carry out this assurance.

(d) *Applicability.* In accordance with Sections 325(l) and 371(b) of the Housing and Community Development Amendments of 1981, paragraphs (a) and (b) of this section apply to Contracts executed on or after [the effective date of this rule].

6. Section 886.329 is revised to read as follows:

§ 886.329 Leasing to eligible families.

(a) *Availability of Units for Occupancy by Eligible Families.* During the term of the Contract, an owner shall make available for occupancy by eligible families the total number of units for which assistance is committed under the Contract. For purposes of this section, making units available for occupancy by eligible families means that the owner: (1) Is conducting marketing in accordance with § 886.321; (2) has leased or is making good-faith efforts to lease the units to eligible and otherwise acceptable families, including taking all feasible actions to fill vacancies by renting to such families; and (3) has not rejected any such applicant family except for reasons acceptable to HUD. If the owner is temporarily unable to lease all these units to eligible families, one or more units may be leased to ineligible families with prior approval of HUD. Failure on the part of the owner to comply with these reguirements is a violation of the Contract and grounds for all available legal remedies, including specific performance of the Contract, suspension or debarment from HUD programs, and reduction of the number of units under the Contract as set forth in paragraph (b) of this section.

(b) *Reduction of Number of Units Covered by Contract.* HUD may reduce the number of units covered by the Contract to the number of units available for occupancy by eligible families if:

(1) The owner fails to comply with the requirements of paragraph (a) of this section; or

(2) Notwithstanding any prior approval by HUD to lease such units to ineligible families, HUD determines that the inability to lease units to eligible families is not a temporary problem.

(c) *Restoration.* HUD may agree to an amendment of the Contract, as appropriate, to provide for subsequent restoration of any reduction made pursuant to paragraph (a) or (b) of this section if HUD determines that the restoration is justified as a result of changes in demand and in the light of the owner's record of compliance with his or her obligations under the Contract and if annual contributions contract and budget authority are available; and HUD may take such steps authorized by section 8(c)(6) of the Act as may be necessary to carry out this assurance.

(d) *Applicability.* In accordance with sections 325(1) and 371(b) of the Housing and Community Development Amendments of 1981, paragraphs (a) and (b) of this section apply to: (1) Contracts involving Substantial Rehabilitation entered pursuant to Agreements executed on or after October 1, 1981; and (2) all other Contracts executed on or after [the effective date of this rule]. An owner of substantially rehabilitated housing who is subject to paragraphs (a) and (b) of this section and who, before [the effective date of this rule] and consistent with regulations in effect at the time, had leased an assisted unit to an ineligible family may continue to lease the unit to that family. The owner must make the unit available for occupancy by eligible families when the ineligible family vacates the unit.

(Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)); Sec. 8(b)(2) of the U.S. Housing Act of 1937 (42 U.S.C. 1437f(b)(2)))

Dated: January 20, 1983.

Philip Abrams,

Assistant Secretary of Housing—Federal Housing Commissioner.

[FR Doc. 83-4369 Filed 2-22-83; 8:45 am]

BILLING CODE 4210-27-M

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24 CFR Part 892

[Docket No. R-83-1056]

Public Housing Agency Recovery of Section 8 Funds Obtained Through Fraud and Abuse

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

ACTION: Proposed rule.

SUMMARY: HUD is proposing to implement a provision of the Housing and Community Development Amendments of 1981 that added a requirement that HUD permit Public Housing Agencies to retain a portion of amounts they recovered on judgments for wrongful payment of Section 8 funds as a result of fraud and abuse.

DATE: Comment due date: April 25, 1983.

ADDRESS: Interested persons are invited to submit comments to the Rules Docket Clerk, Office of General Counsel, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Each comment should include the commentor's name and address and must refer to the docket number indicated in the heading of this rule. A copy of each comment will be available for public inspection and copying during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Madeline Hastings, Director, Office of Existing Housing and Moderate Rehabilitation, (202) 755-5597, Steven Silvert, Acting Director, Office of State Agency and Bond Financed Programs, (202) 755-8135, or Conrad Egan, Director, Office of Multifamily Housing Management, (202) 755-5216 (for PHA/Private owner projects). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: This new Part would implement Section 326(d)(1) of the Housing and Community Development Amendments of 1981 ("1981 Amendments"), contained in Title III, Subtitle A of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35). Section 326(d)(1) states the following:

> (d)(1) The Secretary of Housing and Urban Development shall permit public housing agencies to retain, out of judgments obtained by them in recovering amounts wrongfully paid as a result of fraud and abuse in the housing assistance program under section 8 of the United States Housing Act of 1937, an amount equal to the greater of (A) the legal expenses incurred in obtaining such judgments, or (B) 50 per centum of the amount actually collected on the judgments.

This provision is self-implementing, and PHAs are entitled to retain portions of judgments recovered on or after October 1, 1981, in accordance with the Act. This rule would prescribe the procedures for PHAs to follow in obtaining HUD approval after the effective date of the rule.

HUD's requirements concerning litigation by Public Housing Agencies ("PHAs") are contained in the Litigation Handbook 1530.1 Rev-4. These requirements include a requirement to transmit litigation papers to HUD as well as procedures for PHAs to follow in initiating litigation, settling litigation, and hiring private litigation counsel that require prior HUD approvals. Section 892.201(a) of this proposed rule would require that the procedures stated in the Litigation Handbook be followed in order for a PHA to retain any portion of a recovery for fraud and abuse. These procedures would permit HUD to assure that (1) PHAs not pursue suits that are frivolous or not cost-beneficial; and (2) PHAs not incur unreasonable legal fees and expenses that would otherwise reduce HUD's share of the recovery. Such procedures would also allow HUD to gather the information necessary to fulfill its duty under Section 326(d)(2) of the 1981 Amendments. This provision requires HUD to include in its annual report to Congress a summary of cases brought to its attention by PHAs for prosecution or civil action, as well as a

description of their handling and resolution.

Section 892.202(b) would require that a PHA obtain HUD approval of its retention of part of a recovery for fraud and abuse under this Part. This requirement would allow HUD to assure that the amount to be retained by the PHA is determined properly and that the remainder is applied as directed by HUD.

Section 892.202(c) would require PHAs to furnish HUD with any documentation or certification necessary to approve retention of amounts recovered. We do not now anticipate that this process will involve preparation of special documents for HUD but instead expect it will involve submission of copies of documents giving information about recoveries, such as installment payments on judgments.

The statute authorizes retention of amounts recovered on "judgments." Under the proposed rule, a PHA may retain Section 8 program funds it recovers only if related to a judgment, as defined in Section 892.103, whether in the form of a court order or a settlement. If a PHA revovered an amount fraudulently obtained by means short of litigation, such as demand letter, it would not be authorized by this rule to retain any portion thereof. The Department invites comment on whether to expand the coverage of the rule to include such recoveries.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50 that implement Section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection and copying during regular business hours in the Office of the Rules Docket Clerk, Room 10278, 451 Seventh Street, SW., Washington, D.C. 20410.

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of the Executive Order on Federal Regulation issued by the President on February 17, 1981. Analysis of the rule indicates that it does not: (1) have an annual effect on the economy of $100 million or more, (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions or (3) have a significant adverse effect 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.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities because the number of recoveries by PHAs on judgments for fraud and abuse is expected to be small and so the number of small PHAs affected will be small. In any event, the effect on small entities is expected to be positive rather than negative.

This rule was listed as Item H-126-82 on page 48424 in the Department's Semiannual Agenda of Regulations published on October 28, 1982 (47 FR 48421) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Domestic Assistance Number is 14.156, Lower Income Housing Assistance Program.

OMB Control Number. In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96-511, U.S.C. 3501, *et seq.*), the reporting provisions included in this rule have been submitted for approval to the Office of Management and Budget.

List of Subjects in 24 CFR Part 892

Low and moderate income housing.

Accordingly, the Department amends Title 24 CFR to add a new Part 892 to read as follows:

PART 892—PUBLIC HOUSING AGENCY RECOVERY OF SECTION 8 FUNDS OBTAINED THROUGH FRAUD AND ABUSE

Subpart A—General Provisions

Sec.

Subpart B—Recovery of Section 8 Funds

Authority: Section 326(d)(1) and (2), Omnibus Budget Reconciliation Act of 1981, 42 U.S.C. 1437f note; Section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Subpart A—General Provisions

§ 892.101 Purpose.

The purpose of this Part is to encourage public housing agencies to investigate and pursue instances of fraud and abuse in the operation of the Section 8 housing assistance payments program through legal action to recover Section 8 funds converted to improper use.

§ 892.102 Applicability.

This Part applies to a Public Housing Agency acting as a contract administrator under an Annual Contribution Contract with HUD in any Section 8 housing assistance payments program.

§ 892.103 Definitions.

Fraud and abuse. A single act or pattern of actions that constitute false statement, omission or concealment of a substantive fact, made with intent to deceive or mislead, that results in payment of Section 8 program funds in violation of Section 8 program requirements.

Judgment. Provision for recovery of Section 8 program funds obtained through fraud and abuse, by order of a court in litigation or by a HUD-approved settlement of a claim in litigation, whether or not stated in a court order.

Litigation. A lawsuit brought by a PHA to recover Section 8 program funds obtained as a result of fraud and abuse.

PHA (Public Housing Agency). Any State, county, municipality or other governmental entity or public body acting as Section 8 contract administrator pursuant to an Annual Contributions Contract with HUD.

Subpart B—Recovery of Section 8 Funds

§ 892.201 Conduct of litigation.

(a) Litigation shall be initiated and conducted in accordance with the HUD Litigation Handbook, Handbook 1530.1. The PHA shall furnish to HUD copies of litigation papers and proposals for settlement when and as required by HUD.

(b) The PHA shall not enter into a settlement of the litigation without HUD approval.

(c) In connection with the litigation, the PHA shall not incur legal fees and expenses in excess of a reasonable amount. See Handbook 1530.1. Legal fees for services rendered by counsel for the PHA must be reasonable both (1) in relation to services rendered, and (2) in relation to amounts the PHA is seeking to recover in the litigation.

(d) The PHA shall promptly furnish to HUD a copy of the court order or executed settlement constituting the judgment.

§ 892.202 PHA retention of litigation proceeds.

(a) Where the PHA has complied with the requirements of § 892.201, the PHA may retain, out of amounts recovered on a judgment in litigation, the greater of:

(1) Fifty percent of the amount actually collected on the judgment, or

(2) Reasonable and necessary legal fees and expenses. However, if HUD has incurred costs on behalf of the PHA in obtaining judgment, such costs shall be deducted from the amount to be retained by the PHA.

(b) The PHA must promptly obtain HUD approval for retention, pursuant to paragraph (a) of this section, of amounts recovered on a judgment. HUD shall determine the amount to be retained by the PHA (which shall be subject to modification by HUD from time to time to reflect amounts actually collected by the PHA on the judgment and legal fees and expenses incurred by the PHA).

(c) The PHA shall furnish to HUD any documentation or certification required by HUD to approve retention of amounts recovered.

§ 892.203 Application of amounts recovered.

(a) After HUD has determined the amount of litigation proceeds to be retained by the PHA, the PHA may use that amount for any purpose within the PHA's authority.

(b) Except for the portion of litigation proceeds to be retained by the PHA pursuant to Section 892.202, the balance of such proceeds shall be applied as directed by HUD.

Dated: January 20, 1983.

Philip Abrams,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 83-4364 Filed 2-22-83; 8:45 am]

BILLING CODE 4210-27-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 2E2724/P279; PH-FRL 2307-5]

Ethyl 3-Methyl-4-(Methylthio) Phenyl (1-Methylethyl) Phosphoramidate; Proposed Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that a tolerance be established for the combined residues of the nematocide ethyl 3-methyl-4-(methylthio) phenyl (1-methylethyl) phosphoramidate and its cholinesterase-inhibiting metabolites in or on the raw agricultural commodity okra. The proposed regulation to establish a maximum permissible level for residues of the nematocide in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

DATE: Comments must be received on or before March 25, 1983.

ADDRESS: Written comments to: Emergency Response Section, Process Coordination Branch, Registration Division (TS-767C), Environmental Protection Agency, Rm. 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703-557-1192), at the address given above.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition 2E2724 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of Alabama, Georgia, and Florida.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for the combined residues of the nematocide ethyl 3-methyl-4-(methylthio) phenyl (1-methylethyl) phosphoramidate and its cholinesterase-inhibiting metabolites in or on the raw agricultural commodity okra at 0.3 part per million (ppm).

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support of the proposed tolerance were a 2-year dog feeding study with a no-observed-effect level (NOEL) of 0.025 mg/kg/day (1.0 ppm); an 18-month mouse oncogenicity study with a NOEL of 7.5 mg/kg/day (50 ppm); a 2-year rat feeding study with a NOEL of 0.15 mg/kg/day (3 ppm); a 3-generation rat reproduction study with a NOEL of 1.5 mg/kg/day (30 ppm); and teratology studies using rats and rabbits with NOEL's of 0.5 mg/kg and 30 mg/kg, respectively.

The acceptable daily intake (ADI), based on the 2-year dog feeding study (NOEL of 0.025 mg/kg/day) and using a 10-fold safety factor, is calculated to be 0.0025 mg/kg of body weight (bw)/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 0.15 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5-kg daily diet is calculated to be 0.0042 mg/day; the current action will increase the TMRC by 0.00032 mg/day (7.6 percent). Published tolerances utilize 2.79 percent of the ADI; the current action will utilize an additional 0.2 percent.

The nature of the residues is adequately understood and an adequate analytical method, gas-liquid chromatography, is available for enforcement purposes. Okra is not considered an animal feed item and, therefore, there is no expectation of secondary residues in meat, milk, poultry and eggs. There are presently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency the tolerance established by amending 40 CFR 180.349 would protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number [PP 2E2724/P279]. All written comments filed in response to this petition will be available in the Emergency Response Section, Registration Division, at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: February 4, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR 180.349 be revised by reformatting the commodities in an alphabetized columnar listing and alphabetically inserting the commodity okra to read as follows:

§ 180.349 Ethyl 3-methyl-4-(methylthio) phenyl (1-methylethyl) phosphoramidate; tolerances for residues.

Tolerances are established for combined residues of the nematocide ethyl 3-methyl-4-(methylthio) phenyl (1-methylethyl) phosphoramidate and its cholinesterase-inhibiting metabolites in or on the following raw agricultural commodities:

Commodities	Parts per million
Bananas	0.1
Brussels sprouts	0.1
Cabbage	0.1
Cottonseed	0.05
Okra	0.3
Peanuts	0.02
Peanuts, hulls	0.4
Soybeans	0.05

[FR Doc. 83-4127 Filed 2-22-83; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 435

Medicaid Program; Mental Retardation—Definition of "Persons With Related Conditions"

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed Rule.

SUMMARY: We propose to amend the 1978 Medicaid regualtions on intermediate care facility services for the mentally retarded and persons with related conditions to correct the definition of "persons with related conditions". This definition, because of an inadvertent error in 1978, is currently tied to the definition of developmental disability in the Developmental Disabilities Assistance and Bill of Rights Act (DDABRA) as amended in 1978. The DDABRA, as amended, covers the mentally ill. The 1978 regulations intended to make "no substantive change" to prior Medicaid regulations which did not cover the mentally ill. The cross-reference to the DDABRA produced the unintended result of incorporating into Medicaid regulations the revision to the definition of the developmentally disabled created by the 1978 amendments to the DDABRA and may tend to cause confusion about the kind of care that is covered by the Medicaid program. Therefore, a correction of this drafting error is necessary.

To avoid results of this kind in the future, this proposal would establish a Medicaid definition of conditions related to mental retardation that would meet specific needs of the Medicaid program and would be independent of the definition of developmental disability in the DDABRA.

DATE: To assure consideration, comments should be received by March 25, 1983.

ADDRESS: Address comments in writing to: Administrator, Health Care Financing Administration, U.S. Department of Health and Human Services, Attention: BPP-106-P, P.O. Box 17073, Baltimore, Maryland 21235.

If you perfer, you may deliver your comments to Room 309–G Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington D.C. 20201, or to Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland, 21207.

Comments will be available for public inspection, beginning approximately three weeks after publication, in Room 309–G of the Department's office at 200 Independence Ave., SW., Washington, D.C. 20201, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202–245–7890)

FOR FURTHER INFORMATION, CONTACT: Bob Wren, (301) 594–9820.

SUPPLEMENTARY INFORMATION:

Background

Section 1905 of the Social Security Act authorizes optional Medicaid coverage for services in intermediate care facilities (ICFs). These are facilities that provide health-related care to individuals who do not need the degree of care commonly provided in hospitals or skilled nursing facilities, but who do require care and services, above the level of room and board, which can only be made available to them through institutional facilities. Section 1905(d) indicates that the term "intermediate care facility services" may include services in a public institution for the mentally retarded or "persons with related conditions" (ICF-MR). This statutory provision is reflected in current reguations at 42 CFR 435.1009 and 440.150.

Fifty States and jurisdictions cover ICF care; 47 of these include ICF/MR care and currently serve nearly 117,000 individuals.

To define the term "persons with related conditions", initial Medicaid regulations published in 1974 used a cross-reference to the definition of developmental disability contained in the Developmental Disabilities Services and Facilities Constriction Act (DDSFCA), Pub. L. 91–517, enacted on October 30, 1970 (now the Developmental Disabilities Assistance and Bill of Rights Act, DDABRA). That defenition of developmental disability employed specific diagnoses which served to limit its scope to impairments closely related to mental retardation. The definition read "* * * a disability attributable to mental retardation, cerebral palsy, epilepsy, or another neurological condition of an individual found by the Secretary to be closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals, which disability originates before such individual attains age 18, which has continued or can be expected to continue indefinitely, and which consitutes a substantial handicap to such individual."

Since 1970, the statutory definition of developmental disability contained in the DDABRA has been amended twice. The definition was amended in 975 by Pub. L. 94–103 to:

(1) Add autism to the list of specific conditions. Dyslexia resulting from a disability otherwise specified in the definition was also added;

(2) Expand the reference to "other neurological conditions" to cover any conditions closely related to mental retardation by virtue of a similar impairment or a requirement for similar treatment; and

(3) Relate "substantial handicap to the ability to function normally in society.

On October 1, 1978, an amendment to DDABRA, Pub. L 95–602, revised the definition of developmental disabilities even further to read as follows:

"The term 'development disability' means a severe, chronic disability of a person which—

(1) Is attributable to a mental or physical impairment or combination of mental and physical impairments;

(2) Is manifested before the person attains age 22;

(3) Is likely to continue indefinitely;

(4) Results in substantial functional limitations in three or more of the following areas of major life activity:

(a) Self-care.

(b) Receptive and expressive language.
(c) Learning.
(d) Mobility.
(e) Self-direction.
(f) Capacity for independent living.
(g) Economic self-sufficiency.
(5) Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated."

This last amendment changed the focus of the definition from a categorical to a functional one. Thus it no longer employs the specific diagnoses that previously had been used to limit the definition to those impairments closely resembling mental retardation. The definition now encompasses, instead, any person with a mental or physical impairment that limits the person's functional ability in certain activities. Furthermore, the age by which a condition must manifest itself was changed from 18 to 22.

Medicaid Regulations

As mentioned earlier, initial Medicaid regulations published in 1974, in defining the term "persons with related conditions", cross-referred to the definition of developmental disability contained in DDSFCA, Pub. L. 91-517 enacted on October 30, 1970. This cross-reference was adopted when the ICF/MR benefit was included under Medicaid because it was an appropriate and convenient means of defining the term. However, effective October 1, 1978, all existing Medicaid regulations were recodified as part of the Department's initiative to rewrite regulations in a clear, concise, easily understandable format. Although the preamble clearly stated that no substantive changes were made, the rewritten regulations mistakenly included the words "as amended" after the phrase "Pub. L. 91-517 enacted on 10/30/70". The later effect of this change in the recodified Medicaid regulations was inadvertently to incorporate the most recent definition of developmental disability contained in the DDABRA.

The Department drafted the Medicaid recodification regulation during 1977 and early 1978, long before it was published as a technical regulation, without public comment, in the **Federal Register** on September 29, 1978. The Department in drafting the recodification regulations had no intent to propose policy changes. However, they did not anticipate the 1978 amendment to the DDABRA that changed the definition and did not intend to increase the categories of persons eligible to receive Medicaid funded services in ICFs. That clearly would have been a substantive change.

An explained above, since the adoption of the cross-reference to the DDABRA in Medicaid regulations, the definition of developmental disability in the DDABRA has been amended. The most recent amendment in Pub. L. 95-602 included within the definition persons with functional limitations who are mentally impaired. Use of the current DDABRA definition is not only unintended but also tends to cause confusion about the kind of care that is covered by the Medicaid program. Section 1905(a) of the Social Security Act contains explicit language which excludes coverage for services provided to persons between the ages of 21 and 65 who are in institutions for mental diseases (IMDs).

Therefore, we are deleting the incorrect language referencing the definition in the DDABRA "as amended" and proposing to adopt a definition of "persons with related conditions" which utilizes many of the features of the DDABRA definition of developmental disability, but which is specifically tailored to the coverage offered by the Medicaid program. The proposed amendment to the Medicaid definition of "persons with related conditions" would:

(1) Be independent of the DDABRA definition of developmental disability;
(2) Clearly indicate specific diagnoses that, for this purpose, we consider related to mental retardation and thereby exclude mental illness; and
(3) Insure consistency between this provision and other sections of the Medicaid statute and regulations.

Major Provisions

We propose to create a Medicaid definition of "persons with related conditions" that would combine certain elements of the 1975 developmental disability definition in the DDABRA with elements of the 1978 definition. Thus, "persons with related conditions" would be defined as persons who have a severe, chronic disability that meets all of the following conditions:

(1) It is attributable to—
(a) Cerebral palsy, epilepsy, or autism; or
(b) Any other condition, other than mental illness, found to be closely related to mental retardation because this condition results in impairment of general intellectual functioning or adaptive behavior similar to that of mentally retarded persons, or requires treatment or services similar to those required for these persons.
(2) It is manifested before the person reaches age 22.
(3) It is likely to continue indefinitely.
(4) It results in substantial functional limitations in three or more of the following areas of major life activity:
(a) Self-care.
(b) Understanding and use of language.
(c) Learning.
(d) Mobility.
(e) Self-direction.
(f) Capacity for independent living.

This definition combines the specific diagnoses from the 1975 amendment (cerebral palsy, epilepsy and autism) with the requirement for functional limitations and other provisions contained in the 1978 amendment to the DDABRA. Thus, the definition includes the major points of each version; it clearly indicates the diagnoses that are considered closely related to mental retardation, while indicating that these conditions must be severe enough to limit the individual's ability to function normally before he or she may be considered disabled to the extent of needing ICF/MR services. The Task Force on the Definition of Developmental Disabilities, established by the Administration on Developmental Disabilities, found that, under the definitions used before 1978, individuals who had one of the listed conditions were being classified automatically as developmentally disabled even though they were able to function independently. By combining the major provisions of the two previous definitions, the proposed wording avoids the vagueness and excessively broad scope of the 1978 approach and also provides a basis for distinguishing among individuals in the specified diagnostic categories in terms of functional disability.

We included in our definition of "related conditions" a provision covering severe chronic disabilities attributable to conditions, "* * * other then mental illness, found to be closely related to mental retardation because this condition results in impairment of general intellectual functioning or adaptive behavior similar to that of mentally retarded persons * * *". This definition would include individuals with severe physical impairments associated with disorders such as spina bifida and muscular dystrophy, or those with multiple handicaps such as deaf-blindness, or severe learning disabilities. This definition would not preclude individuals who are mentally ill and also have a condition indicated in the definition from receiving ICF/MR

services if the individuals meet the other criteria of the proposed definition.

We have not included dyslexia, previously included in the 1975 definition, in the list of specific conditions. The 1975 definition included dyslexia as a specific category only when it occurred in combination with at least one of the other specified conditions. We therefore believe that it is inappropriate to identify it as a separate category and we do not see any advantage in retaining the cumbersome approach of the 1975 definition.

We decided to accept age 22 as the age limit by which the condition must manifest itself, because important developmental processes continue to take place until age 22, particularly the acquisition of independent living skills. We do not expect that incorporating the age 22 limit will have any significant economic impact on the Medicaid program.

We included in our proposed definition the 1978 DDABRA provision on substantial functional impairments in three or more major life activities. This refines and clarifies the language on "substantial handicap to * * * ability to function normally in society" and thus should facilitate application of the definition. It also reinforces and clarifies the concerpt that individuals with "related conditions" are chronically and substantially disabled by types of disabilities that have a pervasive impact on their ability to function. To include individuals with substantial limitations in less than three areas would have considerably reduced the overall substantiality and pervasiveness of the disability for purposes of coverage and considerably broadened the population included beyond those who are severely handicapped. We did not include economic self-sufficiency as a major life activity because we believe that this category does not constitute a "substantial functional limitation" and could, if used, lead to inappropriate placement.

We have also not included in our proposed definition the final criterion in the 1978 definition, which specifies service needs. We believe that the categorical and functional criteria included in our proposed definition are the critical factors in defining a related condition, and that service needs are a product of these factors, rather than an additional criterion.

Overall, our proposed definition underscores the fact that a "related condition" is a severe, chronic disability which affects several aspects of functioning. This approach, adopted in the 1978 DDABRA definition, may exclude some individuals who had been included under previous definitions by virtue of a diagnosis-specific determination. However, we believe that those individuals who are not functionally limited, regardless of the diagnosis, are not appropriate for placement in an ICF/MR.

Impact Analysis

We have determined that this proposed rule does not meet the criteria for a major rule as defined by section 1(b) of Executive Order 12291. That is, this proposed rule would not have an annual effect on the economy of $100 million or more; or result in a major increase in costs or prices for consumers, government agencies, industry, or a geographic region; or 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 import markets.

This proposed rule corrects a regulation drafting error which unintentionally has the effect of cross-referencing the 1978 DDABRA definition of developmental disability for use in determining eligibility for Medicaid funding for services received in an ICF. The rule also proposes a new definition of "persons with related conditions". The new definition reflects in regulations the policies States now generally follow in connection with ICF/MR benefits. The rule will, therefore, have little, if any, fiscal impact on program operations and does not meet the criteria for a major rule under Executive Order 12291.

For these reasons, Secretary also certifies, pursuant to section 605(b) of title 5, United States Code, enacted by the Regulatory Flexibility Act (Pub. L. 96-354) that the regulations proposed in this notice of proposed rulemaking will not have a significant economic impact on a substantial number of small entites.

Public Comments

Comments are sought on the detailed provisions of the new definition. We are particularly interested in whether or not it may unintentionally include or exclude substantial numbers of persons as compared to the pre-1978 rule. We do not seek comments on coverage of the institutionalized mentally ill, since the Department did not previously, and does not now, believe that the Medicaid program comtemplates coverage of such persons through the mental retardation (ICF/MR) provisions of the law. Moreover, such coverage poses issues going far beyond the information contained in the proposed rule, and would represent a major policy change requiring careful, in depth analysis of legislative authority and economic impacts.

Because of the large number of comments we receive, we cannot acknowledge or respond to them individually. However, in preparing the regulations, we will consider all comments and will respond to them in the preamble to that notice.

List of Subjects in 42 CFR Part 435

Aid to Families with Dependent Children, Aliens, Categorically needy, Contracts (Agreements—State Plan), Eligibility, Grant-in-Aid program—health, Health facilities, Medicaid, Medically needy, Reporting requirements, Spend-down, Supplemental security income (SSI).

42 CFR Part 435, Subpart K, is amended as set forth below:

PART 435—[AMENDED]

The authority citation for Part 435 reads as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

1. Section 435.1009 is amended by changing the definition of "Persons with related conditions" to read as follows:

§ 435.1009 Definitions relating to institutional status.

* * * * *

"Persons with related conditions" means individuals who have a severe, chronic disability that meets all of the following conditions:

(a) It is attributable to—

(1) Cerebral palsy, epilepsy, or autism; or

(2) Any other condition, other than mental illness, found to be closely related to mental retardation because this condition results in impairment of general intellectual functioning or adaptive behavior similar to that of mentally retarded persons, or requires treatment or services similar to those required for these persons.

(b) It is manifested before the person reaches age 22.

(c) It is likely to continue indefinitely.

(d) It results in substantial functional limitations in three or more of the following areas of major life activity:

(1) Self-care.

(2) Understanding and use of language.

(3) Learning.

(4) Mobility.

(5) Self-direction.

(6) Capacity for independent living.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: November 30, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: February 1, 1983.

Richard S. Schweiker,

Secretary.

[FR Doc. 83-4515 Filed 2-22-83; 8:45 am]

BILLING CODE 4120-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[Docket No. 21499; FCC 83-39]

American Telephone & Telegraph Co.; Offer of Facilities to Other Common Carriers

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The American Telephone & Telegraph Company (AT&T) currently provides analog wideband (i.e., bandwidth greater than voice grade) services to the public. These wideband channels are called groups (which have a nominal bandwidth of 48 kHz) and supergroups (which have a nominal bandwidth of 240 kHz). The Commission has ordered AT&T to make these channels available to the public if the customer is willing to pay for the special construction of local facilities to terminate these services. The Commission believes, however, that it might be practical and efficient for AT&T to make these channels available without the need for special construction charges. A number of people have already requested that AT&T make groups and supergroups available because of the flexibility and potential efficiency they offer. The imposition of special construction charges, which can be substantial, might inhibit the public from utilizing group and supergroup facilities.

DATES: Comments must be received from AT&T by April 1, 1983, and Reply Comments must be received on or before May 27, 1983.

ADDRESS: Send all comments to Secretary, Federal Communications Commission, Room 222, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Kent Nakamura (202) 632-7117.

SUPPLEMENTARY INFORMATION:

Memorandum Opinion and Order And Further Notice of Proposed Rulemaking

Adopted: January 27, 1983.

Released: February 15, 1983.

In the matter of American Telephone & Telegraph Co.; offer of facilities to other common carriers; Docket No. 21499.

1. On January 19, 1981 the Commission released a Notice of Inquiry and Proposed Rulemaking in this proceeding to examine whether the American Telephone & Telegraph Company (AT&T) should be required to offer group and supergroup facilities to other common carriers (OCCs) and to the public.[1] For reasons stated below, we order AT&T to make these facilities available to the OCCs and the public, subject to certain limitations, and seek further comments on related issues.

Background

2. The OCCs and, in some instances, the public, frequently have requirements to transmit bulk communications from one location to another. These bulk communications may be in the form of analog or digital signals or a combination of both, the volume of which may be equivalent to the information carried by several voice grade channels. It is a common practice in the communications industry, where there is a need for a large number of circuits over a common communications path, to employ multiplexing equipment for this purpose. Multiplexing equipment can be of either frequency division (analog) or time division (digital) type (FDM and TDM, respectively). Digital information may be transmitted over analog facilities or vice versa, provided an analog to digital or digital to analog conversion is made. The frequency division multiplex hierarchy in common use (1 multiplex) begins with the combination of twelve voice band channels into a circuit or base group; it occupies 60-108 kHz of spectrum at the first hierarchical step in AT&T's transmission plant. The next step in the hierarchy combines five groups into one supergroup, which occupies a bandwidth of 240 kHz in the transmission plant. The time division multiplex hierarchy in common use (T 1 multiplex) begins with the combination of 24 64 kbps digitized voice channels. Each channel is capable of supporting telephone grade voice communication on a 1.544 Mbps bit stream commonly referred to as the DS-1 rate.[2] The next step in the hierarchy is a combination of 4 DS-1 channels into a 6.3 Mbps bit stream commonly referred to as the T 2 carrier system. *See Engineering and Operations in the Bell System,* Western Electric Co., Indianapolis, Indiana, 1978 at 149-154. AT&T facilities currently employ both analog and digital transmission systems. Local and intracity carrier facilities are predominantly digital, requiring time division multiplexing, whaeras intercity transmission is predominantly analog, using frequency division, but may become increasingly digital, especially as fiber optic systems are added.

3. As we explained in the Notice, the group or base group and the supergroup or basic supergroup are analog channels with nominal bandwidths of 48 kHz and 240 kHz respectively. Each of these channels constitutes a fundamental building block in the FDM channel hierarchy, designed principally to satisfy voice-grade telephone channel requirements. In the ordinary mode of use, a group channel is used to transport bundles of up to twelve (12) nominal 4 kHz voice channels and supergrpups are used for bundles of up to sixty (60) voice channels. In addition to their basic telephone message service roles, we pointed out in the Notice that groups and supergroups have been used in various ways to fulfill private line service requirements. For one, both groups and supergroups are used to provide wideband [3] services operating at data transmission rates of up to 230.4 kbps under AT&T Tariff FCC Nos. 258 and 260. Since these will be discussed in further detail below, suffice for present purposes to say that groups and supergroups comprise the intercity or long-haul transmission vehicle for particular wideband signals. These groups and supergroups are in turn connected to customer-designated locations through the use of existing local distribution plant, with special

[1] American Telephone & Telegraph Company, 84 FCC 2d 1 (1981). Subsequent to the issuance of the Notice and receipt of comments, AT&T by letter to the Commission indicated a willingness to file a tariff providing group and supergroup facilities to the public on a general basis during the second quarter of 1982. *See* letter of W. E. Albert, AT&T, to Secretary, FCC, March 12, 1982. The letter, however, did not address many of the issues raised by the record in this proceeding to date. We therefore think it advisable to go forward so that our order may provide guidance to AT&T in any group and supergroup tariff filing it may make in the future.

[2] We are aware that there are subhierarchies such as the T 1C; the latter operates at a rate of 3.152 Mbps.

[3] The term wideband is used here to describe a service arrangement which employs facilities of the group and supergroup type for the long-haul or intercity transmission of signals requiring greater than analog voice channel capacity. Generally, specialized customer premises and central office station terminal equipment is required to convert and maintain the wideband information into a form suitable for transmission over the existing intercity group or supergroup channels.

conditioning [4] added as required. In such cases, the full 48 kHz or 240 kHz bandwidth used for interoffice transmission is not available at the customer's location, but rather in most cases only the necessary bandwidth required by the specific data set or data modem is made available. In those instances, the data sets and modems, by various internal processing techniques, compensate for bandwidth deficiencies. Where AT&T presently provides wideband services under its tariffs, it in all cases requires the use of AT&T modems and associated data sets.

4. In addition to wideband services, AT&T has variously provided groups and supergroups to common carriers having need for access to the full group or supergroup carrier system bandwidth *i.e.*, 48 kHz or 240 kHz. These latter arrangements, which we will subsequently term full carrier systems offerings,[5] have up to now required specially constructed local distribution channels capable of transporting the full carrier system group or supergroup baseband signal to the customer location. These latter services, typified by the offering to domestic satellite carriers (Domsats) under Tariff 265 and the previous offerings to the Western Union Telegraph Company under contract, can be multiplexed by customers into any combination of subchannels up to the maximum bandwidth or can be used in unsubdivided form to carry wideband signals.

5. In the Notice we recognized that a number of carriers have requested group and supergroup facilities from AT&T. We observed that AT&T's present and past group and supergroup offerings, discussed above, have been limited to particular uses or applications or particular customer groups. Specifically, under Tariff 260 AT&T offers Series 8000 wideband services which use group channels for intercity transport. These wideband services are packaged, as already noted, to require the use of AT&T-provided data terminal equipment and thus, the group channels and associated local distribution channels are not available separately; *i.e.*, in an unbundled form. This same is true for supergroup-based wideband services provided under Tariff 258. Full carrier system group or supergroup services, on the other hand, have been offered only to a limited number of common carriers either under contract *i.e.*, to Western Union and the International Record Carriers (IRCs), or under tariff *i.e.*, to the Domsats under Tariff 265,[6] supra.

6. We then observed that removal of the various restrictions in Tariffs 258, 260 and 265 which limit the present group and supergroup-based offerings could in and of itself result in general availability to all customers of the desired channels. Consistent with previous investigations,[7] we place the burden of justifying these restrictions on AT&T. Thus, the carrier was required to show that such restrictions are necessary to achieve a permissible end; that they accomplish that end in a reasonable manner; and that the restrictions are not so broad as to infringe unduly on protected customer conduct.

7. The impact of removing existing restrictions would essentially result in the unbundling of Tariff 258 and 260 services and deleting the provisions which limit Tariff 265 services to Domsats. As noted above, AT&T, under its present wideband service offerings, is able to use group and supergroup channels in concert with voice-grade local distribution plant, conditioned or modified as may be necessary, for data transmission up to speeds of 230.4 kbps. In so doing, it provides data modems and associated data sets located at both the customer premises and telephone company central offices which serve the various customer premises. The modems located at customer premises operate in tandem, or back-to-back, with the matching central office modems.[8] Through such an arrangement, the local distribution wire pairs, whose electrical characteristics vary from one to another, can be conditioned, or the variations effectively neutralized, so that a uniform set of interface characteristics can be presented to the long haul or intercity transmission plant. By unbundling such wideband service arrangements in Tariffs 258 and 260, each service element—*i.e.*, the local distribution channel, long-haul group or supergroup channel (called interexchange channel in the tariff) and the data set equipment—would be expressed separately in the tariff rather than being grouped together under single charges. In this way, potentially at least, a customer would be able to obtain either the same arrangement as at present or only a part of that arrangement, viz., the local distribution and interexchange channel, without AT&T provided equipment. Since AT&T successfully employs existing local distribution plant to provide wideband group and supergroup-based service, we assumed in the Notice that customers, too, would find such facilities useful without need for special construction of local channels.

8. Given the current limited tariff availability of these channels in the face of expressed demand, we decided to investigate whether the public interest would be served by allowing access to group and supergroup offerings on an unrestricted tariff basis. We decided to include within the scope of the investigation the question of whether other users apart from common carriers have a need for these channel types as well.

9. In addition to AT&T, both carriers and other users of AT&T communication services have responded to the Notice. Every commenter, save AT&T, supports proposals to make groups and supergroups available both to the OCCs and other users. Thus, the Federal Executive Agencies point out that the availability of group and supergroup facilities could "significantly enhance the national security and emergency preparedness posture of the nation."[9] Citicorp asserts that availability of these facilities would ultimately reduce the cost of providing financial services to the consumer.[10] Indeed, many commenters echo the Commission's tentative conclusion that public benefits would result from the ability to obtain

[4] By the term special contitioning we refer to the modification or special selection of local distributiton channels to meet specified electrical criteria. This can include selection of specially insulated or physically isolated wire pairs, frequency delay equalization, improving the signal to noise performance, or removing loading coils so as to avoid distortion of digital (PCM) signals.

[5] The term "full carrier system" as used here means the amount of carrier system spectrum or the specific bandwidth slot used to carry group or supergroup channels. It does not, therefore, designate an entire carrier system.

[6] Under Tariff 265, AT&T offers supergroup or mastergroup (equivalent to 600 voice channels) facilities to domestic satellite common carriers on a specially constructed basis, with charges listed in the tariff on a case by case basis. These supergroup or mastergroup facilities will upon request be further multiplexed; *e.g.*, into group channels, by AT&T. Since our interest here is limited to groups and supergroups, any discussion of Tariff 265 should not be viewed as affecting the current limited availability of mastergroups.

[7] *See, e.g.*, AT&T Restrictions on Interconnection of Private Line Services, 60 FCC 2d 939 (1978).

[8] The central office modem essentially regenerates the signal originated at the customer premises modem, alleviating many of the problems associated with signal degeneration and noise accumulation. Such regeneration, which effectively cleanses the data signal, would not be possible to accomplish from the customers' premises alone.

[9] *See* Comments of the Federal Executive Agencies at 3. The Executive Agencies assert that an important national security telecommunications principle is to ensure that interconnection take place between all interstate common carrier telecommunictions networks so as to facilitate interoperation in case of any national emergency.

[10] *See* Comments of Citicorp at 2.

groups and supergroups from AT&T on a general basis.[11]

Discussion [12]

10. As explained, we have called upon AT&T to justify the tariff provisions by which existing group and supergroup offerings are restricted in various ways. Under the well-established principles of our *Carterfone* decision, 13 FCC 2d 420 (1968), *recon. den.* 14 FCC 2d 605 (1969) a customer has the right to use his communication service in ways which are privately beneficial but not publicly detrimental. There is little doubt from the record that the availability of groups and supergroups would benefit members of the using public. Thus, the first portion of the *Carterfone* test is unquestionably met.[13] In the Notice we also observed that AT&T had refused requests by some customers for groups and supergroups and decided to consider whether these refusals were justified. Notice at para. 19. Accordingly, we now focus on AT&T's claim that the public interest does not require it to make such facilities available to the public.

Nominal vs. Useful Bandwidth

11. AT&T initially asserts that the Notice was incorrect in its underlying assumption that the unbundling and concomitant elimination of certain tariff restrictions would result in group and supergroup channels being made available to the public.[14] According to AT&T, where 50, 56 and 230.4 kbps services are provided on an analog route, the group and supergroup frequency spectrums are not actually delivered to the customer's premises. Rather, it points out, the frequency spectrum used for 50 and 56 kbps transmission is approximately 1 kHz to 37 kHz, and for a 230.4 kbps signal, approximately 1 kHz to 190 kHz. AT&T notes that the full 48 kHz and 240 kHz signals do not appear at the customer premises nor is any transmission possible in the 60–108 kHz or 312–552 kHz frequency ranges which are used in the long haul carrier systems to transmit groups and supergroups, respectively. Thus, the argument appears to run, because the entire 48 kHz and 240 kHz group and supergroup bandwidths are purportedly unavailable at the customer's premises, they would not be useful to the public.

12. AT&T, however, reads the Notice too narrowly. The Commission did not assume, as AT&T alleges, that the full 48 kHz and 240 kHz baseband multiplex frequencies of group and supergroup channels would in all cases be made available at the customer's premises. In the Notice, rather, we described groups and supergroups as having *nominal* bandwidths of 48 kHz and 240 kHz within the standard meaning of that term. *See* Notice at n.3. The term "nominal", when used with a bandwidth designation, means the entire bandwidth occupied by a channel, and is not necessarily equivalent to the "useful" bandwidth realized at the customer's premises.[15] As noted *supra*, in the case of wideband service, the full carrier system group or supergroup spectrum is generally not delivered to the customer's location, whereas it is in the case of full carrier system services, such as those offered under Tariff 265. We did not, therefore, assume that AT&T would routinely deliver this full carrier system bandwidth to all customers by the simple unbundling of terminal equipment, and our inquiry concerning the desirability of a group and supergroup channel offering does not turn on this issue.

13. However, we recognize that in certain instances, particularly those involving service provided to OCCs, the full group or supergroup carrier bandwidth would be needed at the customer's premises. Put in other terms, the local distribution channel in such cases would have to be capable of carrying the basebands of groups and supergroups *i.e.*, 48 kHz and 240 kHz,[16] respectively, to the customer's premises so that direct access to the intercity carrier systems would be possible. As pointed out in the Notice, AT&T has offered or provided such facilities to the Western Union Telegraph Company and the IRCs pursuant to contract, and to the Domsats pursuant to tariff. (As noted earlier, we refer to this arrangement as a full carrier system service.) In other cases, we envision customer requirements for group and supergroup-based services similar to those now provided under Series 8000 in AT&T Tariff FCC No. 260 and the 230.4 kbps data channels provided under AT&T Tariff FCC No. 258. (As noted, these latter arrangements where the full carrier system spectrum of frequencies does not have to be delivered to the customer's premises are referred to as wideband services.)

14. AT&T appears to assert, however, that provision of the full carrier system 48 kHz and 240 kHz channel services would prove impractical from a technical, financial and economic point of view because of purported difficulties that would be encountered in local distribution of these channels and the development of necessary interface specifications. Thus, it states that the provision of group or supergroup analog carrier facilities to a customer location would involve special construction in almost every case. As for wideband group and supergroup channels, it states that the unbundling of the data set from present group and supergroup based data offerings would result in offerings of wideband channels of 1–37 kHz and 1–190 kHz and that such unbundling would not produce a channel of significant practical value. It proposes instead to make other types of channels available for these purposes. As will be shown, however, there appears to be little support in the record, the literature, or in our experience with current and prior AT&T service offerings that would justify a finding that the offering of

[11] *See, e.g.*, Comments of Western Union at 3: "As a general matter, wideband analog facilities such as groups and supergroups provide the competing carrier with the greatest flexibility in its development of innovative and/or cost-effective value added offerings to the consuming public. With wideband channels, the competing carrier can meet the challenge of doing it better, cheaper, and/or differently. The availability of innovative modems, multiplexers, data in voice (DIV) units, etc. produced by an ever-growing and creative electronics industry, can be connected to the wideband resource to provide the public with an increasing variety of technological alternatives * * *"

[12] We note preliminarily AT&T's argument that an evidentiary hearing is required given the alleged material factual disputes over the nature of existing services, the extent of need for groups and supergroups, and the technical and economic feasibility of group/supergroup offerings. We disagree. We view this proceeding as essentially similar to the interconnection disputes between AT&T and other common carriers in Bell System Tariff Offerings, 46 FCC 2d 413 (1974) and the Commission's proceedings which decided the validity of AT&T's tariff restrictions on resale and sharing of its private line services. Resale and Shared Use, 60 FCC 2d 261; *recon.* 62 FCC 2d 588 (1977). On appeal from these decisions the courts held that no evidentiary hearing was necessary. *See* Bell Telephone Company of Pennsylvania v. FCC, 503 F.2d 1250 (3d Cir. 1974), *cert. denied* 422 U.S. 1026 (1975), *reh'g denied* 432 U.S. 886 (1975); AT&T v. FCC, 572 F.2d 17 (2d Cir.) *cert. denied* 439 U.S. 875 (1978). *See also* Western Union Telegraph Company v. FCC, 665 F.2d 1126 (D.C. Circuit, 1981), (evidentiary hearing not required before the Commission could order the IRCs to unbundle their telex terminal equipment from their transmission facilities).

[13] *See, e.g.*, Appendix A, which shows the benefits which could be achieved.

[14] AT&T Comments at 4, 9–11.

[15] *See, e.g.*, definitions of "bandwidth, nominal" and "useful bandwidth" in Emerson C. Smith, Glossary of Communications (Chicago: Telephony Publishing Co., 1971) at pp. 28 and 448.

[16] As we noted above, the first step in the Frequency Division Multiplexing (FDM) hierarchy in the Bell System involves a combination of twelve vioce channels into a circuit group, which is the basic building block of that hierarchy. The frequency band occupied by a twelve channel group is 60 to 108 kHz. The next step in the FDM hierarchy is the combination of five groups into a sixty channel supergroup occupying the band from 312 to 552 kHz.

groups and supergroups is generally impractical.

15. That the provision of group and supergroup channels is both possible and practicable is supported by the record. Southern Pacific, for example, notes that AT&T has

> avoided any mention of the Wire Line Entrance Link (WLEL) that today is used to interconnect facilities—both voice and television—at 70 MHz. This is a far higher bandwidth than the 10 kHz that AT&T implies is the highest that it can provide for interconnection. Both AT&T and the OCCs currently use 70 MHz WLEL interconnection technology for cable interconnections up to several miles in length. Additionally, AT&T fails to acknowledge that low capacity microwave systems are available for use as group and supergroup interconnections.[17]

The existence of WLELs and low capacity microwave, then, indicates that there may well be alternatives to special construction for the local distribution of full carrier system group and supergroup services where there is a customer requirement for interconnection with the entire group or supergroup bandwidth.

16. As additional support for our finding that there are means other than special construction which AT&T could use to efficiently accomplish local distribution, we need look no further than the record compiled to date in our ongoing investigation of AT&T's Series 7000 terrestrial television program transmission service.[18] There, AT&T's claimed investment for Series 7000 includes $29.7 million in polyethylene shielded video (PSV) cable pairs that are no longer used for the provision of program transmission service.[19] PSV cable pairs are designed for the local distribution of wideband TV program transmission service. AT&T states that these PSV cable pairs are contained in composite cables with in-service exchange cable pairs and were placed in service by the Bell Operating Companies over the years based on purportedly valid engineering and cost considerations. It further states that "utilization of these presently unneeded facilities for future private line application is being explored."[20] It follows that one alternative use which could be considered for these facilities previously used for the handling of nominal 6 MHz signals is group and supergroup transmission at nominal 48 kHz and 240 kHz, respectively. While it may be that PSV cable pairs are not in every instance available in locations where customers would desire group or supergroup spectrum capacity, we may nevertheless assume from the large amount of investment attributed by AT&T to PSV cable pairs unused for TV transmission service that many shielded high capacity local cable pairs are available for other applications. While we recognize that PSV cable pairs may prove unsuitable for conversion to group or supergroup applications, to date, AT&T has not addressed this matter in its pleadings here. We believe, therefore, that the feasibility of using these existing facilities for other applications should be addressed.

17. Even where such shielded cable pairs are unavailable, however, the engineering literature shows that full carrier system transmission can still be accomplished at a power or energy level which meets inter-channel non-interference standards.[21] Additionally, AT&T might distribute these channels using separate binder groups [22] or low capacity microwave as it now does in the provision of wideband service for the government in Tariff 258. *See* AT&T comments at 7, n. * * *. And in the event these options are not suitable for meeting customer requirements, reasonable special construction charges could be developed. In addition, we note that "a baseband repeater system (local loop) is available which permits [wideband] transmission of the restored polar line signal over ordinary pairs in telephone cable." *See* J.S. Ronne, "Transmission Facilities for General Purpose Wideband Services on Analog Carrier Systems," IEEE Transactions on Communications Technology, Vol. Com. 14, No. 5, October, 1966 at 654. We further note that in order to provide Dataphone® Digital Service (DDS), AT&T must shield or segregate DDS cable pairs in order to overcome potential problems of interference:

> A consideration in providing DDS service is the coordination between DDS and other services that use pairs within the same cable. Certain amounts of segregation are necessary so that undue crosstalk from DDS, particularly at 56 kb/s, is not accumulated in other services. Segregation is achieved by placing susceptible services in adjacent or alternative cable units (splicing groups in the case of layer cable) * * *.

See Bender, *et al.*, Digital Data System: Local Distribution System, The Bell System Technical Journal, Vol. 54, No. 5, May-June 1975, pp. 919, 929. Finally, we would observe that AT&T formerly leased a large number of groups and supergroups to Western Union and had offered to provide such facilities to the IRCs.[23] In short, AT&T has demonstrated the ability to overcome similar technical problems in the local distribution of its other high capacity services including DDS, 230.4 kbps and 1.544 Mbps high speed data channels, audio and video program transmission services and full carrier system services to other carriers. Under these circumstances, we find its pessimism unfounded.

18. *Cost Considerations.* AT&T asserts that to separate group and supergroup channels from mandatory, AT&T-provided terminal equipment would require new construction of cable and interfaces. AT&T considers this a "relatively high cost solution acceptable only for specialized applications."[24] Thus, AT&T claims that special construction would ordinarily be required because "local plant consists generally of wire pairs, which are not suitable for delivering wideband analog signals in the group or supergroup spectra."[25] It also argues that while groups and supergroups are an essential part of the telephone industry's long distance network, they terminate in fewer than 500 of the more than 10,000 wire centers throughout the country.[26] We have already noted above the possibilities open to AT&T to accomplish the local distribution of full carrier system channels. As for wideband services, furthermore, AT&T has given no reason why the mandatory use of AT&T-provided equipment to the exclusion of customer-provided equipment contributes to cost effectiveness. Evidence of AT&T's past pricing practice contradicts its

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[17] Southern Pacific Comments at 7. AT&T itself acknowledges the use of radio facilities to deliver group facilities to the Government's premises. *See* AT&T Comments at 7, n. * * *.

[18] *See* Docket No. 81-351, American Telephone and Telegraph Company, 86 FCC 2d 861 (1981).

[19] *See* AT&T Series 7000 Television Transmission Service, February 13, 1981, Vol. 1 at 2-20-2-21. Briefly, PSV cable pairs or 16 PEVL cable, as it is denominated by AT&T, is shielded, low capacitance (0.052 mFd/mi.) 16 gauge (43.8 ohms/mi.) cable with expanded polyethylene insulation designed for carriage of the 4.5 MHz (nominal bandwidth: 6 MHz) television program signal. Each pair is individually shielded with double sheet-copper shield.

[20] *Id.*

[21] *See* V. K. Prabhu, "On the Performance of Digital Modulation Systems that Expand Bandwidth," Bell System Technical Journal, Vol. 49, No. 6, July-August 1970, at 1033, 1034.

[22] A binder group is a separate concentric bundle of wire pairs in a cable.

[23] *See, e.g.*, Western Union Comments, Appendix A. RCA Comments at 2, App. D.

[24] AT&T Comments at 4.

[25] AT&T Comments at 4, 6. AT&T also incorrectly assumes from the Notice that the Commission's proposed action would have made the full carrier system group and supergroup spectrum available at the customer's premises. As noted above in para. 12, this is not the case. Also, as we discuss in paras. 19 through 20, AT&T itself successfully uses existing local distribution plant to offer useful group and supergroup-based wideband services to the public.

[26] *Id.* at 6.

statements here that group and supergroup facilities are costly. For example, Western Union International, Inc. (WUI) points out

When AT&T offered this type of facility to the IRCs pursuant to the General Lease Agreement, a discount was applied to group/supergroup facilities. For example, the charge for a voice grade circuit between New York and Etam under the contract was $439. The per-circuit charge for a New York-Etam group facility was $2.3 and $160 for a supergroup facility. These contracts were in force until 1977.

WUI Reply Comments at 7. In any case, AT&T does not explain why the per-circuit rates for groups and supergroups that were cheaper than individual circuit rates prior to 1977 are now more costly. Under these circumstances, we cannot accept AT&T's contention that group and supergroup channels are not practical means for the provision of high capacity services when it was apparently practical and cost-effective for AT&T to have provided these facilities in the past to other carriers. In any event, as will be explained, where AT&T would incur additional costs owing to the need for specially constructed local distribution facilities, such costs would be fully recovered from users.

19. Equally significant, AT&T itself has used and continues to use groups and supergroups to provide high capacity services on a general basis, but it has never suggested that in those instances groups and supergroups were not cost effective for such purposes. The circumstances under which AT&T formerly offered TELPAK, for example, are illustrative. TELPAK private line service, a general offering, was configured at the customer's option as a wideband analog facility. Although AT&T states that "TELPAK was never conceived as an analog bandwidth offering",[27] the TELPAK tariff stated that

This series provides Base Capacity for transmitting various forms of electrical communication up to the limits specified for the various types as set forth in (1) following
* * *

(1) Base Capacity.

Base Capacity denotes the potential for communcations channels and services which can be realized only with the use of service terminals furnished under (2) following. *Base Capacity, with appropriate Terminating Arrangements, is provided for use as a wideband channel or for use as wide band channels and/or individual channels of lesser capacity* which in total do not exceed the equivalent voice grade capacity for each type.

See AT&T Tariff FCC no. 260, Section 3.2.5(a), (A)(1), 3rd Revised Page 79, effective April 1, 1968 (emphasis supplied). AT&T also provided Type 5751 "service terminals" or "terminating arrangements" allowing use of the "base capacity" as a wideband channel *i.e.* for the provision of 230.4 kbps series. *Id.* at (A)(2), 7th Revised Page 80.1 at (A)(2)(a).[28] Similarly, Series 8000 is available on a nationwide basis. These practices clearly are inconsistent with AT&T's present claim that the use of group and supergroup facilities for the provision of high capacity channel service is a "relatively high cost solution acceptable only for specialized applications."[29]

20. To sum up, AT&T has not persuaded us that the separation in the tariffs of AT&T-provided terminal equipment from its current Series 8000 offering or from its 230.4 kbps high speed data transmission channel in Tariff No. 258 and the resulting wideband channels will not, at least potentially, result in a cost-effective customer alternative which would permit the use of customer-owned or customer-designated equipment. Additionally, from the point of view of our expressed regulatory policies, it is important that AT&T not be allowed to use its market power to foreclose competition in an unreasonable manner. By tying the availability of certain transmission channels to AT&T provided equipment,[30] it effectively closes other vendors out of a portion of the equipment market and inhibits arbitrage of the underlying transmission channel. *See, e.g., Resale and Shared Use,* 60 FCC 2d 261, *recon.* 62 FCC 2d 588 (1976), *aff'd. sub nom. AT&T v. FCC,* 572 F.2d 17 (2d Cir. 1978), *cert. denied* 439 U.S. 875 (1978).

21. With respect to full carrier system offerings, we recognize that notwithstanding the possibilities for local distribution pointed out above, in many cases existing facilities may not permit direct connection to the carrier system baseband group and supergroup bandwiths. Under such circumstances, we think it appropriate that rates for such local distribution channels be developed on a case-by-case basis, with the application of special construction charges. The development and filing of such rates should pose no particular difficulty inasmuch as this is a common practice.[31]

Market Considerations

22. *Market for Groups and Supergroups.* AT&T next argues that at present there is a relatively small market for the existing 50 and 56 kbps and 230.4 kbps services and that outside manufacturers may have little interest in marketing new data sets. On this basis it questions whether unbundling of AT&T-provided terminal equipment would yield price benefits to customers or promote greater innovation in data sets. AT&T Comments at 11. In other words, AT&T assumes that the market for the underlying groups and supergroups would be correspondingly small and therefore that the cost of separating them from AT&T data sets and modems is not outweighed by other advantages.

23. Significantly, though, AT&T offers no evidence to support these assumptions. Furthermore, the record supports the opposite result. All other comments in the record confirm that a demand exists for the underlying channels, and that the existing 56 kbps and 230.4 kbps offerings which tie AT&T-provided terminal equipment to the underlying groups and supergroups will not suffice.[32] RCA's comments, for example, are illuminating:

RCA's lack of access to group and supergroup bandwidth facilities also contributes to delays in the restoration of high-speed overseas digital circuits (circuits used for data and record transmission at 56 kbps and higher speeds). Because AT&T presently requires that only modems furnished by AT&T at AT&T locations be used to convert the signal from analog to digital, when an overseas circuit fails, requiring service from another overseas facility, a modem must be installed at the alternate facility. This increases the amount of time necessary to effect restoration. If RCA Globcom were permitted to acquire its own group and supergroup bandwidth facilities, we would have the option to provide our own modems and structure our own interoffice network in such a fashion as would minimize

[27] AT&T Reply Comments at 4, n. * * * *. AT&T also appears to acknowledge that its 230.4 kbps service formerly available under TELPAK and now available under Tariff 258 remains a general offering. *See AT&T Comments at 10, n. *.*

[28] Under the TELPAK tariff, however, the service terminals required to terminate group or supergroup facilities included data modems.

[29] In its comments in Docket No. 79-246, the private line rate structure proceeding, AT&T proposed to offer what it termed High Speed Data Channels to replace the present Series 8000. According to AT&T's proposal, High Speed Data Channels would be provided using a combination of group (48 kHz) channels and data modems.

[30] Where customers are interested in wideband services of the type provided under Series 8000, special construction does not, because of its likely high cost, appear to be a practical substitute for the use of groups and supergroups in conjunction with existing local distribution plant.

[31] *See, e.g.,* AT&T Tariff FCC No. 265, Section 4; AT&T Tariff FCC No. 268, Section 4.3.1.

[32] *See* American Telephone and Telegraph Company, Satellite Television Service, 87 FCC 2d 889 (1981), where the Commission found unlawful AT&T tariff provisions bundling space segment and earth stations which seemed to have been filed for no other reason than to constrain space segment demand.

delays in restoration as well as the cost of obtaining both primary and restoration capacity. Furthermore, in addition to reducing restoration delay and cost, circuit degradation resulting from back-to-back modems could be minimized or eliminated.

RCA Reply Comments at 9–10. Moreover, the Independent Data Communications Manufacturers Association (IDCMA) disputes AT&T's assertion that independent manufacturers are not interested in offering equipment for use with group or supergroup services. They state that:

> Certain IDCMA member companies have equipment that could be used in this marketplace, and would seriously consider entering this market if AT&T's tariff restrictions were lifted.

See IDCMA Reply Comments at 7, n. 16. Thus, we cannot agree with AT&T's implication that no demand exists for group and supergroup facilities without the AT&T provided modem or terminal equipment. In any case, mere speculation that demand would be slight is insufficient reason to deny consumers the choice to obtain transmission channels without AT&T-supplied terminal equipment.

24. *Existence of Substitutes for Groups and Supergroups.* AT&T next asserts that the DS–1 1.544 Mbps channels then under development would constitute a better means of meeting the demand for high capacity services.[33] Although we are generally aware of the advantages of high speed digital channels, AT&T has not demonstrated that the 1.544 Mbps (DS–1) channel should be provided in lieu of groups and supergroups and any special construction required to terminate them. It seems self-evident that AT&T already needs to be familiar with the characteristics of the group and supergroup channels to which it attaches modems and other terminal equipment in order to ensure that its bundled service offerings function reliably. As for full carrier system interconnection, it seems that standards for such interconnection must have existed in the past when AT&T provided groups and supergroups to other carriers.[34] For these reasons, we may infer that interconnection could be readily implemented.

25. AT&T also claims that expensive shielded cable would be required to deliver group or supergroup freqency spectrum to the customer's premises in almost all cases, while only low cost modifications would have to be made for the provision of 1.544 Mbps service. However, the carrier has not specified what these low cost modifications are or how they differ from modifications which could be made to accommodate group and supergroup requirements. Our own experience teaches that such modifications can be extensive. We note, for example, that wire pairs used in connection with existing 56 kbps and 1.544 Mbps services must be segregated from wire pairs used for other services to avoid an intolerable amount of cross-channel interference.[35] We also note that local wire pairs must, as AT&T states,[36] be modified by removing loading coils and bridge taps and by the addition of repeaters to make them suitable for the carriage of digital signals. In addition, 1.544 Mbps service requires the use of as many as three digital loopbacks in order to allow for remote circuit maintenance.[37] Thus, although we have not been presented with any evidence that it would be less costly to adapt local wire pairs for DS–1 than for the provision of groups and supergroups, AT&T in any case will be permitted to recover any additional costs through special construction charges where existing local distribution plant is not suitable. Thus, the customer will be in the position to decide, based on his own needs, which services is most effective.

26. It is also significant that while AT&T views the 1.544 Mbps DS–1 channels as an adequate substitute for groups and supergroups, this view is not shared by many commenters. WUI, for example, notes that it offers alternate voice/data (AVD) service to the public and that a group could be used for 12 or 16 voice channels, 12 or 16 9.6 kbps data channels or a combination of voice and data channels. It states that in order to obtain the same transmission quality and flexibility as that offered by a group facility, it would have to obtain a 1.544 Mbps channel with bandwidth capacity greatly in excess of an analog group facility, and that this would be a very wasteful use of facilities since the excess capacity would lie idle. *See* WUI Comments at 3. WUI also points out that AT&T's DS–1 service would needlessly interpose a digital facility into WUI's end-to-end analog facility plant. Finally, it emphasizes that AT&T itself uses groups, supergroups and mastergroups to transmit communications to the various U.S. Intelsat stations. SBS echoes WUI's comments, and adds that the DS–1 channel offering would not be a complete solution to the needs of other carriers since 1.544 Mbps T-carrier facilities are short haul in nature. SBS also doubts whether long haul 1.544 Mbps capacity is available.[38] Against this record, we cannot agree with AT&T that the parties' acknowledged need for high capacity transmission could be satisfactorily met by other than group or supergroup channels, or that DS–1 channels are necessarily a preferable alternative. Moreover, if the DS–1 offering is as attractive and economical as AT&T asserts, logic dictates that most customers would elect to use DS–1 instead of group and supergroup channels assuming that all were available. In any case, absent some compelling reason to the contrary, we believe the better course is to have the customer rather than AT&T make that choice.

Conclusions and Implementation

Summary

27. We conclude from the record before us that the availability of group and supergroup services under general tariff schedules will benefit the public. As discussed above, AT&T has failed to meet the burden of justifying the limitations it has placed on the availability and use of group and supergroup channels. It is also clear that there is little, if any, public detriment in having group and supergroup channels available to the public while many private benefits would result from such

[33] This filing was made on July 30, 1982 under Transmittal No. 14065. It was modified and refiled under Transmittal No. 14186 on December 3, 1982 and is now scheduled to become effective March 3, 1983.

[34] SBS notes that the supergroup interface is "extremely commonplace in the telephone network and commercially available from a number of vendors." SBS Reply Comments at 3.

[35] *See* Bender, *supra* at 929.

[36] *Id.* at 928.

[37] *Id.* at 930.

[38] T-carrier has been generally limited by AT&T to hauls of 50 miles presumably because of economic considerations which principally reflect voice channel cost characteristics (where data transmission is concerned, T–1 and digital carrier systems generally would prove economical for longer distances). Long-haul transmission of 1.544 Mbps signals has generally been accomplished over analog cables, satellites, or microwave based carrier systems or on the limited amount of 1ARD or 3ARD digital microwave radio used primarily for Dataphone® Digital Service. *See* Snow, *et al.*, Digital System: System Overview, the Bell System Technical Journal, Vol. 54, N. 5, May–June 1975, pp. 811, 824. The article also states that DS–1 signals may be carried in some cable routes over analog L4 and L5 coaxial cables. *Id.* Since this article was written, the principal change which has taken place is the recent addition of digital fiber optic systems to the long haul transmission plant. Although we recognize the significant potential impact of fiber optic technology in AT&T plant provisioning, for the near term we foresee little change in the manner of handling long-haul digital information. *See* American Telephone and Telegraph Company (Series 9000), Mimeo No. 2364, released February 24, 1982. In particular, we note that AT&T itself has informed the Commission of its plans to offer a 1.544 Mbps service over analog facilities. *See* AT&T Responses to Information Requests, Transmittal No. 14065, August 23, 1982.

availability. It further appears that AT&T has failed to justify its refusal to provide groups and supergroups to the public upon reasonable request as Section 201(a) requires. As to the manner in which AT&T should make these channels available, we are able at this juncture to conclude that where the intended use is for full carrier system transmission *i.e.*, where the customers require the full 48 kHz and 240 kHz spectra, suitable facilities can be obtained through special construction provisions of the tariffs. This matter is further discussed below. As to the use of these channels for wideband services such as of the types provided by AT&T under Tariffs 258 and 260, previously discussed, we are unable to determine from the present record how and whether these services can be unbundled from AT&T terminal equipment and filed in the tariffs in a manner which will result in useful public offerings.[39] Since we have concluded, however, that substantial public benefits would accrue if customers were free to designate their own modems or data sets rather than being limited to those supplied exclusively by AT&T, it is important that we make further inquiries into the most effective means of achieving such potential benefits.

28. *Provision of Full Carrier System Group and Supergroup Channels.* As noted, AT&T believes that if it is required to offer group and supergroup channels, it should be permitted to do so in an individualized fashion with charges quoted on a case-by-case basis.[40] We have already outlined a number of options which appear to be open to AT&T to provide local distribution of full carrier system group and supergroup services from available facilities without the need for special cable construction. We cannot, however, from the record before us, determine the feasibility of using such facilities as video grade cable for these services or the geographical extent to which such facilities are available. We will, therefore, permit AT&T initially to file its tariff provisions for the full carrier system services conditioned upon the need for special construction of local distribution channels. The interexchange portion of the service, however, should be filed under a general rate schedule applicable to all users, whether involving full carrier system or wideband service, in order to minimize opportunities for discriminatory practices.[41] We will, however, require that within six months of the release of this order, AT&T file with us a statement outlining steps which it has taken to review the feasibility of utilizing existing plant to perform the above-referenced local distribution functions in accordance with our discussion here. Should such use of existing plant even on a limited geographic basis prove feasible, we expect that AT&T will at that time submit a proposal for future tariff revisions. In the meantime, customers having a need to obtain full carrier system group and supergroup channels, including common carriers, will be able to obtain the local distribution portion of such channels pursuant to special construction. Special construction charges will be developed on a case-by-case basis and will, in accordance with standard tariff practice, be filed in the tariffs as the occasion requires.

29. As for technical specifications, we think it self-evident that AT&T is in the best position to initially formulate interconnection, interface and protection standards for group and supergroup channels. We expect that these standards will effectively guard against any potential harm to AT&T's network without unreasonably limiting customer's use of service. Moreover, AT&T has agreed to publish such standards in a technical publication, and we will permit it to do so, subject to further Commission oversight if necessary including any need for modification of Part 68 of the Commission Rules. As a separate matter, we expect that reasonable limits on the availability or time interval before start up of service could be imposed with proper justification.

30. *Provision of Group and Supergroup-Based Wideband Services.* The main question which remains concerns the form which a wideband group or supergroup tariff offering would have to assume in order for it to be a practical and useful service to the public. We have already noted that at present AT&T successfully utilizes these channels in providing end-to-end data transmission services which are tied to the use of AT&T-supplied data station equipment. In so doing, however, as we noted in para. 7 *supra*, AT&T is able to overcome the problems associated with variance in electrical characteristics between different wire pairs though the use of back-to-back modems located at customer premises and telephone company central offices. The matters on which we seek additional comment concern how and whether the unbundled transmission components *i.e.*, the local distribution and interexchange channels, can be used by the public for wideband services using either their equipment, AT&T's, or a combination of the two. If wide variation in electrical characteristics or resultant signal degradation in the distribution plant prove to be significant impediments to the usefulness of groups and supergroups in connection with wideband services, a simple unbundling of existing tariff services may not prove adequate. Should this prove the case, there appear to be a number of potential ways to resolve this problem. Establishment of uniform interface standards, for example, is one way. However, as AT&T intimates in its comments, this might be accomplished only at great expense [42] and might require substantial new plant investment. Another possibility is for AT&T to individually test and grade each local distribution facility in order to ascertain interface criteria on an individual customer basis. Still another would be for AT&T to provide customer compatible devices at central offices.

31. In sum, we conclude that the next appropriate step is to take comment from AT&T on the concerns we have raised above, followed by reply comments by other interested parties. We ask that any comments on the issues we have raised in para. 30 *supra* provide as much technical and engineering information as possible towards resolving the questions of how and whether wideband channels can be unbundled from AT&T terminal equipment to yield practical and useful public offerings.

32. Accordingly, it is ordered, pursuant to Sections 4(i), 4(j), 201–205, 403 and 404 of the Communications Act, that AT&T shall file tariff revisions in conformity with this order within thirty days of its release, such tariff revisions to be made on ninety days' notice. The technical specifications for the group and supergroup channels may, however, be published and made available to the

[39] By unbundling Series 8000 channels, for example, the customer would be provided the same type of local distribution channel currently available on a nationwide basis under the tariff without the need, in the normal case, for special construction. In other words, where AT&T provides bundled wideband services based on group and supergroup channels, it is able to use local distribution plant which exists principally by virtue of standard telephone, or voice-grade plant requirements.

[40] See AT&T Comments at 17.

[41] Experience shows that development of rates on an individualized basis lends itself to the potential for unreasonable price discrimination. *See, e.g.*, American Telephone and Telegraph Company Private Line Rate Structure and Volume Discount Practices, 74 FCC 2d 226 (1979).

[42] *See* AT&T Commments at 7: "* * * the interface necessary between an AT&T provided group or supergroup channel and the customer would be relatively coplex and subject to transmission constraints which would limit the range of applications for the channel."

public at any time before the effective date of the tariff.

33. It is further ordered, That AT&T shall within six months of the release of this order provide to the Commission a list of any locations where existing local distribution facilities can be used or where it appears feasible to modify them for use, in the provision of full carrier system group and supergroup channels.

34. It is further ordered That AT&T shall provide the information in paras. 30–31 by April 1, 1983 and that comments be filed upon this information by May 27, 1983.

Initial Regulatory Flexibility Analysis

Reason for Action and Objective

35. By this order, the Commission has already required AT&T to make available to the public high capacity analog channels of communication called "groups" and "supergroups." These channels have bandwidths of 48 kHz and 240 kHz, respectively. These channels are useful to large users of communications because of the flexibility they afford. Specifically, a user could use these channels for voice, subvoice, or data communication or a combination thereof.

36. AT&T has agreed to make these channels available, but customers would apparently have to pay for the special construction of the local distribution portion of these channels. Such special construction charges could be very substantial. However, AT&T now successfully utilizes groups and supergroups in the provision of high speed data transmission services without having to impose special construction charges on users of those services.

37. This Further Notice of Proposed Rulemaking seeks to determine whether it is feasible for telephone company customers to obtain group or supergroup channels without having to pay special construction charges.

Legal Basis

38. Section 1 of the Act establishes the Commission for the purpose of regulating communications to make available to the public a rapid and efficient communication service with adequate facilities at reasonable charges.

39. Section 201(a) of the Act requires every carrier subject to the Commission's jurisdiction to provide service upon reasonable request, and Section 201(b) requires that all charges, practices, classifications and regulations be reasonable.

40. The Further Notice would examine whether it is reasonable and efficient for AT&T to provide groups and supergroups only when it also imposes special construction charges.

Description, Potential Impact, and Number of Small Entities Affected

41. The members of the public who are likely to use group and supergroups are large users of communications, which include both non-dominant communications common carriers as well as large end users of communications.

42. If groups and supergroups become available without the necessity for special construction, this could afford large users greater flexibility in their use of communication facilities and, by allowing them to use terminal equipment which most efficiently meets individual needs, to minimize their communications expenses.

43. Because the heavy users of communications who are likely to subscribe to these circuits are likely to be large businesses, it is unlikely that many small businesses will be affected.

Reporting, Recordkeeping and Other Compliance Requirements

None.

Federal Rules which Overlap, Duplicate or Conflict

None.

Significant Alternatives Minimizing Impact on Small Entities and Consistent with the Stated Objective

None.

44. It is further ordered, That in reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

45. For purposes of this non-restricted informal rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time of issuance of a notice or proposed rulemaking until the time a draft order proposing a substantive disposition of such proceeding is placed on the Commission's Sunshine Agenda. In general, an *ex parte* presentation is a written or oral communication (other than formal written comments/pleadings and oral arguments) between a person outside the Commission and a Commissioner or a member or the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any written comments previously filed in the proceeding must prepare a written summary of that presentation. On the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation discussed above must also state by docket number the proceeding to which it relates. *See* generally Section 1.1231 of the Commission's Rule, 47 CFR 1.1231.

46. It is further ordered, That the Secretary shall cause a copy of this order to be published in the **Federal Register.**

Federal Communications Commission.

William J. Tricarico,

Secretary.

Note.—Due to the continuing effort to minimize publishing costs, the Appendix of this document, [Public Benefits of the Availability of Groups and Supergroups Reflected in the Record], will not be printed herein. Copies of this document in its entirety may be obtained from the Downtown Copy Center, 1413 K St., NW., Washington, D.C. Also, a copy is available for public inspection in the FCC Dockets Branch, Room 239, and the FCC Library, Rm. 639, 1919 M St., NW., Washington, D.C.

[FR Doc. 83-4462 Filed 2-22-83; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1206

[Docket No. 38915]

Revision to Motor Carrier of Passenger Accounting and Reporting Rules

AGENCY: Interstate Commerce Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Interstate Commerce Commission is reviewing the accounting and reporting rules for class I common and contract motor carriers of passengers (49 CFR 1206). The purpose of this review is to identify revisions necessary to make the accounting and reporting system more responsive to the Commission's regulatory information

needs as amended by the "Bus Regulatory Reform Act of 1982," enacted September 20, 1982.

DATE: Written responses should be filed with the Commission by April 11, 1983.

ADDRESS: Responses should be mailed to: Bryan Brown, Jr., Bureau of Accounts, Room 3329, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Charles S. Thomason, (202) 275–7219.

SUPPLEMENTARY INFORMATION: To assist in this review we are requesting carrriers and interested parties to submit their recommendations for revisions, the Uniform System of accounts, used to obtain the most accurate cost and revenue information, enables the Commission to fulfill its regulatory responsibilities in the areas of rate regulation, valuation of transportation property, mergers, acquisition, abandonments and discontinued service. The zone of consideration for this project includes the definitions, instructions, account texts, and annual and periodic reports. In light of the "Bus Regulatory Reform Act of 1982," we are asking respondents to comment on the following specific areas: (1) Consolidation or expansion of account groups, (2) elimination of accounts, (3) addition of new accounts, and (4) consolidation or elimination of report schedules. Respondents may also suggest revisions to the instructions if they are not clear enough or to recommend additional instructions.

This action will not significantly affect either the quality of the environment or conservation of energy resources.

In making recommendations, respondents may wish to comment on any small business impacts they envision as a consequence of this review. Should we proceed with a notice of proposed rulemaking, we will assess our proposal in light of the relevant sections of the Regulatory flexibility Act, 5 U.S.C. 601 ef. seq.

(49 U.S.C. 10321 and 11145, and 5 U.S.C. 553)

List of Subjects in 49 CFR Part 1206

Motor carriers, Uniform system of accounts.

Decided: February 15, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre, Simmons, and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-4481 Filed 2-22-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 23

Export of Bobcats Taken in 1982–83 Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) regulates international trade in certain animal and plant species. Exports of animals and plants listed in Appendix II of CITES may only occur if a Scientific Authority (SA) has advised a permit-issuing Management Authority (MA) that such exports will not be detrimental to the survival of the species, and if a Management Authority is satisfied that the animals or plants were not obtained in violation of laws for their protection.

This notice announces supplementary proposed findings by Scientific and Management Authorities of the United States on the export of bobcats. These findings incorporate the 1982 Amendments to Section 8A of the Endangered Species Act, which establish standards for findings by the SA on exports of animal species included in CITES Appendix II. The Service requests comments on these proposed findings and information on the species involved.

DATES: The Service will consider information and comments received by March 25, 1983 in making its final findings and rule.

ADDRESS: Please send correspondence concerning this notice to the Office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, D.C. 20240. Materials received will be available for public inspection from 7:45 a.m. to 4:15 p.m., Monday through Friday, at the Office of the Scientific Authority, room 537, 1717 H Street NW., Washington, D.C. or at the Federal Wildlife Permit Office, room 621, 1000 N. Glebe Road, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT:

Scientific Authority—Dr. Richard M. Mitchell, Office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone (202) 653–5948

Management Authority—Mr. S Ronald Singer, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone (703) 235–2418

Export Permits—Ms. Maggie Tieger, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone (703) 235–1903.

SUPPLEMENTARY INFORMATION: This is the third in a series of notices concerning the Service's findings on export of babcats (*Lynx rufus*) taken in the 1982–83 harvest season. In this notice, the Service announces its decisions on the guidelines to be used, which have been revised to incorporate changes in accordance with recent amendments to Section 8A of th Endangered Species Act concerning Export of Appendix II species, and proposes supplementary findings based on these guidelines.

Scientific Authority Advice

1. Background

In the first notice for the 1982–83 season (47 FR 14664; April 5, 1982), the Service invited comments on proposed guidelines and information on the bobcat and certain other Appendix II species. These guidelines were based on a ruling by the U.S. Court of Appeals for the District of Columbia Circuit that bobcat exports should not be permitted under CITES unless the SA findings were based on "reliable estimates of the bobcat population and data showing the total number of bobcats to be killed, in each of the states involved."(Defenders of Wildlife, Inc., vs. Endangered Species Scientific Authority, No. 79–2512, D.C. Cir., February 3, 1981). The Service's second notice (47 FR 34457; August 20, 1982) announced the guidelines being used to develop SA advice on bobcat export and described the proposed state-by-state findings on export of bobcats taken in the 1982–83 season under the judicially-defined, pre-1982 Amendment standards.

2. Need for New Guidelines

Section 4 (a)(1) of the Endangered Species Act Amendments of 1982 added a new paragraph to Section 8A of the Act to overrule the decision of the Court of Appeals. The amendment made it clear that the Secretary of the Interior is "required to base export determinations and advice upon the best available biological information derived from professionally accepted practices used in wildlife management, but is not required to make, nor may he require any state to make, estimates of population size in making such determinations or giving such advice."

This amendment was made effective as of January 1, 1981, in order to diminish as much as possible the

adverse impact of the court ruling on collection of scientific data by state wildlife agencies. On December 23, 1982, the United States District Court for the District of Columbia dismissed the suit brought against the Service by Defenders of Wildlife and vacated the injunction against bobcat export on the basis of this amendment. This decision is being appealed by Defenders of Wildlife. These developments make it necessary for the Service to revise the guidelines of August 20, 1982, for SA advice on bobcat exports.

In the case of the bobcat, as with most other wild animal populations, the resource is monitored by a variety of techniques that yield information used in evaluating the condition of a population. As these data are accumulated over time, they reflect trends and call attention to changes in the population. Habitat information, indices of population size, age and sex structure, and harvest information are all used to evaluate population status. If population estimates are available for a particular species, the Act now requires that they be considered with other data in making export decisions; such information cannot be required, however, as a condition for export.

3. Comments and Information Received

The Service received information based on the 1901–82 season's data from 37 state wildlife conservation agencies and 2 Indian Nations. These data along with previously submitted information have been used in making supplementary proposed findings for the export of bobcats harvested in the 1982-83 season.

Aside from information submitted by state wildlife agencies, the only comments received in response to the August 20 notice were submitted by the law firm of Covington and Burling on behalf of both Defenders of Wildlife and the Humane Society of the United States.

First, Defenders and the Humane Society stated that the Service proposed to make export findings based upon inadequate data. This was in reference to the Service's decision to eliminate requests for data underlying population estimates, number of animals bought by dealers, number of license trappers, and prices paid to trappers for pelts.

In response, the Service believes that it should not be necessary for states to furnish their entire data bases in order for the Service to evaluate population estimates and other measures of bobcat status developed by state agencies. The service is not required under the Act or CITES to independently generate the types of data that already are being collectd by state biologists. However, it is clear that the Service is empowered to make decisions on whether exports should be permitted under CITES, based on its own evaluation of the available information.

Most states already have furnished information on the number of animals bought by dealers, number of licensed trappers, and prices paid to trappers for pelts. The Service has decided to reinstate its request for such information, since it may be useful in assessing harvest pressure on bobcats.

Second, Defenders and the Humane Society stated that the Service denied the public an opportuinity to comment on proposed findings for the 1982–83 season by: (1) Issuing its proposals prior to receipt of data from the states on which final findings will be made, and (2) basing its proposals on "defective" data from last season.

In response, these supplementary findings will give the public an opportunity to comment on proposed findings incorporating the 1982 amendment to the Act, based upon valid, current data. Information submitted by the states is, and always has been, available for public inspection. Defenders has been extended the courtesy of copying all such public information submitted to the Service, and has obtained copies of all material that the Service has received from the states.

Third, Defenders and the Humane Society stated that there was ambiguity in the notice regarding a maximum level of kill for each state. The approach formerly required by the Court of Appeals involved setting an upper limit on the harvest in each state, based on information about the size of the bobcat population.

Most states already set target harvest levels or harvest level objectives each season, without having target levels imposed by the Service. State wildlife agencies are able to regulate harvest by adjusting the timing and length of open seasons, prescribing methods of harvesting, setting bag limits (number to be taken per person), or seasonal limits on the number of animals that may be taken, or limiting the number of licenses authorizing persons to harvest the species. Although such measures may not always guarantee a particular level of harvest, over a period of several years it is possible to predict how the size of an annual harvest will be affected by changes in these controls. If a state wildlife agency finds that its target harvest level was exceeded substantially, it can adjust these harvest controls the following season to compensate for overharvest, or it can terminate taking of bobcats that season.

The SA may require the establishment of target harvest levels to ensure that export will not be detrimental. The Service believes that the establishment of such levels would enhance the effectiveness of CITES with respect to bobcats, although such action is not required of the SA by the Endangered Species Act. The function of target harvest levels is to provide a clear indication to state wildlife agencies of the Service's expectations regarding nondetrimental harvest levels. Given this information, states will be able to modify their management programs as necessary to satisfy Federal export requirements.

Fourth, Defenders and the Humane Society stated that the notice did not adequately explain the rationale for advice on whether export of bobcats should be allowed from particular states. In response, it is impractical for the Service to publish in the **Federal Register** a detailed analysis of the status and management of bobcats in each state. Instead, the Service has prepared documents describing how it made its finding for each state and Indian Nation. These documents are a part of the administrative record, supplied to state agencies, and available to the public upon request. The guidelines and the proposed findings based upon an analysis of the situation in each state in terms of them are described in this notice.

Fifth, Defenders and the Humane Society stated that the proposed findings do not comply with the Service's own guidelines. In response, guidelines announced in this notice have been consistently used to evaluate the bobcat situation in each state and Indian Nation, as set forth below.

Last, Defenders and the Humane Society stated that the tagging program proposed by the MA does not offer adequate assurance that only legally obtained pelts may be exported and that kill limits will be observed. In response, it should be noted that no pelt may be exported without a state tag. Several states now have instituted a dual tagging system where a possession tag is required in order to obtain a permanent export tag. Differences in tagging and harvest regulations from state to state make it difficult to have uniform tagging procedures for every state. The Service will continue to institute changes in the tagging requirements of the export guidelines where it has been deemed to contribute to the efectiveness of the CITES program.

4. Revised SA Guidelines

As stated above, the Endangered Species Act now requires the Secretary to base SA determinations for the export of bobcats and other Appendix II animals upon the best available biological information as utilized in professionally accepted wildlife management practices.

Accordingly, the Service has determined to use the guidelines that were developed by a working group of wildlife biologists who met on January 23–24, 1978, at the request of the Endangered Species Scientific Authority to formulate suitable export guidelines for bobcat, lynx, and river otter. These guidelines were used by the SA up to the time of the Court of Appeals decision for the export of bobcats, and they represent professionally accepted wildlife management practices. They are listed below, with an additional provision for population estimates to comply with the amendment to the Act.

A. Minimum requirements for biological information:

(1) Information on the condition of the population, including trends (the method of determination to be a matter of state choice), and population estimates where such information is available.

(2) Information on total harvest of the species.

(3) Information on distribution of harvest.

(4) Habitat evaluation.

B. Minimum requirements for a management program:

(1) There should be a controlled harvest, methods and seasons to be a matter of state choice.

(2) All pelts should be registered and marked.

(3) Harvest level objective should be determined annually.

In applying these guidelines, information on the condition of a bobcat population must include: (a) A current estimate (if such information is available) of the total number of animals in the preharvest population derived by extrapolating the number of animals per unit area in each of the major habitat types to obtain an estimate of the total number of animals in the state, where the number of animals per unit area is determined by direct count (e.g., by using radio tracking) or by indirect indications of abundance (e.g., track counts, scented track plots, hunter/trapper surveys, and/or harvest records), or by using population modeling (e.g., calculation population size from data on recruitment, mortality, sex ratio, age composition, or other parameters), (b) a description of any research being conducted to assess the distribution, abundance, or general condition of the species in the state, summarizing results so far obtained, including results of any analyses of age structure or reproductive parameters, and (c) an assessment of long-term population trends of the species in the state, and the relationship of these trends to habitat condition, management practices, harvesting pressure, or other factors.

The change in the Act does not require the states to submit reliable population estimates in order to export bobcats taken on or after January 1, 1981. However, if these data are provided by the states or by other sources, they must and will be considered by the Service in making "no detriment" findings. The Service, therefore, will consider all pertinent information, including indices of population size, and information on age and sex structure, habitat, and harvest in evaluating the condition of bobcat populations; if population estimates are available, they will be considered together with the above data in making SA findings. The Service is conducting an independent assessment of the effect that harvest for export is expected to have on the survival of bobcat populations. It will make decisions on the basis of the best available biological information of the types described above.

Information on harvest is to include: (a) The number of animals (by county or game management unit, if data are available at these local levels) that were: (i) Harvested, (ii) tagged, and (iii) bought by dealers operating in the state during the previous season; (b) that total number of animals that were harvested and tagged in the season before that; (c) the number of licensed trappers in the state, and the number of these trappers setting for the species in question, (d) any available information on harvest per unit effort, and (e) prices paid to harvesters for pelts of the species, including the average price and the range of extremes. The Service will use this information to assess harvest pressure on the species, which is important in making export findings.

The Service will evaluate the harvest level objectives set by the states in relation to information on the condition of the bobcat population. If the best available biological information indicates that the harvest allowed by a state is causing or contributing to a serious decline in the condition of the bobcat population, then the Service will not issue SA advice in favor of export for that state.

Under the 1982 amendments to the Act, the Secretary may require the establishment of target harvest levels and tagging procedures to ensure that the export of bobcats will not be detrimental to the survival of the species. Accordingly, the SA has determined that target harvest levels will be required for the 1982–83 export season. These levels will not exceed 20 percent of the estimated preharvest population submitted by states or reconstructed by the SA. It is reported from literature that the annual recruitment rate into a bobcat population varies between 20 and 33 percent. The SA is using the lower figure as a conservative upper limit for target harvest levels in order to ensure that export will not be detrimental to the survival of the species.

Most states in which bobcats are harvested furnished preharvest population estimates and harvest level objectives for the 1982–83 season. In cases where states used old population figures and/or trend and harvest information indicated that the population estimate given by a particular state was too high, the SA reconstructed its own estimate from harvest and age-class data. This was the case for the following states: Alabama, Florida, Kansas, Louisiana, Michigan, Mississippi, North Carolina, North Dakota, Oregon, South Carolina, Texas, and Virginia.

Although the Service set maximum target harvest levels at no more than 20 percent of the preharvest population, the level for most states was adjusted lower, taking into consideration available habitat, bobcat densities, harvest trend information, hunter/trapper numbers, season length, and management programs for the species.

Several states have in their regulations that if actual harvest levels approach their target harvest level prior to the close of the season, they can restrict further take of bobcats by closure of the season. These states are: Colorado, Georgia, Maine, Massachusetts, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Mexico, and South Dakota. Other states limit the number of export tags issued (Arizona and North Carolina) or adjust the season length the following year to compensate for a higher take that anticipated (Kansas, Minnesota, and Nebraska). Still others have quotas and/or bag limits: Klamath Tribe, Massachusetts, Minnesota, New Hampshire, Oklahoma, Oregon (Eastern part), West Virginia, and Wisconsin. The Navajo Nation limits the number of trappers.

All these mechanisms insure that the target harvest level will not be exceeded. If individual states exceed the

target harvest level set by the SA in an amount that is believed to be detrimental to the survival of the species, the state in question will be denied export the following season, unless it takes steps that will reduce the harvest to a level acceptable to the SA in the following season.

The Service finds that current information on population condition, management, and harvest submitted by certain states, as well as that collected by the Service, fully support its supplementary proposed SA findings. The Service has summarized this information in documents that detail the basis for SA advice for each state. Due to their length, details of these documents are not published in the **Federal Register**, but are available for public inspection at the Office of the Scientific Authority (address given above).

Management Authority Findings

Exports of Appendix II species are to be allowed under CITES only if the MA is satisfied that the specimens were not obtained in contravention of laws for the protection of wildlife or plants. The Service, therefore, must be satisfied that bobcat pelts or products were not obtained in violation of state or Federal law, in order to allow export. Evidence of legal taking for bobcat is provided by state tagging systems. For the 1982–83, season, the Service is requiring the use of locking plastic strip tags with embossed legends. The Service has arranged for the manufacturing of such tags for the majority of the states. Other states already use similar tags. Several states were permitted to use state purchased, nonconforming tags for the current season because of tags on hand, or mistakes in their tag orders.

New Hampshire's tag, while different from the recommended style, does satisfy all Management Authority criteria for pelt export tags. The few remaining non-conforming states are being notified that their tags must fully comply with Service requirements for the 1983–84 season or be subject to a nonexport finding for the involved species.

The Service would like to see state programs for CITES-listed animal species mandate both a possession tag for all listed animals harvested and presentation of each possession-tagged pelt to a state management agent for removal of the possession tag and application of a permanent locking tag suitable for export purposes.

The states receiving export approval for the 1982–83 season had to satisfy the following criteria:

(1) Each skin must be marked with a tag that is:

(a) Made of some permanent material in a style recommended by the Service;

(b) Applied within a specific time of taking that is established by the state; and

(c) Permanently attached to each skin by the state, state registered dealer, or taker. (Dealer and taker must be accountable for all tags received).

(2) The tags must show state of origin, year of take, species, and be serially unique.

(3) Report of take and tagging must be required by state law.

(4) A sample of each tag must be received by the Service.

Any deviations from these criteria are being brought to the state's attention along with suggestions for change or improvements for the 1983–84 harvest season.

The Service will propose early in 1983, the following Management Authority export criteria for the 1983–84 taking season:

(1) Current state trapping regulations must be on file with the Service;

(2) Sample 1983–84 season export tag must be on file with the Service;

(3) Export tag must be of a material, color, and style approved by the Service;

(4) Export tag must show state of origin, year of take, species, and must be serially unique;

(5) Reporting and tagging of each skin harvested during the harvest season must be required by state law;

(6) Export tag must be applied within a minimum specified time after take;

(7) Export tag must be permanently attached by state registered dealer, or state licensed taker;

(8) A possession tag must be applied to skin (and parts) at the time of take where state applies permanent export tag; and

(9) State registered dealers or state licensed takers must account for export tags received and must return unused tags to state within a specified time after taking season closes.

Supplementary Proposed Findings

The most recent information available on the status and management of bobcats in each state has been assembled by the Service and used to make determinations in accordance with the guidelines described in this notice. This information and records of the Service's evaluation of it in terms of guidelines described above are available for public inspection at the Service's Office of the Scientific Authority (SA) or Federal Wildlife Permit Office (MA).

The Service proposes to approve exports of bobcats harvested during the 1982–83 season in the following states and Indian Nations on the grounds that both SA and MA guidelines are met: Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Kansas, Klamath Tribe, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Navajo Nation, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

The Service also proposes not to grant general approval for exports of bobcats harvested in North Dakota. The Service presently lacks information that its SA guidelines are met in this state.

For all other states not addressed above, either the taking of bobcats is not allowed by the state, bobcats do not occur in the state, or the Service did not obtain adequate information on which to base SA and MA findings. The Service does ont intend to grant general approval for export of bobcats from such states.

Comments Solicited

The Service requests comments on the supplementary proposed findings and guidelines. Final Findings will take into consideration the comments and any additional information received, and such consideration might lead to final findings that differ from this proposal.

This propoal is issued under authority of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.; 87 Stat. 884 as amended), and was prepared by Dr. Richard M. Mitchell, Office of the Scientific Authority.

Note.—The Department has determined that these proposed findings are not a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act and, therefore, the preparation of an Environmental Impact Statement is not required. A determination on whether final findings are a major Federal action significantly affecting the quality of the human environment will be made at the time the final findings are published. The Department has determined that this is not a major rule under Executive Order 12291 and does not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601). This rule treats exports on a state-by-state basis and, in most cases, proposes to approve export in accordance with state management programs. Since any effects on small entities are imposed by these state management programs, this rule will have little effect on small entities in and of itself.

List of Subjects in 50 CFR Part 23

Endangered and threatened wildlife, Exports, Fish, Imports, Plants, (agriculture), Treaties.

PART 23—ENDANGERED SPECIES CONVENTION

Accordingly, the Service proposes to amend Part 23 of Title 50, Code of Federal Regulations, as set forth below:

Subpart F—Export of Certain Species

In § 23.52, add new paragraph (f) as follows:

§ 23.52 Bobcat (Lynx rufus)

* * * * *

(f) 1982–83 Harvest: Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Kansas, Klamath Tribe, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Navajo Nation, Nebraska, Nevada, New Hampshire New Mexico, New York, North Carolina, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

Condition on export: Each pelt must be clearly identified as to state of origin and season of taking by a permanently attached state tag of a type approved and attached under conditions established by the Service.

Dated: January 27, 1983.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-4440 Filed 2-22-83; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 681

Western Pacific Fishery Management Council; Western Pacific Spiny Lobster Fisheries; Public Hearing

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public hearing.

SUMMARY: The Western Pacific Fishery Management Council (Council) will hold a public hearing on a draft environmental assessment and draft amendment to the Spiny Lobster Fishery Management Plan. Comments received at the hearing will be used in the preparation of the final amendment and final environmental assessment.

DATE: Written comments are invited until April 8, 1983. Individuals or organizations wishing to comment may do so at the following public hearing. March 14, 1983—Honolulu, Hawaii.

ADDRESS: Send comments to: Wadsworth Yee, Chairman, Western Pacific Fishery Management Council, 1164 Bishop Street, Suite 1608, Honolulu, Hawaii 96813.

Hearing Location: March 14, 1983, 7:00 p.m., Pagoda Hotel, West Room, 1525 Rycroft Street, Honolulu, Hawaii.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Acting Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, Suite 1608, Honolulu, Hawaii 96813, (808) 523–1368, or Doyle E. Gates, Western Pacific Program Office, Southwest Region, National Marine Fisheries Service (NMFS), P.O. Box 3830, Honolulu, Hawaii 96812, (808) 955–8831. Copies of the draft environmental assessment and draft amendment are available at the Council office as well as the following locations: Honolulu Division of Aquatic Resources, Hawaii Department of Land and Natural Resources, 1151 Punchbowl Street, Honolulu, Hawaii 96813, or Terminal Island, Southwest Region, NMFS, 300 S. Ferry Street, Terminal Island, California 90731.

SUPPLEMENTARY INFORMATION: The proposed amendment recommends a conservation and management program for harvesting spiny lobster in the fishery conservation zone around the main Hawaiian Islands which is the equivalent of the State of Hawaii regulations for the harvesting of spiny lobster in the territorial sea around the main Hawaiian Islands. The proposed conservation and management program is intended to achieve cooperative Federal/State management of spiny lobster stocks throughout their range in the Hawaiian Islands. A complimentary management program has been proposed for consideration and adoption by the State of Hawaii for the spiny lobster fishery in the territorial sea around the Hawaiian Islands.

Dated: February 17, 1983.

Joe P. Clem,

Acting Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 83-4509 Filed 2-22-83; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
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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.

ACTION

Information Collection Request Under Review

AGENCY: ACTION.

ACTION: Information collection request under review.

SUMMARY: This notice sets forth certain information about an information collection proposal by ACTION, the national volunteer agency.

Background

Under the Paperwork Reduction Act (44 U.S.C., Chapter 35), the Office of Management and Budget (OMB) reviews and acts upon proposals to collect information from the public or to impose recordkeeping requirements. ACTION has submitted the information collection proposal described below to OMB. OMB and ACTION will consider comments on the proposed collection of information and recordkeeping requirements. Copies of the proposed forms and supporting documents [request for clearance (SF 83), supporting statement, instructions, transmittal letter, and other documents] may be obtained from the agency clearance officer.

Information About This Proposed Collection

Agency Clearance Officer—Richard D. English—202–254–8501. Agency Address: ACTION, 806 Connecticut Ave., NW., Washington, D.C. 20525. Title of Forms: CEP Interview. Office of ACTION Issuing Proposals: Office of Policy and Planning.

Agency official to contact for further information: Melvin E. Beetle, Director, OPP/E 202–254–5198. Type of request: New. Frequency of collection: 1 time per year for 2 years. (1983 and 1984). General description of respondents: Residents of two communities conducting a CEP program. Estimated number of responses: 960 or 480/yr. Estimated hours for all respondents to complete form: 240. Respondent's obligation to reply: Voluntary.

This is not a collection proposal under Sec. 3504(h) of the Paperwork Reduction Act. Person responsible for OMB Review: James L. Thomas, 202–395–6880.

Richard D. English,

Deputy Assistant Director, ACTION.

[FR Doc. 83-4442 Filed 2-22-83; 8:45 am]

BILLING CODE 6060-01-M

ARMS CONTROL AND DISARMAMENT AGENCY

General Advisory Committee; Closed Meeting

In accordance with the Federal Advisory Committee Act, as amended, the U.S. Arms Control and Disarmament Agency announces the following meeting:

Name: General Advisory Committee on Arms Control and Disarmament.

Date: March 10 and 11, 1983.

Time: 9:00 a.m. each day.

Place: State Department Building, Washington, D.C.

Type of Meeting: Closed.

Contact Person: Dr. Charles M. Kupperman, Executive Director of the General Advisory Committee, Room 5927, U.S. Arms Control and Disarmament Agency, Washington, D.C. 20451, telephone (202) 632–5176.

Purpose of Advisory Committee: To advise the Director of U.S. Arms Control and Disarmament Agency on arms control and disarmament policy and activities, and from time to time to advise the President and the Secretary of State respecting matters affecting arms control, disarmament, and world peace.

Agenda: Will include the following discussions and presentations:

March 10

A.M. European Views of the INF Negotiations.

P.M. European Views of the START Negotiations.

March 11

A.M. Discussions of the foregoing and possibly other similar matters.

Reasons for Closing: The GAC members will be reviewing and discussing matters specifically required by Executive Order to be kept secret in the interest of national defense and foreign policy.

Authority to Close Meeting: The closing of this meeting is in accordance with a determination by the Director of the U.S. Arms Control and Disarmament Agency dated December 10, 1982, made pursuant to the provisions of Section 10(d) of the Federal Advisory Committee Act, as amended.

John E. Grassle,

Committee Management Officer.

[FR Doc. 83-4473 Filed 2-22-83; 8:45 am]

BILLING CODE 6820-32-M

COMMISSION ON CIVIL RIGHTS

Colorado Advisory Committee; Agenda and Notice of Public 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 Colorado Advisory Committee to the Commission will convene at 7:00 p.m. and will end at 10:00 p.m. on March 16, 1983, in the Sebastian Bach Room, at the Executive Tower Inn, 1405 Curtis Street, Denver, Colorado 80202. The purpose of this meeting will be to discuss programs plans for Fiscal Year 1983.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Minoru Yasui, 1150 South Williams, Denver, Colorado 80210, (303) 575–2621 or the Rocky Mountain Regional Office, Brook Towers, 1020 Fifteenth Street, Suite 2235, Denver, Colorado 80202, (303) 837–2211.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 17, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-4516 Filed 2-22-83; 8:45 am]

BILLING CODE 6335-01-M

Ohio Advisory Committee; Agenda and Notice of Public 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 Ohio Advisory Committee to the Commission will convene at 10:00 a.m., and will end at 3:00 p.m., on March 12, 1983, at the Holiday Inn Riverview, 141 Summit Street, Toledo, Ohio 43604. The purpose of this meeting will be to discuss information that has been gathered relating to Hispanics in education and employment, and also to receive a report from the subcommittee for this study.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Marian A. Spencer, 940 Lexington Avenue, Cincinnati, Ohio 45229, (513) 221–5656 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., February 17, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-4518 Filed 2-22-83; 8:45 am]

BILLING CODE 6335-01-M

Rocky Mountain Region Advisory Committees (Colorado, North Dakota, South Dakota, Utah, Montana, and Wyoming); Agenda and Notice of Public 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 Advisory Committees to the Commission within the Rocky Mountain Region (Colorado, North Dakota, South Dakota, Utah, Montana and Wyoming) will convene at 8:00 p.m. on March 16, 1983, and will adjourn at 1:00 p.m. on March 13, 1983, in the Beethoven III Room, at the Executive Tower Inn, 1405 Curtis Street, Denver, Colorado 80202. The purpose of this meeting will be to conduct a consultation on block grant funding for Indian Reservation programs, and consider program plans for Fiscal Year 1983.

Persons desiring additional information or planning a presentation to the Committee, should contact the appropriate Chairperson: Minoru Yasui, 1150 South Williams, Denver, Colorado 80202, (303) 575–2621; Angela V. Russell, Box 333, Lodge Grass, Montana 59050, (406) 638–2626; Robert A. Feder, 414 Gate City Building, Post Office Box 1637, Fargo, North Dakota 58102, (701) 235–5515; Marvin Amiotte, Oglala Sioux Tribe, Box 1053, Pine Ridge, South Dakota 57770, (605) 867–5140; Linda M. Dupont-Johnson, State Office Building, Suite 6270, Salt Lake City, Utah 84114, (801) 533–4061; Jamie C. Ring, 520 Parkview Drive, Casper, Wyoming 82601, (307) 268–2269; or the Rocky Mountain Region Office, Brook Towers, 1020 Fifteenth Street, Suite 2235, Denver, Colorado (303) 337–2211.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 17, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-4517 Filed 2-22-83; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Carbon Steel Wire Rod From Brazil; Postponement of Preliminary Antidumping Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Postponement of preliminary antidumping determination.

SUMMARY: The preliminary determination of carbon steel wire rod from Brazil is being postponed, and we intend to issue it not later than April 28, 1983.

EFFECTIVE DATE: February 23, 1983.

FOR FURTHER INFORMATION CONTACT: John Brinkmann, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, D.C. 20230. (202) 377–4929.

SUPPLEMENTARY INFORMATION: On October 28, 1982, we announced our initiation of an antidumping investigation to determine whether carbon steel wire rod from Brazil is being, or is likely to be, sold in the United States at less than fair value within the meaning of the antidumping law (47 FR 47452). The notice stated that we would issue a preliminary determination by March 9, 1983, if the investigation proceeded normally.

As detailed in the notice of initiation of the antidumping investigation, the petition alleges that imports from Brazil of carbon steel wire rod are being, or are likely to be, sold in the United States at less than fair value. Because of the novelty of the issues and the number and complexity of the adjustments to be considered, we believe that this case is extraordinarily complicated in accordance with section 733(c)(1)(B) of the Tariff Act of 1930, as amended, and additional time is necessary to make the preliminary determination. We intend to issue a preliminary determination not later than April 28, 1983.

Critical circumstances have been alleged in this case. We have reviewed currently available data on shipments of the product under investigation to the United States and have found no reason to believe that shipments are surging. We will continue to monitor the imports of the product during the extension period. A determination of critical circumstances will be made in the preliminary determination.

This notice is published pursuant to section 733(c)(2) of the Act.

Dated: February 16, 1983.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-4467 Filed 2-22-83; 8:45 am]

BILLING CODE 3510-25-M

Carbon Steel Wire Rod From Trinidad and Tobago; Postponement of Preliminary Antidumping Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Postponement of preliminary antidumping determination.

SUMMARY: The preliminary determination of carbon steel wire rod from Trinidad and Tobago is being postponed, and we intend to issue it not later than April 28, 1983.

EFFECTIVE DATE: February 23, 1983.

FOR FURTHER INFORMATION CONTACT: John Brinkmann or Mary Jenkins, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Telephone: (202) 377–4929 or 377–1756.

SUPPLEMENTARY INFORMATION: On October 20, 1982, we announced our initiation of an antidumping investigation to determine whether carbon steel wire rod from Trinidad and Tobago is being, or is likely to be, sold in the United States at less than fair value within the meaning of the antidumping law (47 FR 46558). The notice stated that we would issue a preliminary determination by March 9, 1983, if the investigation proceeded normally.

As detailed in the notice of initiation of the antidumping investigation, the petition alleges that imports from Trinidad and Tobago of carbon steel wire rod are being, or are likely to be, sold in the United States at less than fair value. On February 16, 1983, counsel for the petitioners, Atlantic Steel Company, *et al.*, requested that the Department extend the period for the preliminary determination until 210 days after the date of receipt of the petition in accordance with section 733(c)(1)(A) of the Tariff Act of 1930, as amended.

We have determined that additional time is necessary to make the preliminary determination. Accordingly,

the period for determination in this case is hereby extended. We intend to issue a preliminary determination not later than April 28, 1983.

This notice is published pursuant to section 733(c)(2) of the Act.

Dated: February 16, 1983.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-4468 Filed 2-22-83; 8:45 am]

BILLING CODE 3510-25-M

Certain Textiles and Textile Products From Argentina; Final Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of countervailing duty order.

SUMMARY: On December 23, 1982 the Department of Commerce published in the **Federal Register** the preliminary results of its administrative review of the countervailing duty order on certain textiles and textile products from Argentina, specifically men's and boys' woolen apparel. The review covers the period January 1, 1981 through December 31, 1981. The notice stated that the Department had preliminarily determined the net subsidy to be 5.67 percent *ad valorem.*

Interested parties were invited to comment on our preliminary results. We received no comments. Based on our analysis, the final results of the review are the same as those presented in the preliminary results.

EFFECTIVE DATE: February 23, 1983.

FOR FURTHER INFORMATION CONTACT: Lorenza Olivas or Larry Hampel, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On December 23, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 57316) the preliminary results of its administrative review of the countervailing duty order on certain textiles and textile products from Argentina (43 FR 53421, November 18, 1978). The Department has not completed that administrative review.

Scope of the Review

Imports covered by the review are men's and boys' woolen apparel imported from Argentina. Such apparel is currently classifiable under the items of the Tariff Schedules of the United States Annotated ("TSUSA") listed in the Appendix to this notice.

The review covers the period January 1, 1981 through December 31, 1981 and the following programs: (1) The reembolso, a cash rebate of indirect taxes; and (2) a preferential financing program.

Final Results of the Review

Interested parties were invited to comment on our preliminary results. We received no comments. Based on our analysis, the final results of our review are the same as those presented in the preliminary results of review.

The Department will instruct the Customs Service to assess countervailing duties in the amount of the net subsidy, 5.67 percent of the f.o.b. invoice price, on all shipments of men's and boys' woolen apparel from Argentina exported on or after January 1, 1981 and on or before December 31, 1981.

Further, as provided for by section 751(a)(1) of the Tariff Act, the Department will instruct the Customs Service to collect cash deposits of estimated countervailing duties of 5.67 percent of the f.o.b. invoice price on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

The Department intends to conduct the next administrative review by the end of November 1983. The amount of countervailing duties to be imposed on exports made during 1982 will be determined in that review. Consequently, suspension of liquidation previously ordered will continue for all entries of this merchandise exported on or after January 1, 1982.

The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information in the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: February 16, 1983.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

Appendix

Wearing Apparel

372.0800(b)
372.1020(a)(b)
372.1050(a)(b)
372.2500 (for male infants)
372.3000(b)
372.3500
372.4000(b)
372.4500(b)
373.0500 of wool
373.1500
376.0800(b)
378.3510(b)
378.4000(b)
378.4500(b)
379.1100
379.1300
379.1510 through 379.1530
379.1710 through 379.1750
379.2010
379.2020
379.3520(a)
379.6615(a)
379.6934 through 379.6958(a)
379.7100
379.7240 through 379.7295
379.7400
379.7510
379.7530
379.7605 through 379.7650
379.7810 through 379.7850
379.7900
379.8100
379.8311 through 379.8360
379.8410
379.8420
379.8615(a)
379.8715(a)
379.9815(a)

(a) Wool articles classified under this TSUSA item number are covered by this notice if they are included in the textile category system used by the United States to monitor and administer the U.S. textile trade agreements made pursuant to the Arrangement Regarding International Trade in Textiles, December 20, 1973, 25 U.S.T. 1001, TIAS 7840.

(b) If the item is for men and boys, it is included in this notice. The term "men and boys" should be interpreted in accordance with the applicable headnotes to the schedule part and subpart in which the TSUSA number falls. Where the phrase is not covered by such headnotes, items classified under the TSUSA number which can be used by either sex are covered by this notice. Items under TSUSA numbers identifiable as being intended exclusively for women and/or girls are not covered by this notice.

[FR Doc. 83-4464 Filed 2-22-83; 8:45 am]

BILLING CODE 3510-25-M

Foreign Availability Subcommittee of the Computer Systems Technical Advisory Committee; Open Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Computer Systems Technical Advisory Committee was initially established on January 3, 1973, and rechartered on September 18, 1981 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act. The Subcommittee was approved for continuation on October 5, 1981 pursuant to the charter of the Committee. The Foreign Availability Subcommittee was formed to ascertain if certain kinds of equipment are available in non-COCOM and Communist countries, and if such equipment is available, then to ascertain if it is technically the same or similar to that available elsewhere.

Time and place

March 8, 1983, at 1:30 p.m. The meeting will take place at the Main Commerce Building, Room 3708, 14th Street and Constitution Ave., NW., Washington, D.C.

Agenda

General Session

(1) Opening remarks by the Subcommittee Chairman.

(2) Presentation of papers or comments by the public.

(3) Industry priority issues on export controls.

(4) Discussion of foreign availability test cases to be submitted to Commerce.

(5) Status of the Department of Commerce foreign availability implementation plan.

(6) Discussion of the agenda for 1983.

Public Participation

The meeting will be open for public observation and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

FOR FURTHER INFORMATION OR COPIES OF THE MINUTES CONTACT: Mrs. Margaret A. Cornejo, Committee Control Officer, Office of Export Administration, Room 2613, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: 202–377–2583.

Dated: February 16, 1983.

John K. Boidock,

Director, Office of Export Administration.

[FR Doc. 83-4485 Filed 2-22-83; 8:45 am]

BILLING CODE 3510-25-M

Computer Systems Technical Advisory Committee; Partially Closed Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Computer Systems Technical Advisory Committee was initially established on January 3, 1973, and rechartered on September 18, 1981, in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act. The Committee advises the Office of Export Administration with respect to questions involving (A) technical specifications and policy issues relating to those specifications which are of concern to the Department, (B) worldwide availability of products and systems, including quantity and quality, and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer systems or technology, and (D) exports of the aforementioned commodities subject to unilateral and multilateral controls which the United States establishes or in which it participates including proposed revisions of any such controls.

Time and Place

March 9, 1983, at 1:00 p.m. The meeting will take place at the Main Commerce Building, Room 3708, 14th Street and Constitution Ave., NW., Washington, D.C.

Agenda

General Session

(1) Opening remarks by the Chairman.

(2) Presentation of papers or comments by the public.

(3) Industry priority issues on export controls.

(4) Report on the current work program of the subcommittees: (a) Foreign Availability; (b) Hardware: and (c) Licensing Procedures.

(5) New business.

Executive Session

(6) Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

Public Participation

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 29, 1981, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, Pub. L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Telephone: 202–377–4217.

FOR FURTHER INFORMATION OR COPIES OF THE MINUTES CONTACT: Mrs. Margaret A. Cornejo, Committee Control Officer, Office of Export Administration, Room 2613, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: 202–377–2583

Dated: February 16, 1983.

John K. Boidock,

Director, Office of Export Administration.

[FR Doc. 83-3466 Filed 2-22-83; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Gulf of Mexico Fishery Management Council's Shrimp Subpanel; Public Meeting

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice.

SUMMARY: The Gulf of Mexico Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265, as amended), has established a Shrimp Subpanel which will meet to discuss shrimp fishery regulations to make mandatory the existing shrimp statistical reporting system in the Gulf.

DATES: The public meeting will convene on Wednesday, March 16, 1983, at

approximately 1 p.m., and will adjourn at approximately 4 p.m., and will take place at the Texas–C, Hyatt Regency, 208 Barton Springs, Austin, Texas.

FOR FURTHER INFORMATION CONTACT: Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609, Telephone: (813) 228–2815.

Dated: February 17, 1983.

Joe P. Clem,

Acting Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 83–4519 Filed 2–22–83; 8:45 am]

BILLING CODE 3510–22–M

National Technical Information Service

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization or results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

Technical and licensing information on specific inventions may be obtained by writing to: Office of Government Inventions and Patents, U.S. Department of Commerce, P.O. Box 1423, Springfield, Virginia 22151.

Please cite the number and title of inventions of interest.

George Kudravetz,

Program Manager, Office of Government Inventions and Patents, National Technical Information Service, U.S. Department of Commerce.

Department of the Air Force

SN 6–436,869 Fabrication of Gallium Arsenide-Germanium Heteroface Junction Device
SN 6–433,561 Stall Elimination and Restart Enhancement Device
SN 6–437,655 A Process for the Epitaxial Deposition of III–V Compounds Utilizing A Continuous In-Situ Hydrogen Chloride Etch
SN 6–431,865 Bandpass Filter Formed by Serial Gratings Operating in a Wood's Anomaly Region
SN 6–439,492 Sector Airflow Variable Geometry Combustor
SN 6–431,434 Nickel-Cadmium Battery Conditioner and Tester Apparatus
SN 6–434,647 Combustion Chamber Floatwall Panel Attachment Arrangement
SN 6–439,471 Total Internal Reflection Modulator/Deflector
SN 6–431,435 Mounting Construction for Turbine Vane Assembly
SN 6–429,939 A Method for the Particle Size Independent Spectrometric Determination of Metal Particles in Lubricating Oils and Hydraulic Fluids
SN 6–433,597 Simple Nonrestrictive Arm Restraint System
SN 6–435,515 Multiple Thermocouple Testing Device
SN 6–434,671 Optical System for Measuring Shadowgraph Data
SN 6–435,522 Imaging Apparatus for Transverse Electro-Optic Tunable Filter
SN 6–206,412 (4,358,949) Argon Purity Tester
SN 6–169,020 (4,358,925) Temperature Sensing Assembly
SN 6–265,719 (4,359,568) Polyaromatic Amides Containing 1,3-Butadiene Units
SN 6–206,415 (4,359,650) High Voltage Driver Amplifier Apparatus
SN 6–176,436 (4,359,261) Fiber Optic Switching Device
SN 6–329,459 (4,359,360) Apparatus for Selectively Jet Etching A Plastic Encapsulating an Article
SN 6–676,442 (4,357,611) Radar Cross Section Augmentation
SN 6–192,163 (4,357,796) Small Gas Turbofan Engine with Regenerating Diffuser
SN 6–307,991 (4,359,567) Thermoxidatively Stable Articulated p-Benzobisoxazole and p-Benozobisthiazole Polymers
SN 6–293,776 (4,359,190) Exact Involute Ply Patterns
SN 6–171,916 (4,360,910) Digital Voice Conferencing Apparatus in Time Division Multiplex Systems
SN 6–144,819 (4,359,259) Holographic Multiplexer/Demultiplexer
SN 6–100,321 (4,359,199) Soft Landing Gear
SN 6–304,126 (4,365,034) Acetylene-Terminated Polyimide Compositions
SN 6–256,881 (4,365,173) Phase Shifter Adjustment Apparatus
SN 6–181,924 (4,359,399) Taggants with Explosive Induced Magnetic Susceptibility

Department of the Army

SN 6–408,316 Finless Gun-Fired Practice Round
SN 6–415,956 Radio Frequency Coupled Differential Sensor Coil for Improved Muzzle Velocity Measurements
SN 6–444,136 Quasi-Optical Millimeter Wave Power Combiner
SN 6–445,341 An Automatic Layout Program For Hybrid Microcircuits (HYPAR)
SN 6–294,106 Composite Resist Structures for Submicron Processing in Electron/Ion Lithography
SN 6–414,690 Shaped Charge Warhead Construction
SN 6–409,750 A Firing Time Selector for Precision Weapon Aiming
SN 6–449,029 Multiplexed Noise Code Generator Utilizing Transposed Codes
SN 6–432,218 Compounds and Method for Detecting Thiols
SN 6–441,718 Radiochromic Leuko Dye Real Time Dosimeter, One Way Optical Waveguide
SN 6–434,792 Roller Bearing Gear System
SN 6–454,806 Method of Frequency Trimming Surface Acoustic Wave Devices
SN 6–449,947 Vehicle Interior Deicing/Defogging System
SN 6–445,799 Dielectric Waveguide Ferrite Modulator/Switch
SN 6–445,800 Interference Cancelling System for a Mobile Subscriber Access Communications System
SN 6–418,325 Apparatus for Measuring Projectile's Transverse Displacement at Gun Muzzle
SN 6–446,922 Radar Target Angle Measuring System
SN 6–429,756 High-Energy-Beam-Hardened Armor Plate
SN 6–408,317 Ballistic Projectile
SN 6–445,333 Multipath Interference Reduction System
SN 6–264,268 (4,369,937) Hinging and Latching Apparatus
SN 6–953,292 (4,369,811) Null Balancing for Fluidic Sensors and Amplifiers
SN 6–221,737 (4,370,655) Combined Side Lobe Canceller and Frequency Selective Limiter
SN 6–224,603 (4,370,597) Thyratron Switch for Narrow Pulses

Department of Agriculture

SN 6–448,675 Modified Starches as Extenders for Absorbent Polymers
SN 6–409,266 Process for Rendering Hollow Textile Fibers Temperature-Adaptable to Various Thermal Environments

Department of Health and Human Services

SN 6–422,304 Trunk Dynamometer

[FR Doc. 83–4431 Filed 2–22–83; 8:45 am]

BILLING CODE 3510–04–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting the Import Restraint Level for Certain Wool Apparel Products From the Socialist Republic of Romania

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Applying special carryforward amounting to 150 dozen to the level of restraint established for women's, girls', and infants' wool coats and suits in Category 435/444, produced or manufactured in Romania and exported during the agreement year which began on April 1, 1982. The adjusted level will be 8,187 dozen.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709).

SUMMARY: The Bilateral Wool and Man-Made Fiber Textile Agreement of September 3 and November 3, 1980, as amended, between the Governments of the United States and the Socialist Republic of Romania, provides, among other elements of flexibility, for the borrowing of designated percentages of yardage from the succeeding year's level (carryforward). At the request of the Government of the Socialist Republic of Romania, the United States Government has agreed to grant special carryforward of 150 dozen in Category 435/444, increasing the level for the year which began on April 1, 1982 to 8,187 dozen. This amount will be charged to the applicable level of restraint in the next agreement year.

EFFECTIVE DATE: February 23, 1983.

FOR FURTHER INFORMATION CONTACT: Diana Bass, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

SUPPLEMENTARY INFORMATION: On April 1, 1982, there was published in the **Federal Register** (47 FR 13856) a letter dated March 25, 1982 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established import levels for certain specified categories of wool and man-made fiber textile products, including Category 435/444, produced or manufactured in Romania and exported during the twelve-month period which began on April 1, 1982. In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the twelve-month level of restraint previously established for Category 435/444 to 8,187 dozen.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

February 16, 1983.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,

Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: On March 25, 1982, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry for consumption and withdrawal from warehouse for consumption during the twelve-month period which began on April 1, 1982 and extends through March 31, 1983 of wool and man-made fiber textile products in certain specified categories, produced or manufactured in Romania, in excess of designated levels of restraint are subject to adjustment.[1]

Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textile done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Wool and Man-Made Fiber Textile Agreement of September 3 and November 3, 1980, as amended, between the Governments of the United States and the Socialist Republic of Romania; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to amend, effective on February 23, 1983 the twelve-month level of restraint established for Category 435/444 to 8,187 dozen.[2]

The action taken with respect to the Government of the Socialist Republic of Romania and with respect to imports of wool textile products from Romania has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore,these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exceptions to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-4463 Filed 2-20-83; 8:45 am]

BILLING CODE 3510-25-M

[1] The term "adjustment" refers to those provisions of the Bilateral Wool and Man-Made Fiber Textile Agreement of September 3 and November 3, 1980, as amended, between the Governments of the United States and the Socialist Republic of Romania, which provide, in part, that (1) specific levels of restraint may be increased for carryover and carryforward up to 11 percent of the applicable category limit; consultations may be held to adjust levels for categories not subject to specific limits; and (2) administrative arrangements or adjustments may be made to resolve problems arising under these provisions of the bilateral agreement.

[2] The elvel of restraint has not been adjusted to reflect any imports after March 31, 1982.

CONSUMER PRODUCT SAFETY COMMISSION

Notification of Proposed Collection of Information

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1981 (44 U.S.C. 3501 *et seq.*), the Consumer Product Safety Commission has submitted to the Office of Management and Budget a request for approval of a proposed collection of information in the form of a survey to develop a list of state health agencies that provide tests of formaldehye gas levels in homes, with a requested expiration date of March 15, 1983.

The purpose of this survey is to enable the Commission to respond to inquiries from consumers generated by the Commission's ban of ureaformaldehyde foam insulation (UFFI). The ban was issued to eliminate an unreasonable risk of injury from acute and chronic health effects, including cancer, due to exposure of consumers to formaldehyde gas given off by UFFI. As a result of public awareness of the risks associated with UFFI and other formaldehyde-containing products in the home, the Commission continues to receive a large number of inquiries from consumers on how to get the air in their homes tested to determine the formaldehyde level. The information obtained from this survey will enable the Commission to give more complete responses to such inquiries and will facilitate the medical treatment of consumers who may be suffering from symptoms of exposure to formaldehyde. The survey will be conducted by telephone by the Commission's five field offices.

Information about the Proposed Collection of Information:

Agency address: Consumer Product Safety Commission, 1111 18th Street NW., Washington, D.C. 20207.

Title of information collection: Survey to develop list of state health agencies that provide formaldehyde testing for consumers.

Type of request: Approval of survey.

Frequency of collection: One time.

General description of respondents: State health agencies.

Estimated number of respondents: 60

Estimated average number of hours per response: 0.18

Comments: Comments on this proposed collection of information should be addressed to Gwen Pla, Desk Officer, Office of Information and

Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, telephone (202) 359–7313. Copies of the proposed collection of information are available from Russell Smith, Office of Budget and Program Implementation, Consumer Product Safety Commission, Washington, D.C. 20207, telephone: (301) 492–6529.

This is not a proposal to which 44 U.S.C. 3504(h) is applicable.

Dated: February 17, 1983.

Sayde E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 83-4525 Filed 2-22-83; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Armed Forces Epidemiological Board; Open Meeting

1. In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463) announcement is made of the following committee meeting:

Name of Committee: Armed Forces Epidemiological Board Subcommittee on Disease Control.

Date of meeting: 10 March 1983.

Time: 0900–1500.

Place: Room 4, Building 1, Walter Reed Army Medical Center (old hospital).

Proposed agenda: Policies and procedures for the identification and control of leptospirosis, statistical review of the military services on the frequency and incidence of Japanese encephalitis.

2. This meeting will be open to the public, but limited by space accommodations. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. Interested persons wishing to participate should advise the Executive Secretary, DASG–AFEB, Room 2D455 Pentagon, Washington, D.C. 20310.

Dated: February 16, 1983.

Robert F. Nikolewski,

Executive Secretary.

[FR Doc. 83-4531 Filed 2-22-83; 8:45 am]

BILLING CODE 3710-92-M

Armed Forces Epidemiological Board; Open Meeting

1. In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463) announcement is made of the following committee meeting:

Name of committee: Armed Forces Epidemiological Board.

Date of meeting: 11 March 1983.

Time: 0830–1600.

Place: Conference Room 3092, Walter Reed Army Institute of Research, Walter Reed Army Medical Center, Washington, D.C.

Proposed agenda: Update on the Navy occupational medicine program, Navy preventative medicine follow up report in Lebanon, update on the influenza immunization programs of the military medical services, current status of leptospirosis disease control, select subcommittee and respective military preventative medicine officer reports.

2. This meeting will be open to the public, but limited by space accommodations. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. Interested persons wishing to participate should advise the Executive Secretary, DASG–AFEB, Room 2D455 Pentagon, Washington, D.C. 20310.

Dated: February 16, 1983.

Robert F. Nikolewski,

Executive Secretary.

[FR Doc. 83-4532 Filed 2-22-83; 8:45 am]

BILLING CODE 3710-92-M

Armed Forces Epidemiological Board; Open Meeting

1. In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463) announcement is made of the following committee meeting:

Name of committee: Armed Forces Epidemiological Board Subcommittee Task Force on Epidemiological Health Care Information Systems.

Date of meeting: 10 March 1983.

Time: 1330–1600.

Place: Room 2H24, Building 2, Walter Reed Army Medical Center (new hospital).

Proposed agenda: Presentations and discussions regarding available epidemiologic information systems within the military medical services to culminate in AFEB recommendations to the respective Surgeons General.

2. This meeting will be open to the public, but limited by space accommodations. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. Interested persons wishing to participate should advise the Executive Secretary, DASG–AFEB, Room 2D455 Pentagon, Washington, DC 20310.

Dated: February 16, 1983.

Robert F. Nikolewski,

Executive Secretary.

[FR Doc. 83-4533 Filed 2-22-83; 8:45 am]

BILLING CODE 3710-92-M

Department of the Navy

Secretary of the Navy's Advisory Board on Education and Training (SABET); Meeting

Pursuant to Section 10, paragraph (a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Secretary of the Navy's Advisory Board on Education and Training will meet on March 10, 1983, from 8:30 a.m. to 5:45 p.m. The meeting on March 11, 1983, will be from 8:30 a.m. until 11:00 a.m. The Board meeting will be hosted by the Fleet and Mine Warfare Training Center in Charleston, South Carolina. All sessions will be open to the public.

As part of the meeting the Board will examine the concept of lateral entry from national and State perspectives and receive a briefing on the Navy Lateral Entry Accession Project. The Board will tour a DD–963 destroyer, submarine tender, and a nuclear propulsion submarine in addition to the Fleet and Mine Warfare Training Center and the Fleet Ballistic Missile Submarine Training Center.

A follow-on to past SABET recommendations will be covered at the SABET working session on March 11 to include issues related to the Education and Training Management Subspecialty and a Center for Research Application within the Naval Education and Training Command.

Dated: February 17, 1983.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 83-4530 Filed 2-22-83; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

Federal Education Data Acquisition Council

AGENCY: Education Department.

ACTION: Notice of data acquisition involving educational agencies and institutions.

SUMMARY: The Secretary publishes a listing of approved data requests that Federal agencies will use to collect data from the educational agencies and institutions during the school year 1983 and 1984. The paperwork control requirements of section 400A of the General Education Provisions Act, require that a listing of these approved data requests be published in the **Federal Register.** The data acquisition activities covered by the Act have been reviewed and approved by the Secretary

and the Office of Management and Budget (OMB) in accordance with procedures approved by the Federal Education Data Acquisition Council (FEDAC) and OMB.

DATES: Comments should be addressed to Mrs. Margaret B. Webster, Division of Education Information Management, Room 4074, Switzer Building, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 426-7304.

SUPPLEMENTARY INFORMATION: Under the Paperwork Control Amendments of 1978, Section 400A of the General Education Provisions Act, the Secretary of Education is responsible for reviewing and approving collection of information and data acquisition activities of all Federal agencies—

(a) Whenever the respondents are primarily educational agencies or institutions; or

(b) Whenever the purpose of the activities is to request information needed for the management of, or the formulation of, policy related to Federal education programs or research or evaluation studies related to the implementation of Federal education programs.

Another requirement is that "no information or data will be requested of any educational agency or institution unless that request has been approved and publicly announced by the February 15 immediately preceding the beginning of the new school year, unless there is an urgent need for this information or a very unusual circumstance exists regarding it." Finally, the Act requires the Secretary to "publish annually a listing of education data requests, by Federal agency * * *"

The following material constitutes this annual listing. The Federal Education Data Acquisition Council staff and the Office of Management and Budget have approved these data acquisitions. The various agencies plan, at this time, to use these forms in school year 1983-84.

The "Purpose" column contains numerical codes which correspond to the following list that describes Federal use of the information:

1 Application for Benefits
2 Program Evaluation
3 General Purpose Statistics
4 Regulatory or Compliance
5 Program Planning or Management
6 Research

The "Type" column contains numerical codes which correspond to the following list that describes type of respondents:

1 Individuals or Households
2 State or Local Governments
3 Farms
4 Businesses or Other Institutions (Except Farms)

Another column contains a numerical Standard Industrial Classification (SIC) Code. Those codes are also used to describe respondent types. Some of the more common codes are:

821 Elementary and Secondary Schools
822 Colleges and Universities
823 Libraries and Information Centers
824 Correspondence and Vocational Schools
941 Administration of Educational Programs (State and Local Education Agencies)

Note.—These forms are approved for use in FY 1984. They may not be used if the programs are not funded in the fiscal budget for FY 1984.

Burden Reduction

By the beginning of FY 1983 the Department of Education (ED) has reduced its burden hours by 33% from its FY 1980 base. This reduction exceeds the requirement of the Paperwork Reduction Act of 1980 for a 25% reduction by the end of FY 1983. The major portion of this reduction is attributed to the reduction in burden hours on student financial aid recipients, and consolidation of reporting requirements under the Education Consolidation and Improvement Act.

The staff of ED continues to work with respresentatives of respondent groups (Committee on Evaluation and Information Systems of the Council of Chief State School Officers, State Higher Education Executive Officers, and similar organizations) to identify redundancy in data collection and to question the usefulness of proposed data collections.

A primary criterion for approval of any form in ED is that it have a statutory or regulatory basis. Many of the forms listed here reflect the implementation of Education Department General Administrative Regulations, which apply to ED grant programs. These standard regulations have reduced the disparity among reports required by the grant programs, as well as the paperwork burden associated with those reports.

Invitation to Comment

Interested persons are invited to submit comments, suggestions, and recommendations on this notice to the address given at the beginning of this document. All comments will be considered in future reviews of these forms. All comments submitted in response to this notice will be available for public inspection in Room 4074, Switzer Building, 330 C Street, SW, Washington, D.C., between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week, except Federal holidays.

Dated: February 14, 1983.

T. H. Bell,

Secretary of Education.

Title of information collection	OMB and agency numbers	Purpose	Type	Respondent burden SIC Code	Number of respondents	Hours
International Trade Administration						
Request for Duty Free Entry of Scientific Instruments or Apparatus	0625-0037, ITA 338P	2, 4	2, 4	892, 822, 943, 951, and 966.	400	800
Abstract: The responses to the questions on the applications are essential for Commerce and Treasury to determine that there is no comparable instrument manufactured domestically.						
Total number of respondents and hours					400	800
Food and Nutrition Service						
7 CFR Part 215—Special Milk Program for Children—Reporting	0584-0005	2, 4	2, 4	821, 836, and 832	397,194	44,131
Abstract: These regulations set forth policies for the administration of the program by State agencies and by local level organizations, and reporting requirements necessary to retain program funds and notify USDA of the results of program operations.						
Part 210—National School Lunch Program—Reporting Burden	0584-0006	2	2	943	50,066	60,935
Abstract: Provides requirements for determining the method and scope of gathering preference information, and using the format determined to be most appropriate in each State's situation.						
7 CFR Part 220—School Breakfast Program—Reporting	0584-0012, FNS 74	2, 4	2, 4	821 and 836	536,512	84,676

Title of information collection	OMB and agency numbers	Purpose	Type	Respondent burden SIC Code	Number of respondents	Hours
Abstract: Form is used to set policies for the administration of the School Breakfast Program by State agencies and for its operation by local school authorities.						
7 CFR Part 245—Determining Eligibility for Free and Reduced Price Meals and Free Milk in Schools—Reporting.	0584-0026	2, 4	2, 4	821, 836, and 881	21,182	5,956
Abstract: Sets forth policies and procedures for use by State administering agencies and local program operators in reporting on program operations.						
Cash in Lieu of Commodities—Reporting	0584-0046	2	2	911 and 943	273	546
Abstract: Rules require State agencies to inform FNS of the amount to be received in cash payments by or on behalf of such schools.						
Nutrition Education and Training Program Regulations (7 CFR 227) (Reporting)	0584-0062, FNS 42, State Plan.	2	2	821	2,514	98,090
Abstract: FNS 42—Participation report is used to assess program implementation status, monitor program accomplishments, and evaluate States' progress in achieving the goals and objectives outlined in the State plan.						
7 CFR 215—Special Milk Program for Children—Applications and Agreements	0584-0270	2, 4	2, 4	821, 836, and 832	19,757	4,449
Abstract: These regulations set forth policies for the administration of the program by State agencies and by local level organizations, and requirements governing recipient organizations' application for the initiation of program operations and the receipt of program funds.						
7 CFR Part 215—Special Milk Program for Children—Recordkeeping	0584-0272	2, 4	2, 4	821, 836, and 832	3,302,870	452,594
Abstract: These regulations set forth policies for the administration of the program by State agencies and for its operation by local level organizations, and recordkeeping requirements necessary to document program compliance.						
Cash in Lieu of Commodities—Recordkeeping	0584-0273	2, 4	2, 4	911 and 943	60,500	121,000
Abstract: The regulations require State agencies, schools and institutions, in accordance with the provisions of the National School Lunch Act to retain records on the receipt and disbursement of funds.						
Part 210—National School Lunch Program (Recordkeeping)	0584-0278	2	2	943	59	177
Abstract: Provides options for determining the method and scope of gathering preference information, and using the format determined to be most appropriate in each State's situation.						
Nutrition Education and Training Program Regulations (7 CFR 227)	0584-0282	2	2	821	114	16,074
Abstract: The compilation of recordkeeping data as specified in Section 19 of the Child Nutrition Act, as amended. State agencies may use their records as internal management tools.						
7 CFR Part 220—School Breakfast Program—Recordkeeping	0584-0310	2, 4	2, 4	821 and 836	19,015,045	5,379,497
Abstract: The regulations set forth policies for the administration of the program by State agencies and for its operation by local school authorities, and recordkeeping requirements necessary to document program compliance.						
7 CFR Part 220—School Breakfast Program—Applications	0584-0311	2, 4	2, 4	821 and 836	11,400	3,165
Abstract: The regulations set forth policies for the administration of the program by State agencies and for its operation by local school authorities, and requirements governing local organizations' application for the initiation of program operations and the receipt of program benefits.						
Total respondents and burden hours					23,417,486	6,271,290
Bureau of the Census						
Survey of Local Government Finances (School System)	0607-0165, F-33, 33-1, 33-L1, 33-L3.	2	2	999	450	1,400
Abstract: The F-33 form is used to collect financial data for public school systems.						
Total respondents and burden hours					450	1,400
Department of the Air Force						
Advance Payment Transactions and Status	0701-0054	4	4	822	24	384
Abstract: The Air Force requires that all advance payments to universities be monitored to ensure that cash management arrangements by the universities are satisfactory.						
Total respondents and burden hours					24	384
Health Services Administration						
Other Reasonable Educational Expense Data Collection Worksheet	0915-0029, HRA 272	2	2	822	900	1,800
Abstract: The data collected will be used by the NHSC and EFN scholarship programs. The information will be used to comply with the other reasonable educational expenses payment stipulation of Pub. L. 97-35.						
Borrower Status Form	0915-0033	1, 4	1, 4	602	4,000	2,000
Abstract: Borrowers are requested to submit a borrower status report to their lenders to notify them of their current participation status. When a deferment is authorized, the borrower is required to submit a borrower status form which verifies the activity of the borrower.						
Health Education Assistance Loan Program Lender's Manifest	0915-0034	4	4	602	400	400
Abstract: This form provides precise information relative to loan disbursement (full and partial), collection of insurance premiums, conversions of in-school notes to pay-out status and paid in full loans.						
Health Education Assistance Loan Program Loan Transfer Statement	0915-0035	4	4	602	20	20
Abstract: The purpose is to notify the Federal government of the note transfer between two parties (two eligible lenders). It also constitutes formal agreement that the buyer succeeds to all rights and responsibilities of the seller under the contract of insurance.						
Lender's Application for Insurance Claim on HEAL Loan	0915-0036	4	4	602	400	400
Abstract: This is the default claims instrument and method of obligating funds for the payment of a claim when the borrower refuses to repay his/her loan.						
Lender's Application for Contract of Federal Loan Insurance (HEAL)	0915-0037	4	4	602	20	10

Title of information collection	OMB and agency numbers	Purpose	Type	Respondent burden SIC Code	Number of respondents	Hours
Abstract: This form will be used to provide the basis for issuing contracts of insurance to eligible lending institutions.						
Student Application for a Health Education Assistance Loan	0915-0036	1, 4	1, 4	822, and 602	10,000	5,000
Abstract: The application is used to determine student eligibility for a HEAL loan. The form contains information to verify the identity of the applicant, to permit servicing of the loan, and to locate missing borrowers and collect on delinquent or defaulted loans.						
Repayment Schedule and Truth-in-Lending Disclosures for Health Education Assistance Loan Program (Variable Rate) (Fixed Rate).	0915-0043, HSA 502-1, 502-2.	1, 4	1, 4	602	2,000	1,834
Abstract: Provides the commercial lenders with the proper disclosure requirement and a form to develop a repayment schedule for the borrower repaying a HEAL loan.						
Health Professions Student Loan and Nursing Student Loan Programs	0915-0044, PHS 501, HSA 520, HRA 36-10.	2, 4	2, 4	822, 806, and 806	41,515	26,675
Abstract: Includes data elements covering borrower's account data and program management and data encompassing the self-audit institutional check list.						
Quarterly Debt Management Report	0915-0046	2, 4	2, 4	822	1,600	9,600
Abstract: This report assists both the institutions and the government by pinpointing debt problems.						
Financial Aid Transcript	0915-0047	1, 4	1, 4	822	5,000	1,250
Abstract: This information will be used to assist financial aid institutions in making HPSL Awards to applicants.						
Financial Aid Transcript—Nursing Student Loan Program	09155-0048	1, 4	1, 4	822	33,000	8,250
Abstract: This information will be used to assist financial aid officers at participating institutions in making NSL awards to applicants.						
Total respondents and burden hours					98,855	57,239
National Institutes of Health						
Biomedical Research Support Grant Application and Annual Progress Report	0925-0008, NIH 147-1, 147-2.	4	4	822, and 806	940	8,930
Abstract: The application (NIH 147-1) provides information to determine eligibility and the award amount. The progress report (NIH 147-2) enables staff to evaluate effectiveness and conformance to guidelines.						
National Research Service Award Research Training, Competing and Non-Competing Applications.	0925-0022, PHS 6025-1, 6025-2.	4	4	822, and 806	8,210	41,300
Abstract: These forms are used to apply for support of training of individuals to expand and enhance skills in biomedical and behaviorial research.						
Audiovisual Evaluation Form	0925-0044	4	4	822, 823, and 806	9,000	450
Abstract: Data provides measure of the approximate use of the film and videotape collections, and provides input to a follow-up study on audiovisual materials in the Health Sciences.						
Total respondent and burden hours					18,150	50,680
Office of the Assistant Secretary for Health						
Financial Status Report	0937-0107	1, 2, 4	1, 2, 4	806, 807, 822, 823, and 943.	29,800	44,700
Abstract: Grantees are required to use the SF 269 to report the status of funds for each supported project. Awarding offices use the information to monitor funds and for financial planning.						
Total respondents and burden hours					29,800	44,700
Social Security Administration						
Report of Individual with Childhood Impairment	0960-0084, SSA 1323	4	4	801, 806, and 804	75,000	25,000
Abstract: The information elicited by this form is needed to determine if a claimant for childhood disability benefits has an impairment that meets the severity and duration requirements of the law.						
Total respondents and burden hours					75,000	25,000
Bureau of Indian Affairs						
Subchapter E—Education 25 CFR, Parts 31-34, 45 CFR, Part 121	1076-0018	1, 2	1, 2	999	149,595	56,667
Abstract: These forms are necessary to ensure program integrity in the education of Indian and Alaskan children.						
Total respondents and burden hours					149,595	56,667
Employment Standards Administration						
Accident Data on Public School Bus Drivers	1215-0045, WH-374	2	2	999	12	24
Abstract: Title 29 CFR 570.52 declares the occupation of motor vehicle drivers hazardous for 16 and 17 year-olds. Upon petition of several States an exemption was provided for school bus drivers. The data provided annually on this report by the applying States are used to evaluate whether an exemption is warranted.						
Work Experience and Career Exploration Program	1215-0121, ESA-WH 570	2	2	821	20	20
Abstract: Wage and hour requirement that State Educational Agencies file an application prior to implementation of programs. Recordkeeping requirement to retain signed training agreement for each enrollee in each school.						
Total respondents and burden hours					32	44
Internal Revenue Service						
Annual Certification of Racial Non-Discrimination for a Private School Exempt from Federal Income Tax.	1545-0213, 5578	4	4	621, 822, 824, and 829	1,000	736

Title of information collection	OMB and agency numbers	Purpose	Type	Respondent burden SIC Code	Number of respondents	Hours
Abstract: Form 5578 is used by private schools that do not file form 990, Schedule A, to certify that they have a racially non-discriminatory policy toward students, as outlined in revenue procedure 75-50. The service uses the information to help ensure that the school is maintaining a non-discriminatory policy in keeping with its exempt status.						
Certification of Youth Participating in a Qualified Cooperative Education Program	1545-0244, 6199	2, 4	2, 4	919, 833, and 839	64,000	47,424
Abstract: IRC Section 51(D)(8) requires that qualified school cooperative programs must certify their qualified students as youths participating in a qualified cooperative program in order for wages paid to the student by an employer to qualify for the jobs credit. Form 6199 provides for this certification.						
Understanding Taxes Film Notice	1545-0439, Notice 617	2, 4	2, 4	821, 822, 823, 824, and 866.	38,000	3,165
Abstract: This notice helps IRS schedule the understanding taxes films for teacher use with the program materials. Teachers check the films they need and choice of dates they wish to use them.						
Application to Sponsor Student Tax Clinic	1545-0471, P-687	4	4	822	50	25
Abstract: The purpose of the pattern letter is to record the institution's application for clinic sponsorship and agreement to meet IRS requirements to conduct the clinic.						
Total respondent and burden hours					103,050	51,350
Environmental Protection Agency						
Friable Asbestos-Containing Materials in Schools: Identification and Notification Rule.	2000-0463	2	2	999	129,000	327,400
Abstract: The information to be recorded by schools and school districts is needed in order to inform school users of the presence of potentially hazardous materials in their buildings. The information will also be used by EPA in compliance monitoring.						
Total respondents and burden hours					129,000	327,400
Maritime Administration						
U.S. Merchant Marine Academy Application for Admission and Pre-Candidate Questionnaire 1954.	2133-0010, KP2-65, KP3-4.	1	1	None	2,000	10,000
Abstract: The application form is used to apply for admission to the U.S. Merchant Marine Academy. The pre-candidate questionnaire is used to establish initial eligibility and to place the candidate into the Department of Defense Medical System.						
Total respondents and burden hours					2,000	10,000
Veterans Administration						
School Attendance Report	2900-0057, 21-674B	1	1	None	39,500	3,300
Abstract: This form is used to verify attendance in school or training program where benefits are authorized and to report termination of any program.						
Enrollment Certification (Under Chapter 34, or 35 Title 38 U.S.C.)	2900-0073, 22-1999, 22-1993A.	4	4	822, and 824	1,000,000	200,000
Abstract: The form certifies enrollment or training data which is used by the VA in determining rate of benefits.						
Notice of Change in Student Status—Institutional Courses Only	2900-0156, 22-1999B	2, 4	2, 4	941	1,210,000	100,833
Abstract: This form is used to determine whether benefits should continue to be paid to students.						
Title VI Compliance Review Report	VA 2900-0210, 27-8734, 27-8734A.	1, 2, 4	1, 2, 4	822, 823, and 829	616	262
Abstract: Form is necessary to determine equal opportunity compliance status of proprietary institutions and job-training establishments which are approved to train veterans and other eligible beneficiaries, and proprietary institutions which are receiving funds through the Department of Education.						
Application for Educational Assistance (Under VEAP)	2900-0263, 22-8821	1	1	None	35,000	26,250
Abstract: The information requested on the form is necessary to determine the applicant's eligibility to educational assistance under Chapter 32, Title 38 U.S.C., or Section 903, P.L. 96-342.						
Certification of Delivery of Advance Payment and Enrollment	2900-0325, VA 22-1999V	4	4	822, and 824	126,000	10,500
Abstract: Information on card is used to confirm the student's receipt of advance payment of benefits and confirm enrollment.						
Alternate Full-Time Measurement Requirements for Undergraduate College Courses.	2900-0350	4	4	822, 824	225	225
Abstract: Some colleges offer non-traditional courses which do not provide regular weekly class instruction. The VA needs certain information from schools to determine if the requirements for full-time measurement are met.						
Application for Participation in the Veterans Administration Health Professional Scholarship Program.	2900-0352, 10-0003	1	1	None	3,000	1,500
Abstract: This application would be used to determine the eligibility and suitability of applicants to be awarded scholarships under the provisions of Title II, Pub. L. 96-330.						
Certification of Lessons Completed	2900-0353, 22-6553B	1, 2, 4	1, 2, 4	941	68,100	11,333
Abstract: This form is used by students and schools to report on a quarterly basis the number of correspondence lessons completed by the student and serviced by the correspondence school (38 U.S.C. 1780(B), 38 CFR 21.4203(E)).						
Verification of Pursuit of Course Leading to a Standard College Degree	2900-0355, 22-6553	2, 4	2, 4	941	600,000	100,000
Abstract: This form is used by schools to certify enrollment information previously submitted to the Veterans Administration.						
Supplemental Information for Change of Program or Re-Enrollment After Unsatisfactory Progress or Conduct.	2900-0358, 22-8873	1	1	None	55,000	18,150
Abstract: This form requests information which will be used to evaluate the suitability of a program of education. The form also requests information concerning previous unsatisfactory progress in training.						
Total respondents and burden hours					3,137,441	472,353

Title of information collection	OMB and agency numbers	Purpose	Type	Respondent burden SIC Code	Number of respondents	Hours
Equal Employment Opportunity Commission						
Elementary-Secondary Staff Information (EEO-5)	3046-0003, EEOC-168, 168B.	2	2	941	41,250	206,250
Abstract: EEO-5 data are used by EEOC to investigate charges of employment discrimination against public elementary and secondary school districts. Data are shared with Department of Education's Office for Civil Rights and 23 state and local FEPC agencies.						
Higher Education Staff Information (EEO-6)	3046-0009, EEOC-221	2, 4	2, 4	822, 824, and 829	1,500	6,000
Abstract: The information collected will be used by EEOC for investigations, decisions, and conciliation in its compliance, litigation, and voluntary programs activities.						
Law School Information Form	3046-0029, EEOC-434	2, 4	2, 4	822, and 829	217	108
Abstract: To collect information regarding policies for student volunteer services.						
Paralegal Program Information Form	3046-0030, EEOC-435	2, 4	2, 4	822, and 829	296	146
Abstract: To collect information regarding policies for student volunteer services.						
Total respondents and burden hours					43,263	212,506
National Science Foundation						
Higher Education Panel Surveys	3145-0009, EOO-11	4	4	822	2,400	3,600
Abstract: Panel surveys are designed to be responsive to a variety of policy issues. Topics are not predetermined. Recent individual surveys served policy and program management needs by providing information not available through existing sources.						
Survey of Scientific and Engineering Expenditures at Universities and Colleges, FY 1982 and FY 1983.	3145-0015, NSF-411	4	4	822	579	15,054
Abstract: This data system provides the basis for national planning and policy formulation regarding academic science and technology.						
Survey of Earned Doctorates in U.S.	3145-0019, 558	1, 4	1, 4	822	31,000	10,300
Abstract: Information on demographic and educational background and immediate postdoctoral study or employment plans is essential for analyses of supply and demand. These data also provide information on the flow of women and minorities into these fields.						
Nominations for Alan T. Waterman, National Medal of Science, Vannevar Bush Awards.	3145-0035, 1123, 1124	1, 4	1, 4	999	600	1,200
Abstract: To solicit nominations, the form simplifies the review process for the committee, and permits more efficient staff work in less time.						
Survey of Graduate Science Students and Postdoctorates, Fall 1982 and Fall 1983.	3145-0062	4	4	822	10,000	25,000
Abstract: The survey is the source of national enrollment and student support statistics in graduate science/engineering programs.						
Survey of Scientific and Engineering Personnel Employed at Universities and Colleges, January 1983 and January 1984.	3145-0074, NSF-724	4	4	822	2,200	21,634
Abstract: This data system provides the basis for national planning and policy formulation regarding academic science and technology.						
Total respondents and burden hours					46,779	76,188
Office of Personnel Management						
Initial Certification of Full-time School Attendance	3206-0099, BRI 49-244.1	1	1	None	7,000	2,333
Abstract: Title 5, U.S.C., Section 8341(A)(3)(C) provides survivor benefits to children between the ages of 18 and 22 if they are unmarried, full-time students. This form is provided to children who appear to be eligible for benefits when the death claim is initially received.						
Total respondents and burden hours					7,000	2,333
Department of the Army						
Application and Agreement for Establishment of a Junior Reserve Officers' Corps Unit.	0702-0021, DA-3126	2	2	821	400	400
Abstract: The application and agreement form is used to screen secondary institutions desiring to host a junior ROTC unit.						
Application for the U.S. Army Health Professions Scholarship Program	0702-0028	1	1	None	2,000	2,000
Abstract: Applicants must submit information requested so that selection for scholarship is on a competitive basis.						
Enlistment Incentives for College Bound High School Students	0702-0044	6	1	99	6,300	3,150
Abstract: To identify what ranges of education incentives and enlistment bonus offers appeal most to high school students who are eligible to join the army.						
Total respondents and burden hours					8,700	5,550
Department of the Navy						
Inquiry, School of Nursing	0703-0004, BUMED 6550-6.	2	2	999	1,000	100
Abstract: To provide medium for submitting an evaluation and other pertinent data on the potential ability of the applicant for direct appointment in the Navy Nurse Corps.						
Personal Information Questionnaire	070-0012, NAVMC 10064	1	1	999	25,000	6,250
Abstract: Form is used as a method of determining the overall eligibility of applicants for all Reserve Officer Candidate Programs.						
Total respondents and burden hours					26,000	6,350

Title of information collection	OMB and agency numbers	Purpose	Type	Respondent burden SIC Code	Number of respondents	Hours
Department of Defense						
Professional Evaluation	0704-0035, DS 5011	1	1	None	9,000	4,500
Abstract: The information provides an evaluation to the applicants abilities and personal traits which promise success in an overseas teaching assignment with DOD.						
Total respondents and burden hours					9,000	4,500
Department of Commerce						
Sea Grant Project Summary	0648-0019, NOAA 90-2	1	2	822	60	240
Abstract: Descriptive data about Sea Grant project proposals, to determine work to be performed under Grant.						
Sea Grant Budget	0648-0034, NOAA 90-4	4	4	822, and 892	450	200
Abstract: Information is needed to determine cost of each project of a multi-project proposal and to determine allowability of matching costs offered. Also, used in negotiating costs and administrative control of expenditures by both grantee grantors.						
Total respondents and burden hours					510	440
Department of Education						
OFFICE FOR CIVIL RIGHTS						
Elementary and secondary school civil rights survey	1870-0500, ED-101, ED-102	4	4	941	29,700	214,500
Abstract: This form is used by the Office of Civil Rights to make determination on compliance with Civil Rights statutes and court orders by public school districts.						
Total respondents and burden hours					29,700	214,500
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION						
Standard Application Federal Assistance (non-construction) for Follow-Through Program.	1810-0003, ED 4473	2, 4	2, 4	821, 822, 829, and 941	112	3,360
Abstract: This application form is necessary in order to make annual grants to applications. The information contained in the application is used to determine annual funding levels to grantees. In addition, information is extracted from the application which is used to prepare reports for Congress, OMB and GAO.						
Sharing Business Success, a Handbook for the Identificals and Validation of Business Practices.	1810-0014, ED580	5	4	941	200	1,680
Abstract: The purpose of the publication is to provide both a set of criteria and a process for evaluating the quality of school business practices.						
Application for Grants (Part B) (New and Non-Competing)	1810-0018, OE 297, ED 297-1.	1, 4	1, 4	999	210	6,300
Abstract: To improve educational opportunities for Indian students from preschool through the university by supporting programs that provide improved educational support services, increase the numbers of Indians in leadership positions, develop new educational approaches of high quality and contribute to increased control by Indians over the availability and quality of their own education.						
Application for Grants (Part A Non-Competing)	1810-0019, ED 444, ED 444-1.	4	4	999	168	1,350
Abstract: Provide support for Indian controlled schools (Non-LEA's) on or near reservations to provide special enrichment programs.						
Application for Indian Fellowship	1810-0020, ED 501	4	4	999	1,075	3,225
Abstract: This application is used to enable students to enter professional fields of medicine, law education, business administration, engineering and natural resources, awards made to students, and tuition payments made to universities.						
Application for Grants (Part A) Indian Education Act	1810-0021, ED 736-1	2	2	999	1,052	31,560
Abstract: Application enables elementary and secondary schools to develop and implement supplementary programs specially designed to help meet the special education and culturally-related academic needs of Indian students.						
Application for Grants, Part C Indian ED Act (New and Non-Competing)	1810-0022, ED 737-1	1	4	821, and 941	110	3,300
Abstract: This form is used by applicants for this program applying for grant awards to determine grant eligibility and amount of awards.						
Nomination for the National Advisory Council on Indian Education	1810-0026, ED 543	2, 4	2, 4	999, 892	80	80
Abstract: The Indian Education Act establishes the National Advisory Council on Indian Education which consist of 15 members who are Indians and Alaska Natives appointed by the President of the United States. Appointments are made by the President from lists of nominees furnished by indian tribes and organizations, and shall represent diverse geographic areas of the country.						
Application for Disaster Assistance (Pub. L. 81-874 Sec. 7)	1810-0027, ED 423	2	2	941	250	500
Abstract: Data is used to assist in determining eligibility of local education agencies for disaster assistance and the amount and equipment for needed temporary facilities as a result of the public education at the predisaster level.						
Title I, ESEA, Sec. 143, Migrant Education Interstate and Intrastate Program	1810-0028, ED 362-2	1	2	941	51	2,040
Abstract: This form is used by applicants for this program applying for grant awards to determine grant eligibility and amount of awards.						
Application for Federal Assistance (Non-construction programs) Migrant Education Program.	1810-0029, ED 362	2	2	941	51	1,020
Abstract: ESEA Migrant Education Program requires the annual submission of a State Migrant Education Program application. The Department of Education's Migrant Education program office conducts a comprehensive application review and approval process prior to awarding a grant to each State.						
Application for Grants Under Civil Rights Technical	1810-0030, ED 269	2	2	941	341	6,820

Title of information collection	OMB and agency numbers	Purpose	Type	Respondent burden SIC Code	Number of respondents	Hours
Abstract: This application is to be used by State and local education agencies and institutions of higher education in applying for Federal assistance under Title IV of the Civil Rights Act of 1964. Awards are made to help solve problems related to eliminating discrimination on the basis of race, sex and national origin in public elementary and secondary schools throughout the nation.						
Indian Student Enrollment Certification	1810-0031, ED 506	1	1	821, and 941	300,000	75,000
Abstract: Program designed to benefit eligible Indian children by calculating grant awards based on count of correct and valid forms on file with LEA.						
Application for School Assistance in Federally Affected Areas	1810-0036, ED 4019	2	2	941	4,000	34,400
Abstract: Local education agencies use this form in applying for funds for providing free public education to children connected with Federal properties.						
ED-4038—Report to Contract Awarded ED 4038-1 State	1810-0044, ED 4038-1, ED 4038.	2	2	821	266	133
Abstract: Data is used to assist the Secretary in determining the State average per pupil cost of constructing minimum school facilities. The per pupil cost, along with other factors, is used to arrive at a cost of constructing minimum school facilities in a school district which has submitted an application for assistance.						
Section 418A, HEA, High School Equivalency Program and College Assistance Migrant Program, Financial Status and Performance Reports.	1810-0051, ED 819-2	4	4	822	19	95
Abstract: The information will be used for future programmatic decisions regarding program size and allowable services.						
Education Consolidation Block Grant Application	1810-053, ED 1000	1	2	821, and 941	57	114
Abstract: This form is used as an annual application to the Secretary as a precondition to receiving the authorized funds.						
Application for Grant Under the High School Equivalency Program (HEP)	1810-0054, ED 819	2, 4	2, 4	822	50	1,000
Abstract: The Secretary must maintain and expand secondary and postsecondary high school equivalency programs and college assistance migrant program projects. In order to meet the responsibility of determining those grantees who will most effectively provide services to the target population, the Secretary must gather data regarding proposed activities. Data will be used to select program grantees.						
Application for Grant Under the College Assistance Migrant Program (CAMP)	1810-0055, ED 819-1	2	2	822	50	1,000
Abstract: The Secretary must maintain and expand secondary and postsecondary high school equivalency programs and college assistance migrant program projects. In order to meet the responsibility of determining those grantees who will most effectively provide services to the target population, the Secretary must gather data regarding proposed activities. Data will be used to select program grantees.						
Annual Survey of Children in Institutions for Neglected or Delinquent Children or in Adult Correctional Institutions.	1810-0060, ED 4376	1	2	941	52	2,000
Abstract: This form is used to provide current information on the location and number of children in institutions for neglected or delinquent children or in correctional institutions.						
Application Package: Women's Educational Equity Act Program	1810-0062, ED 436-1	1, 2, 4	1, 2, 4	821, 822, 823, 824, 841, 892, and 941.	600	12,000
Abstract: The WEEA Program analyzes applications to insure that Federal funds are distributed fairly and that projects are cost-effective.						
Financial Status Report for Transition Program for Refugee Children	1810-0500, ED 443	2, 4	2	941	57	1,140
Abstract: Data collected will provide national information on total obligation and unexpended funds.						
Preapplication for Federal Assistance (construction). Pub. L. 81-815 an Application for Federal Assistance.	1810-0502, ED 355, ED 355-1.	2	2	821	38	380
Abstract: Data is used to determine eligibility of school districts for Federal assistance to construct needed school facilities.						
Financial Status and Grant Performance Report	1810-0503, ED 354, ED 354-1.	2, 4	2, 4	999, 892, 941, and 822	1,200	3,600
Abstract: The grantees report on the amount of funds spent. The amount remaining, the number of students who participated in the project, and the extent to which the project achieved objectives are described in the application.						
Total respondents and burden hours					310,090	192,097
Department Management						
Evaluation of the HEA Title VI Program, Foreign Language and Area Studies	1880-0165, ED 856	1	1	821	900	675
Abstract: This form is to identify the supply and demand trends for Ph.D's in discipline and world area specialities and assess the match between graduate training and subsequent employment.						
Computer Generated Receipient Report of Expenditures	1880-0172, ED 868-1	5	214	821	28,000	112,000
Abstract: This form is used by receipients to report on expenditures made and Federal funds unexpended for each award and to report the status for each award and the status of Federal cash advanced.						
Computer Generated "Receipient Cash Advanced Request"	1880-0173, ED 874	2, 4	2, 4	821, 822, 823, 824, 829, 841, and 941.	84,000	84,000
Abstract: Form will be used by ED Recipients to obtain funds for grants received from ED.						
Regulations Evaluation Questionnaire—State Education Agencies	1880-0504, ED 904, ED 905.	2, 4	2, 4	941, 821, and 822	3,500	1,750
Abstract: This form is used to obtain feedback from the affected public after operating under regulations for one year and to alert and aid the Department in reducing unnecessary burdens and deregulating where feasible.						
Total respondents and burden hours					116,400	198,425
Office of Planning and Budget and Evaluation						
Evaluation of the Special Services for Disadvantaged Students Program: First Follow-up Student Survey.	1875-0001, ED 627-13	1	1	None	5,800	2,900

Title of information collection	OMB and agency numbers	Purpose	Type	Respondent burden SIC Code	Number of respondents	Hours
Abstract: Study will evaluate the effectiveness of special services for disadvantaged students activities. Benefits to students which are examined in the study include educational persistence, progress, and performance, financial aid pattern, educational plans and aspirations, and helpfulness of special services.						
A Study of the Developing Institutions Programs	1875–0002, ED 875	4	4	822	50	2,800
Abstract: This study wil evaluate the impact of Federal funding at the institution level. Given scarce resources there is an increasing need to determine more effective and efficient methods of providing for educational opportunities for students attending these institutions.						
Total respondents and burden hours					5,850	5,700
OFFICE OF BILINGUAL EDUCATION AND MINORITY LANGUAGES AFFAIRS						
Application for Participation in Bilingual Education Fellowship Program	1885–0001, ED 4561–2	1	4	822	50	800
Abstract: This form is used by institutions of higher education that seek approval of their graduate programs of study for fellowship awards under the Bilingual Education Fellowship Program to students enrolled in the approved program.						
Application for Grants Under Bilingual Vocational Education Programs	1885–0002, ED 791	1	2, 4	941, 822, and 824	20	800
Abstract: Title II, Subpart 3 of the Vocational Education Act of 1976, as amended, authorizes the award of grants to applicants that meet the purposes and requirements of the act and the application requirements and award criteria established in regulations. The proposed data collection informs applicants of the information required under law and regulations.						
Application for Grants Under Bilingual Education	1885–0003, ED 4561	1	2, 4	821, and 941	750	30,000
Abstract: This form is used by applicants applying for new awards under Title VII of the Elementary and Secondary Education Act, as amended. Information in the application will be used to determine the technical merit of the grant proposals and the eligibility of the applicant for assistance and also serves as the basis for negotiation of grant awards.						
Application for Continuation Grants Under Bilingual Education	1885–0004, ED 451–1	1	2, 4	821, and 941	520	10,000
Abstract: This form is used by applicants applying for continuation awards under Title VII of the Elementary and Secondary Education Act, as amended.						
Demonstration of Compliance with Terms and Conditions of the Bilingual Education Fellowship Program Contract.	1885–0005, ED 4561–3	4	1	None	400	100
Abstract: Recipients of fellowship assistance under the Bilingual Education Fellowship Program will use this form to demonstrate their compliance with the provisions of the Fellowship Contract.						
Total respondents and burden hours					1,740	42,100
OFFICE OF POSTSECONDARY EDUCATION						
Verification of Transfer of Credit Under the Three Institutional-Certification Method	1840–0001, ED 1261	2, 4	2, 4	822, and 941	300	150
Abstract: The Secretary of Education must determine whether unaccredited institutions of Higher Education are eligible for programs authorized by the Higher Education Act of 1965. The Secretary uses this form to determine whether institutions meet the "Three Institutional-Certification Method" as an alternative to accreditation.						
Guarantee Agency Quarterly Report	1840–0002, ED 1130	4	2	941	220	245
Abstract: This form is used to provide summary data on agency finances and operations which are funded primarily with Federal dollars.						
Application for Fulbright-Hays Training Grants: Faculty Abroad Program (CFDA 84.019) Doctoral Dissertation Research Abroad Program (CFDA 84.022).	1840–0005, ED 7628, 7628–1, 7628–2, and 7628–3.	2, 4	2, 4	822	770	13,667
Abstract: This application allows eligible applicants to compete for Fulbright-Hays Funds which are used to promote and develop modern foreign language and area studies in the educational structure of the United States through visits and study of American scholars abroad.						
ADS Student Report (Request for Additional Payment)	1840–0008, ED 304–1	1	1	None	99,560	33,750
Abstract: This form is used by students attending institutions that participate in the Pell Grant Program under the Alternate Disbursement System (ADS) in order to request any additional payments, as well as having the Financial Aid Administrator verify that the student is still attending school, is eligible for his/her next payment, and that the previous information was correct.						
Basic Grant Program Student Validation Roster	1840–0013, ED 255–4	4	4	823	5,000	80,000
Abstract: The Student Validation Roster is the vehicle which end-of-year adjustments to the authorization of Basic Educational Opportunity Grants (BEOG) funds are made. This is based on the number of eligible BEOG recipients at the institution.						
Application for Non-Competing Continuation Projects for Specific Programs for Students from Disadvantaged Backgrounds.	1840–0017, ED 1251	1	2, 4	821	1,059	15,885
Abstract: This form is used by applicants for this program applying for grant awards to determine grant eligibility and amount of awards.						
Alternate Disbursement System Validations Roster	1840–0025, ED 579	5	4	821	1,100	1,375
Abstract: This roster will be used to verify data previously submitted by institutions participating in basic grants through the Alternative Disbursement System (ADS) and to reconcile accounts for the ADS system.						
Physician's Certification of Borrower's Total and Permanent Disability for Student Loan Program.	1840–0028, ED 1172	1	1	None	7,000	2,167
Abstract: The Guaranteed Student Loan Program's chief objective is to provide a program of student loan insurance for students attending eligible postsecondary schools. This form is used to request cancellation of loan owed. The law provides that the Federal government will cancel the loan if the borrower becomes permanently and totally disabled.						
Lender's Request for Interest and Special Allowance	1840–0034, ED 799	4	4	822, 601, 602, 603, 604, and 605.	48,000	63,000
Abstract: This form is used by lenders to request payment of interest and special allowance. This is the only reporting form which permits the Department to determine the government's obligation to lenders in the Guaranteed Student Loan Program.						
Federal Assistance Application Form—Law School Clinical Experience Program	1840–0041, ED 595	4	4	822	85	2,550
Abstract: This information is required of law schools applying for an institutional grant under Title IX-E of the Higher Education Act, as amended. The information will be used in the evaluation process to determine which accreditated law schools should receive funds.						
Biomedical Sciences Performance and Financial Status Report	1840–0043, ED 822	4	4	822, 821, and 824	12	48

Title of information collection	OMB and agency numbers	Purpose	Type	Respondent burden SIC Code	Number of respondents	Hours
Abstract: The information from this report will be used to assess and monitor project effectiveness, to determine compliance with program regulations, and to determine if the program is meeting the needs of the target population.						
Upward Bound Financial Status and Performance Report	1840-0045, ED 712, 1197	2, 4	2, 4	822, 821, and 824	446	1,561
Abstract: The information from this report will be used to access individual project accomplishments of program goals and past performance requirements of the regulations.						
Performance Report and Financial Status Report for Cooperative Education Program Grantees.	1840-0053, ED 411, 411-1	5	2	821	235	1,293
Abstract: These reports are needed to determine that adequate progress has been made toward achieving the goals of the grants and to monitor grantee expenditures.						
Application for Veterans Cost-of-Instruction Payments to Institutions of Higher Education.	1840-0054, ED 269	1	2, 4	821	900	900
Abstract: This form is used by applicants for this program applying for grant awards to determine grant eligibility and amount of awards.						
Pell Grant Program Progress Report	1840-0055, ED 255-3	4	4	824, and 822	15,000	11,250
Abstract: The progress report is the vehicle through which necessary adjustments to the authorization of Pell funds are made, based on the actual demand for funds as reflected by the number of eligible Pell recipients.						
Application for Certification for Participation in Programs Under Title IV of the Higher Education Act of 1965, As Amended.	1840-0056, ED 633	2	2	822	1,900	3,800
Abstract: This form is used by colleges and universities to apply to ED to participate in Title IV Programs.						
Request for Payment of 1982-83 Award (Alternate Disbursement System)	1840-0063, ED 304	1	1	None	81,700	27,600
Abstract: Data from this form is used to obtain benefits by students attending institutions that participate under the ADS system. This instrument is used to verify student enrollment and cost of attendance which is used to determine their Pell Grant Award.						
Application for Non-Competing Continuation Awards Under the Educational Opportunity Centers Program.	1840-0065, ED 343	2, 4	2, 4	821, 822, and 824	32	480
Abstract: This form requests programmatic and budgetary information needed to make funding decisions for continuation applications.						
Standard Application (Non-Construction) for Foreign Language and Area Studies	1840-0068, ED 424-1, 424-2, 424-3.	1	2	821	800	9,000
Abstract: This form is used by applicants for this program applying for grant awards to determine grant eligibility and amount of awards.						
Federal Insured Student Loan Application	1840-0070, ED 1154	1	1, 4	None	750,000	562,500
Abstract: These applications are used to determine those students eligible for, and to award, federally insured loans.						
Fiscal-Operations Report/Application to Participate in NDSL, SEOG, and CWS Programs.	1840-0073, ED 646, 646-1	4	4	822, and 824	4,730	182,082
Abstract: The application data will be used to compute the amount of funds needed by each institution during the 1983-84 award period. The Fiscal Operation's Report data will be used to assess program effectiveness and accountability of funds expended during the 1981-82 award period.						
Student Confirmation Report for Guaranteed Student Loan Program, Pub. L. 89-329.	1840-0077, ED 1072	4	4	822, and 824	22,500	22,500
Abstract: Data from this form is used to update the student status field in the computer system. This information is then provided to the lenders on the loan transaction statement indicating if and when a student ceases attendance. The lender then establishes a repayment schedule with the student.						
Call Report—Lender's Annual Report on Guaranteed Student Loans and Parent Loans for Undergraduate Students Outstanding—Pub. L. 329.	1840-0079, ED 799-1	4	4	822, 601, 602, 603, 604, and 605.	22,500	45,000
Abstract: This form is completed by the lender and provides the GSLP updated information of the lender loan portfolio. It is also used to determine the amount that the lender can bill for interest in the next quarter.						
Loan Transfer Statement Guaranteed Student Loan Program	1840-0082, ED 1074	4	4	822, 601, 602, 603, 604, and 605.	16,265	32,530
Abstract: This form is used to report the selling and buying of existing loans between lenders.						
National Direct (Defense) Student Loan Assignment Form	1840-0091, ED 553	4	4	822, 824	247,500	111,375
Abstract: This form was designed to provide the maximum efficiency for full reporting of debtor information for both the institution and the Federal Government.						
Lenders Manifest for Federally Insured Student Loans	1840-0093, ED 1151	4	4	822, 601, 602, 603, 604, and 605.	52,000	26,000
Abstract: The lender uses this form to report the amount of disbursements made on loans, conversions and loans paid in full, and insurance premiums to be paid at a later date.						
Loan Application Form Under the College Housing Program	1840-0095, ED 866	4	4	821, and 822	300	9,600
Abstract: This application form will be used to process and award college housing loans under the College Housing Program.						
Request for Institutional Eligibility (For Programs Under the Higher Education Act of 1965, As Amended).	1840-0098, ED 1059	2, 4	2, 4	822, 824, and 829	1,000	1,000
Abstract: The Secretary uses this form to determine whether postsecondary educational institutions meet the statutory and regulatory requirement for eligibility to apply for funding for programs authorized by the Higher Education Act of 1965.						
Application for State Student Incentive Grant Program	1840-0099, ED 1288	2	2	941	57	171
Abstract: Completed application shows State's qualification for Federal funds, specifying matching and maintenance of effort capability, methods of determining student financial need, and extent of institutional eligibility.						
Request for Designation as an Eligible Institution, Title III Higher Education Act of 1965, as Amended.	1840-0103, ED 1049-6	4	4	822	800	800

Title of information collection	OMB and agency numbers	Purpose	Type	Respondent burden SIC Code	Number of respondents	Hours
Abstract: Information requested is used to determine if an eligible institution of Higher Education meets the specific program qualifications to receive Title III funds as provided for in the legislation and regulations governing the Institutional Aid Programs.						
Performance and Financial Status Reports for the Strengthening Developing Institutions Program.	1840-0104, ED 1049-2	4	4	822 and 829	500	4,500
Abstract: Will be used to determine that adequate progress is being made toward achieving the goals of the grants, to monitor the rate of grantee expenditures, and to identify potential budgetary problems.						
Application for Grants Under the Challenge Grant Program	1840-0107, ED 853	2, 4	2, 4	822	25	2,325
Abstract: The application will enable the program to evaluate the needs of the applicants to determine which application should be funded and the total amount of any grant that may be awarded.						
Guarantee Agency Request for Reimbursement for Claims Paid—Request for Reimbursement Under Agreement for Federal Reinsurance—Request for Reimbursement on Death/Disabilty.	1840-0108, ED 1189, 1189-1, 1189-3.	4	4	822, 941 and 892	1,800	3,150
Abstract: ED Form 1189 is used by the guaranteed agency to request reimbursement on claims paid and should always accompany the ED 1189-1 and 1189-3. The 1189-1 is used for reimbursement on death and disability claims prior to December 15, 1968, and for all bankruptcy claims. The 1189-3 is for reimbursement of death and disability claims after December 15, 1968.						
Program Announcement—Minority Institutions Science Improvement Program	1840-0109, ED 0007	4	4	822 and 892	150	5,700
Abstract: This is a grant application for competitive awards.						
Application for Federal Student Aid	1840-0110, ED 255	1	1	None	2,000,000	2,200,000
Abstract: This form is needed to collect the data necessary to determine whether the student is eligible for Federal student aid funds, and to calculate a uniform methodology number which financial aid administrators may use to award all other types of financial aid.						
Special Condition Application for Federal Student Aid	1840-0111, ED 255-2	1	1	None	175,000	192,500
Abstract: This form is needed to collect data to determine the amount of the expected family contribution of the application if certain family or financial conditions have changed for the worse, and to calculate a uniform methodology number which financial aid administrators may use to award all other types of financial aid.						
Evaluation of Student Financial Assistance Training Program	1840-0112, ED 786-1 thru 786-8.	1	1	None	31,150	7,889
Abstract: This study will determine whether training program participants are learning the curriculum, what participants think of the program, and whether the program is recruiting the people who need training the most.						
Application for Grants Under the Strengthening Program	1840-0113, ED 851	2, 4	2, 4	822	400	36,400
Abstract: The application will enable the program to evaluate the needs of the applicants to determine which applications should be funded and the total amount of any grant that may be awarded.						
Application for Grants Under the Special Needs Program	1840-0114, ED 852	2, 4	2, 4	822	350	31,850
Abstract: The application will enable the program to evaluate the needs of the applicants to determine which application should be funded and the total amount of any grant they may be awarded.						
Program Announcement—Comprehensive Program Final Year Dissemination Competition.	1840-01117, ED 0004	4	4	822	50	400
Abstract: This is a grant application for competitive awards with a limited eligibility requirement.						
Guarantee Agency Report of Recoveries on Claims Paid Under	1840-0118, ED 1189-2	4	4	822, 941 and 892	500	1,000
Abstract: The guarantee agency completes this form indicating recoveries on claims paid and forwards the report with a check to the claims and collections section, guarantees student loan branch.						
Performance Reporting: Minority Institutions Science Improvement Program (MISIP).	1840-0119, ED 0007P	4	4	821	100	300
Abstract: These annual reports cover such matters as progress to date in comparison to project schedule, problems encountered and methods used in solving them, and circumstances which might significantly affect the project.						
Application for the Training Program for Special Programs Staff and Leadership Personnel.	1840-0125, ED 883	2, 4	2, 4	822 and 941	40	1,360
Abstract: The form requests programmatic and budgetary information from eligible applicants so that the Department of Education program officers and non-federal reviewers will have adequate, relevant information with which to make funding decisions.						
Cooperative Education Program Application Form	1840-0126, ED 1193	2, 4	2, 4	822	400	3,776
Abstract: Application information is used to evaluate proposals and obligate grant funds.						
Application for New Projects Under Special Programs for Students From Disadvantaged Backgrounds.	1840-0127, ED 872	2, 4	2, 4	821, 822, and 824	350	9,800
Abstract: The form requests programmatic and budgetary information from eligible applicants so that the Department of Education program officers and non-federal reviewers will have adequate, relevant information with which to make funding decisions.						
LEEP 6, Statement of LEEP Account LEEP-6A Participants Certification Statement Law Enforcement Education Program (LEEP).	1840-0128, LEEP 6A, LEEP 6.	1	1	None	98,176	9,818
Abstract: This form serves as a bill or a certification of law enforcement employment.						
National Direct Student Loan Program Report of Defaulted Loans as of December 30.	1840-0129, ED 574	4	4	822, and 824	3,200	1,600
Abstract: This report serves to provide information about the capability of the institutions to establish and administer effective collection programs according to regulatory requirements. The data collected may be used to default trends and compare default ratios of various institutions.						
Summary Data Sheet Listing Form (National Direct Student Loan)	1840-0130, ED 1269, 1269-1.	4	4	941	57	1,140

Title of information collection	OMB and agency numbers	Purpose	Type	Respondent burden SIC Code	Number of respondents	Hours
Abstract: This form was designed to provide pertinent information to ED for compliance and statutory provisions governing the National Direct (Defense) Student Loan Progra						
Guarantee Agency Reserve Fund Analysis and Projections	1840-0131, ED 678	2	2	821 and 822	23	4
Abstract: The form is to be used to collect the data needed to decide if the agency should be allowed to retain the 422(A) Federal advance funds or if the Secretary should request the retur of the funds.						
Student Aid Report (SAR)—Formerly Student Eligibility Report (SER)	1840-0132, ED 255-1	1	1	None	4,628,740	1,157,18
Abstract: The student complete an application from (ED 255) on which he/she provides income and asset information necessary to determine and expected family contributed towar educational expenses.						
Request for Collections Assistance Under Federally Insured Student Loan Program.	1840-0133, ED 1249	4	4	822, 602, 603, 604, and 605.	43,000	14,33
Abstract: This form is used by lenders to request skip trace assistance of delinquent student loans where the lender is unable to locate the student borrower.						
Report of the Treasurer—Land-Grant and Supplementary Morrill Funds	1840-0134, ED 1275	2	2	822	73	7
Abstract: Funds distributed under the Morrill Act are to be used for support of instruction in certain curriculum areas. This report is necessary to identify the curriculum fields for which the fund are used and to determine compliance with the statute.						
Federal Loan Transaction Statement Federally Insured Student Loan Program	1840-0500, ED 1199	4	4	822, 601, 602, 603, 604, and 605.	133,000	132,00
Abstract: This form is used by ED's Guaranteed Student Loan Branch to bill lenders for insurance premiums. It is also used by lenders to report changes in the status of existing loans and t report loans paid in full.						
Fulbright Teacher Exchange Program Application Package	1840-0501, ED 356, 356-1, 356-2, 356-3.	1	1	None	9,900	3,95
Abstract: Form is used by applicants under the Fulbright teacher exchange program which provides opportunities for U.S. teachers to exchange positions for an academic year with foreig counterparts or to attend one of a number of short-term seminars abroad on a variety of topics.						
Performance and Financial Report for the Supplemental Funds Program for Cooperative Education.	1840-0503, ED 886-1 886-2.	5	4	821	210	21
Abstract: These reports are needed to determine that adequate progress has been made toward achieving the goals of the grants and to monitor grantee expenditures.						
Application for the Supplemental Funds Program for Cooperative Education	1840-0504, ED 886, 886A	4	4	822	376	56
Abstract: Application information is used to reallot unused college work-study funds to colleges and universities to initiate, improve or expand Cooperative Education Programs						
Financial Status and Performance Report, State Student Incentive Grant Program	1840-0505, ED 1288-1, 1288-2.	2	2	941	57	17
Abstract: The collected data is used to provide fiscal information about use of allotments and determine the nature of programs accomplishments. The analyzed data is used for progra evaluation, various budget/policy decisions, and to assist States in program development.						
Training Programs for Social Programs Personnel Performance and Financial Status Report.	1840-0507, 883-1, 883-2	2, 4	2, 4	822, 821, and 824	10	3
Abstract: The information will be used to access individual project accomplishments of program goals.						
Application for Grants Under the Graduate and Professional Study Fellowships Program.	1840-0508, ED 591	2, 4	2,4	822	350	7,00
Abstract: This form will be used by institutions of Higher Education to apply for funds.						
Application for Grants Under the Education for Public Service Program	1840-0509, ED 404	1	2, 4	821	120	2,40
Abstract: This form is used by applicants for this program applying for grant awards to determine grant eligibility and amount of award.						
Total respondents and burden hours					8,509,878	5,094,75

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

Performance Report for Special Education Programs Discretionary Grant Programs	1820-0002, ED 9037-1	5	2, 4	821, 822, 892, and 941	400	6,00
Abstract: Report is used by the Office of Special Education to determine whether and to what extent progress is being made by grantees toward achieving project goals and objectives						
Report of Vending Facility Programs	1820-0009, ED RSA-15	5	2	944	54	44
Abstract: Indicates the financial health and programmatic impact of the vending facility program in terms of earnings and loss.						
Quarterly Cumulative Caseload Expenditures Report	1820-0013, RSA 113	3, 4, 5	2	944	328	67
Abstract: Information is used to track expenditures and services.						
Annual Report on Post Employment Services and Case Reviews	1820-0014, RSA 62	5	2	944	84	7
Abstract: Information is used to track the extent of post employment services.						
Annual Vocational Rehabilitation Program/Cost Report	1820-0017, RSA 2	2	2	944	84	39
Abstract: Data reported on this form is used to set rehabilitation goals for the State, to determine the average cost of rehabilitation services, to determine budget requirements, and to provide a base to analyze and respond to GAO audits.						
RSA Discretionary Grant Application	1820-0018, (ED) RSA-424	1	2, 4	821, 944, and 892	1,170	46,80
Abstract: Serves as the general application for all RSA discretionary grant programs. Used to determine grant eligibilty, technicial acceptability of applications submitted, and amount of grant awards.						
Application for Federal Assistance for the National Institute of Handicapped Research.	1820-0027, NIHR 792	1	2, 4	833, 822, 892, and 944	300	12,00

Title of information collection	OMB and agency numbers	Purpose	Type	Respondent burden SIC Code	Number of respondents	Hours
Abstract: Information in the application will be used to determine the technical merit of the grant proposal, determine eligibility for funding and serve as a basis for negotiation of final grant awards, including award amounts and terms and conditions.						
Grant Applications under Education for the Handicapped Programs	1820-0028, ED 9037	1	2, 4	821, 822, 892, 941	3,040	92,560
Abstract: The application package provides instructions and information necessary for grantees and potential grantees to submit a request for federal assistance. The information submitted is used by Special Education Programs (SEP) to determine grant eligibility.						
Fiscal year 1984-86 State Plan under Part B of the Education of the Handicapped Act, as amended, Pub. L. 94-124.	1820-0030, ED 9055	1, 4	2	941	58	1,450
Abstract: The State Plan is the application for applying for assistance under Pub. L. 94-142, and is also used for compliance review and enforcement and a determination of technical assistance needs.						
Education for the Handicapped Incentive Grant, Fiscal year 1984-86 Application for Federal Assistance.	1820-0032, ED 9055-1	1	2	941	58	348
Abstract: Application is used to apply for an incentive grant to provide special education and related services to handicapped children aged 3 to 5.						
Performance and Reports for Pub. L. 94-142 and Pub L. 89-313	1820-0041 ED 873-2	5	2	941	58	261
Abstract: Performance reports are required annually as a condition of funding. Special Education Programs use the data information in program monitoring/compliance activities and in the Annual Congressional Report.						
Annual Data Report—Part B of EHA and State Agency Programs for Handicapped Children Title 1, ESEA, as amended.	1820-0043, ED 869	1, 5	2	941	58	7,882
Abstract: This data form is used to annually collect child count data for determining grant allotments.						
Three Year State Plan for Vocational Rehabilitation	1820-0500 ED (RSA) SPVR.	1	2	944	82	1,640
Abstract: This form fulfills the requirements for a State Plan as stipulated in the Rehabilitation Act. The plan serves as the basis for flowing monies to the states.						
Total respondents and burden hours					5,774	170,481
OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT						
Salaries, Tenure and Fringe Benefits of Full-time Instructional Faculty in Institutions of Higher Education, 1983-84.	1850-0003, ED (NCES) 2300-3.	4	4	822	3,003	13,200
Abstract: Faculty data are used by institutions to establish salary scales, state agencies to determine budgets for state supported institutions, professional and educational associations and federal agencies to evaluate the extent to which salaries differ between men and women and to develop financial indicators of higher education.						
Application for Library Training Programs	1850-0022, ED 547	2, 4	2, 4	823, and 822	70	840
Abstract: The form is used by applicants for this program applying for grant awards to determine grant eligibility and amount of awards.						
Fall Enrollment and Compliance Report of Institutions of Higher Education, 1983	1850-0035, ED (NCES) 2300 2.3A, and 2.3B.	4	4	822	3,300	8,200
Abstract: College enrollment data are needed by the Department of Education, state, educational researchers, planning and budget offices and individual colleges for use in economic and financial planning and policy formation, forming funding allocation standards, and assessing the manpower flow through college training and development. It is used in compliance enforcement by the Office for Civil Rights.						
State-level Personnel Exchange (Elementary—Secondary)	1850-0036, 2428-1, 2428-2.	2	2	941	32	48
Abstract: Assist state and local educational agencies in improving and automating their statistical and data collection activities as part of its assistance program. NCES interchange of information and expertise among states.						
Vocational Education Data System (VEDS)	1850-0039, ED 2404, 1, 2, 5, 5VA, 7, 2404A, 1 and 7.	1, 2	1, 2	941	347,254	102,224
Abstract: To provide a national reporting system to generate uniform vocational data from the states. Information collected will be used to prepare the annual report to Congress on the status of vocational education.						
Mina Shaughnessy Scholars Program Application	1850-0043, ED 0006	2, 4	2, 4	822, and 941	550	17,500
Abstract: To solicit applications from postsecondary education institutions which propose to designate a Shaughnessy Scholar to improve educational practice through individual projects.						
Application for Grants Under College Library Resources Program	1850-0045, ED 3118	4, 2	4, 2	822, and 823	2,500	7,500
Abstract: Form enables institutions of higher education and private and public nonprofit library institutions to apply annually for resource development grants. To provide the Secretary with sufficient information to determine either adherence to fiscal requirements, or to approve a waiver of such requirements. Also explains anticipated activities if funds are applied to networking activities.						
Application for Federal Assistance (Non-construction) Capability Building for Statistical Activities in SEAs.	1850-0047, 2413	2	2	941	40	1,600
Abstract: The information is needed to evaluate which states are most capable of using grant funds to improve their data system. This is a competitive grant program, and only a few states may receive grants in any one year.						
Degrees and other Formal Awards Conferred Between July 1, 1982 and June 1983.	1850-0053, ED 2300-2.1A, 2300-2.1A-1, 2300-2.1B, 2300-2.1B-1.	4	4	822	3,300	4,950
Abstract: Degree and other formal awards data are needed by the Department of Education, State, Planning and Budget offices and individual colleges for use in economic and financial planning and policy formation. They are used by the Department of Labor in formulating their "Occupational Outlook Handbook" and by the National Occupational Information Coordinating Committee in assessing manpower.						
Application for Grant under the Strengthening Research Library Resources Program.	1850-0054, ED 592	1	4	822, and 833	100	1,600

Title of information collection	OMB and agency numbers	Purpose	Type	Respondent burden SIC Code	Number of respondents	Hours
Abstract: This form is needed to enable major research libraries to apply annually on a competitive basis and provide the Secretary with sufficient information to determine adherence to program selection criteria.						
Comprehensive Program Continuation and New Awards (Preliminary and Final)	1850-0058, ED 0001 and ED 0002.	2, 4	2, 4	822, and 941	2,200	45,350
Abstract: This is a grant application for competitive awards with a 2-stage application process.						
Common Core of Data (CCD)	1850-0067, ED (NCES) 2442, 2443, 2443-1, 2444, 2445, 2446, 2447.	2	2	941	57	20,156
Abstract: These data provide information about student membership, graduates, teacher and related staff and finances by source and function. These data are used for sampling, allocation of federal funds for some education grant programs (ESEA Title 1) and in carrying out NCES mandated studies (equity profiles)						
Final Financial Status and Performance Report—Title II-A, II-B (Training) and II-C	1850-0072, ED 606, ED 606-1, 606-2.	4	4	822, and 823	2,600	9,100
Abstract: This consolidated report form is used to determine the utilization of grant funds administered by three discretionary grant programs—(HEA II-A) college library resources, (HEA II-B) library career training, and (HEA II-C) strengthening research library resources. Supplementary maintenance of effort analysis sheet for II-A is necessary to confirm compliance with the fiscal requirement.						
Application for Grants Under the National Diffusion Network	1850-0086, ED 734	2, 4	2, 4	941, 822, and 892	179	2,528
Abstract: For program management in the determination of grant eligibility and in the determination of the amount of the grant award.						
State-level Personnel Exchange (Postsecondary)	1850-0095, ED (NCES) 2436-1, 2, 3.	2	2	941	60	30
Abstract: To assist state and local education agencies in improving and automating their statistical and data collection activities. As part of its assistance program, NCES has established a state-level personnel exchange to facilitate the interchange of information and expertise among states.						
State Expenditures for Post-secondary Education for Fiscal Years Ending 1982 and 1983.	1850-0096, ED 2440	2	2	822	57	570
Abstract: This survey for 1982-83 academic year will collect data on programs not reflected in institutional accounts. Such data will make possible more accurate comparisons between states and will enable OMB and the Congressional Budget Office to establish the extent to which states change expenditure patterns in response to changing federal priorities.						
Survey of Correspondence Education	1850-0097, ED (NCES) 2390.	4	4	824	378	180
Abstract: Comprehensive data on home study, an important segment of American education, has not been collected since 1976. These data are needed to report on the condition of education. Data on enrollment and curricula will be collected from correspondence schools.						
Financial Statistics of Institutions of Higher Education for Fiscal year ending 1982	1850-0502 ED, (NCES) 2300-4.	4	4	822	3,003	7,507
Abstract: College financial statistics are needed by the Department of Education to report on the condition of education to determine eligibility for participation in the Title III program. These are used by the Bureau of the Census to report the finances of state and local governments.						
Survey of Public Libraries, LIBGIS VI	1850-0504, ED 2349-1	4	4	823	1,350	675
Abstract: The purpose of this study is to provide basic data on public libraries. It will also provide specific data to be used in the hearings for the reauthorization of the Library Services and Construction Act (LSCA) by the Office of Libraries and Learning Technologies (OLLT). These data will be used to assess the OLLT library programs for public Libraries.						
Basic Student Charges, 1983-82	1850-0507, ED 2300-1C	4	4	822	3,300	550
Abstract: Data are needed to monitor changes in institutional charges made to students in higher education as federal support changes.						
Total respondents and burden hours					373,331	244,410
OFFICE OF VOCATIONAL AND ADULT EDUCATION						
State—Administered Vocational Education Program Improvement Contracts	1830-0011, ED 590	5	2	941	912	1,140
Abstract: The National Center for Research in Vocational Education acts as a clearinghouse for contracts made by the states for research, exemplary and innovative programs, and curriculum development.						
Application for Vocational Education Direct Grant Programs	1830-0013, ED 3176	1	2	941	67	1,340
Abstract: Grants are awarded to Indian Tribal Organizations to plan, conduct and administer any of the various types of vocational education programs.						
Financial Status and Performance Reports for the Adult Education State Program	1830-0027, ED 365, 365-1	2	2	941	57	570
Abstract: For the purposes of accounting for the expenditure of funds and for assessing the effectiveness of the carrying out of state plans under the Adult Education State Program.						
Annual Plan and Accountability Report for Vocational Education	1830-0029, ED 576-3, 576-4.	2	2	941	57	18,240
Abstract: State Boards for Vocational Education to submit annual plans and accountability reports in order to receive Federal funds for Vocational Education Programs.						
Annual Evaluation Report of the State Advisory Councils for Vocational Education	1830-0030, ED 576-5	2	2	941	57	21,375
Abstract: The State Advisory Council is to submit an annual report to the Secretary of Education evaluating the Vocational Education Programs conducted in its state.						
Financial Status and Performance Reports for Direct Grant—OVAE	1830-0501, ED 360	5	2	941	30	240
Abstract: These reports are needed to determine that adequate progress has been made toward achieving the goals of the grants and to monitor grantee expenditures.						
Total respondents and burden hours					1,180	42,905

[FR Doc. 83-4129 Filed 2-14-83; 3:21 pm]

BILLING CODE 4000-01-M

Bilingual Education Programs; Availability of Materials for Evaluation

AGENCY: Department of Education.

ACTION: Notice of availability of materials for the evaluation of bilingual education programs.

SUMMARY: In response to Sections 731 (d)(2) and (e)(3) of the Elementary and Secondary Education Act of 1965 (ESEA), Pub. L. 89–10, as amended by Pub. L. 95–561, the U.S. Department of Education (ED) has recently completed, as part of its Title VII, Part C Research agenda, a "Project for Developing Program Evaluation and Data Gathering Models for ESEA, Title VII, Bilingual Education" (Contract No. 300–80–0598). The major product of this effort is *A Handbook for Evaluating ESEA, Title VII, Bilingual Education Programs.* The *Handbook* provides technical information and ideas for bilingual educators regarding the evaluation of their programs. While ED feels that the *Handbook* will require further revision and extension, copies of the current document are available for review.

ADDRESS: Requests for copies should be made to: Ms. Ann Nawaz, Department of Education, Office of Planning, Budget and Evaluation, State and Local Grants Division, 400 Maryland Avenue, SW. (Rm. 4037, FOB 6), Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Dr. Janice Anderson, Telephone: (202) 245–8364.

(Catalog of Federal Domestic Assistance No. 13.403, Bilingual Education)

Dated: February 16, 1983.

Gary L. Bauer,

Deputy Under Secretary for Planning, Budget, and Evaluation.

[FR Doc. 83–4467 Filed 2–22–83; 8:45 am]

BILLING CODE 4000–01–M

Intergovernmental Advisory Council on Education; Hearing

AGENCY: Intergovernmental Advisory Council on Education.

ACTION: Notice of Hearing.

SUMMARY: This notice sets forth the schedule for a hearing of the Intergovernmental Advisory Council on Education. Notice of this hearing is required under Section 10(a)(2) of the Federal Advisory Committee Act.

DATE: March 17, 1983.

ADDRESS: Department of Education, 101 Marietta Tower Building, Suite 2221, 22nd Floor, Atlanta, Georgia 30323.

FOR FURTHER INFORMATION CONTACT: Laverne Johnson, Office of the Deputy Under Secretary for Intergovernmental and Interagency Affairs, Department of Education, 400 Maryland Avenue SW., Room 3047, Washington, D.C. 20202 (202) 472–6464.

SUPPLEMENTARY INFORMATION: The Intergovernmental Advisory Council on Education is established under Section 213 of the Department of Education Organization Act (20 U.S.C. 3423). The Council is established to provide assistance and make recommendations to the Secretary and the President concerning intergovernmental policies and relations pertaining to education.

The Intergovernmental Advisory Council on Education will conduct a Public Hearing on March 17, 1983. The hearing schedule is as follows:

9:00–10:30 a.m.—Impact of Block Grant Programs
10:30–10:45 a.m.—Break
10:45–12 noon—Federal Role in Education
12:00–1:30 p.m.—Lunch
1:30–3:30 p.m.—Tuition Tax Credits

Individuals, organizations, and associations need to *preregister* for the March 17 hearing. To preregister, due to limited space and time, write Mr. Albert Beatty, Director of Educational Services, Region IV, Department of Education, 101 Marietta Tower Building, Suite 2221, Atlanta, Georgia 30323 (telephone–(404) 221–2502) by March 7. (Commenters will be limited to five (5) minutes. Each commenter must provide written comments. Those wishing to submit comments only may do so by mailing them to Mr. Beatty.)

Records are kept of all Council proceedings and are available for public inspection at the office of the Intergovernmental Advisory Council on Education, 400 Maryland Avenue SW., Room 3047, Washington, D.C.

Signed at Washington, D.C. on February 17, 1983.

Wendy Borcherdt,

Acting Deputy Under Secretary for Intergovernmental and Interagency Affairs.

[FR Doc. 83–4476 Filed 2–22–83; 8:45 am]

BILLING CODE 4000–01–M

Strengthening, Special Needs, and Challenge Grant Programs; Transmittal of Requests for Designation as an Eligible Institution for Fiscal Year 1983; Correction

This document corrects a date in the notice of closing date to establish eligibility for participation in the Institutional Aid Programs, authorized by Title III of the Higher Education Act of 1965. The notice was published in the Federal Register on Tuesday, February 8, 1983 at 48 FR 5778–5786.

March 29, 1983 is cited as the date the Department will use as a deadline for accepting corrected and updated Pell Grant data in order to make eligibility determinations under the financial aid criteria in 34 CFR 625.2, 626.2, and 627.2.

The March 29 date is incorrect. The Department's policy is to allow two weeks between the closing date for receipt of designation forms (March 28) and the deadline for acceptance of corrected and updated Pell Grant data. Therefore the March 29 date is corrected to read *April 11, 1983.*

FOR FURTHER INFORMATION CONTACT: For further information contact the Evaluation Section, Division of Institutional Development, L'Enfant Plaza, Post Office Box 23868, Washington, D.C. 20024. Telephone (202) 245–2338.

(Catalog of Federal Domestic Assistance Number 84.031 Institutional Aid Programs)

Dated: February 17, 1983.

Daniel Oliver,

General Counsel.

[FR Doc. 83–4485 Filed 2–22–83; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER83–316–000]

Consolidated Edision Company of New York, Inc.; Filing

February 16, 1983.

Take notice that on February 8, 1983, Consolidated Edison Company of New York, Inc. (Con Edison) tendered for filing as an initial rate schedule an agreement to provide transmission and distribution service to the Power Authority of the State of New York (the "Authority"). The rate schedule provides for transmission and distribution of hydroelectric power and energy to certain customers of the Authority in Con Edison's service area.

Con Edison requests an effective date of January 1, 1981, and therefore requests waiver of the Commission's notice requirements.

Con Edison states that a copy of this filing has been served by mail upon the Authority.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal

Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 2, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-4488 Filed 2-22-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-310-000]

The Dayton Power and Light Co.; Filing

February 16, 1983.

Take notice that on February 7, 1983, The Dayton Power and Light Company (DP&L) tendered for filing (1) an executed Service Agreement for Partial Requirements And/Or Transmission Wheeling Service to Municipalities for Resale (Service Agreement) between DP&L and the Village of Yellow Springs, Ohio and (2) and executed Service Agreement for Partial Requirements And/Or Transmission Wheeling Service To Municipalities For Resale (Service Agreement) between DP&L and the Village of Jackson Center, Ohio.

The proposed Service Agreements permit the Village of Yellow Springs and the Village of Jackson Center to receive partial requirements and transmission wheeling service from DP&L under its FERC Electric Tariff, Original Volume No. 2. The proposed Service Agreement with the Village of Jackson Center also provides for a change in delivery voltage to 69,000 volts. The previous service agreements between DP&L and the Villages of Yellow Springs and Jackson Center, under which the Villages of Yellow Springs and Jackson Center received service pursuant to DP&L's FERC Electric Tariff Original Volume No. 1, are superseded.

DP&L requests an effective date of February 1, 1983, and therefore requests of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 2, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-4489 Filed 2-22-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-73-000]

Kansas Nebraska Natural Gas Co., Inc., Informal Settlement Conference

February 15, 1983.

Take notice that an informal conference will be held in the above-captioned matter on February 25, 1983, at the Offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 at 10:00 a.m.

The purpose of the conference is to discuss the matters at issue in Docket No. CP83-73-000 and to explore the possibility of their resolution by settlement and compromise.

All interested persons are invited to attend but mere attendance at this informal conference will not serve to make any person formally a party to this proceeding.

Kenneth F. Plumb,

Secretary

[FR Doc. 83-4490 Filed 2-22-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER80-602-001]

Missouri Public Service Co.; Compliance Filing

February 16, 1983

Take notice that on February 7, 1983, Missouri Public Service Company submitted a compliance filing pursuant to the Commission's order of December 5, 1980.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before March 3, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-4491 Filed 2-22-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-45-001]

Montana-Dakota Utilities Co.; Tariff Filing

February 15, 1983.

Take notice that on February 8, 1983, Montana-Dakota Utilities Company (MDU), submitted for filing as part of its FERC Gas Tariff, First Revised Volume No. 2, the following substitute tariff sheet:

Substitute Seventeenth Revised Sheet No. 10

The proposed effective date is March 1, 1983.

On January 28, 1983, MDU submitted for filing Seventeenth Revised Sheet No. 10 to its FERC Gas Tariff, First Revised Volume No. 2. The purpose of the filing was to reflect a proposed higher rate for service rendered pursuant to MDU's Rate Schedule X-3.

Following its filing, however, MDU discovered that due to a typographical error, that sheet showed an incorrect current surcharge adjustment under Rate Schedule X-4 of 35.500 cents per Mcf. the correct surcharge adjustment is 35.550 cents per Mcf. In order to correct the error, MDU submits Substitute Seventeenth Revised Sheet No. 10, which shows the correct current surcharge adjustment under Rate Schedule X-4.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before February 18, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-4491 Filed 2-22-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-315-000]

Montana Power Co.; Filing

February 16, 1983

Take notice that the Montana Power Company (Montana) on February 7, 1983, tendered for filing Fourth Revised Sheet No. 9 and Fourth Revised Sheet No. 10 of the FPC Electric Tariff M-1 which has been revised to show the addition of Southern California Edison Company, Pacific Gas and Electric Company, Sierra Pacific Power Company and the City of Riverside, and a Summary of Sales made under the Company's FPC Electric Tariff M-1 during July, August, September, October, November and December, 1982, along with cost justification for the rate charged.

Montana requests an effective date of July 26, 1982, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 2, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-4492 Filed 2-22-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-306-000]

Northern States Power Co.; Filing

February 16, 1983.

Take notice that Northern States Power Company (NSP) on February 4, 1983, tendered for filing the Sherco 3 Outlet Transmission Agreement with United Minnesota Municipal Power Agency.

NSP states that the agreement, dated December 22, 1982, provides for NSP to deliver United Minnesota power and energy to interconnections with United Power Association for delivery to United Minnesota customers on United Power's system.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 2, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-4494 Filed 2-22-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-314-000]

Orange and Rockland Utilities, Inc.; Filing

February 16, 1983.

Take notice that Orange and Rockland Utilities, Inc. (O & R) tendered for filing on February 7, 1983, as a rate schedule an executed agreement dated February 1, 1983 between O & R and Philadelphia Electric Company for the sale of interruptible power and energy by O & R.

O & R states that the rate schedule provides for an economy reservation charge not to exceed $9.00/MWH scheduled and an energy charge equal to O & R's marginal system cost.

O & R requests an effective date of February 1, 1983, and therefore requests waiver of the Commission's notice requirements.

O & R states that a copy of the filing was served on Philadelphia Electric Company.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 2, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-4495 Filed 2-22-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-304-000]

Puget Sound Power & Light Co.

February 16, 1983.

Take notice that on February 2, 1983, Puget Sound Power & Light Company (Puget) tendered for filing a notice of cancellation of the City of Ellensburg (City) service agreement with Puget.

Puget requests an effective date of August 4, 1981.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 1, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-4496 Filed 2-22-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-311-000]

Tucson Electric Power Co.; Filing

February 16, 1983.

Take notice that Tucson Electric Power Company (Tucson) on February 7, 1983, tendered for filing a Power Exchange and Transmission Agreement between Tucson and El Paso Electric Company (El Paso). The primary purpose of this Agreement is to establish the terms and conditions relative to the exchange of capacity and energy between El Paso's share of the Palo Verde Nuclear Generating Station generating units and Tucson's system generation.

Tucson requests an effective date of April 19, 1982, and therefore requests waiver of the Commission's notice requirements.

Tucson states that copies of the filing were served upon El Paso.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 2, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-4407 Filed 2-22-83; 8:45 am]

BILLING CODE 6717-01-M

Office of Conservation and Renewable Energy

National Energy Extension Service Advisory Board; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Name: National Energy Extension Service Advisory Board.

Date and time: Thursday, March 10, 1983—9:00 a.m.–5:00 p.m., Friday, March 11, 1983—9:00 a.m.–3:00 p.m.

Place: Marriott Key Bridge, Potomac Ballroom A, 1401 Lee Highway, Arlington, Virginia 22209/1299.

Contact: William H. H. King, Department of Energy, Forrestal Building—5B137, 1000 Independence Avenue, SW., Washington, D.C. 20585, Telephone: 202-252-8290.

Purpose of committee: The Board was established to carry on a continuing review of the comprehensive Energy Extension Service program and approved plans of the Governors of each State for implementing Energy Extension Service activities.

Tentative Agenda

Thursday, March 10, 1983

- Welcoming by National Energy Extension Service Advisory Board Chairman
- Discussion of Annual Report
- Public Comment (10 minute rule)

Friday, March 11, 1983

- Introductory Remarks by National Energy Extension Service Advisory Board Chairman
- Discussion of Annual Report
- Discussion of Future Events of the National Energy Extension Service Advisory Board
- Public Comment (10 minute rule)

Public Participation: The meeting is open to the public. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact William King at 252-8290. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Transcripts: Available for public review and copying at the Public Reading Room, Room 1E190, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on February 18, 1983.

Howard H. Raiken,

Deputy Advisory Committee Management Officer.

[FR Doc. 83-4556 Filed 2-22-83; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS 81009B; TSH-FRL 2308-2]

TSCA Chemical Substances Inventory; Removal of Inappropriately Reported Synfuel Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has determined that 12 of the synthetic fuels and related substances currently listed on the Toxic Substances Control Act (TSCA) Inventory were inappropriately reported. The Agency announced in the **Federal Register** of June 10, 1982 (47 FR 25198) its intent to remove these 12 substances from the TSCA Inventory. None of the comments received in response to the June 10, 1982 notice provided EPA with evidence rebutting the Agency's initial finding that all of the 12 substances were inappropriately reported, and that they have not been commercially manufactured, imported, or processed for purposes other than research and development since January 1, 1975. Accordingly, the 12 substances are no longer on the TSCA Inventory as of the date of publication of this notice.

DATE: Effective on February 23, 1983.

FOR FURTHER INFORMATION CONTACT: Chris Tirpak, 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

EPA announced in the **Federal Register** of June 10, 1982 (47 FR 25198) its intent to remove listings for 12 synthetic fuels (synfuels) and related substances from the Toxic Substances Control Act (TSCA) Chemical Substances Inventory. The proposed removal action was published after the Agency completed a review of the 20 shale oil and solvent-refined coal (SRC) products reported for and listed on the TSCA Inventory. During the review EPA examined whether the 20 substances were eligible for listing on the Inventory. EPA identified 12 of the group as being only in research and development (R and D) at the time the Inventory was compiled and therefore ineligible for listing. In addition, the Agency identified four shale oil substances as having been properly reported to the Inventory but erroneously incorporated into Inventory listings of similar petroleum derived substances. EPA proposed that these four substances be retained on the Inventory, but with new and unique CAS numbers and preferred chemical names.

The **Federal Register** notice of June 10, 1982 solicited comments on the proposed removal and renaming actions and specifically requested information about and documentation of any non-R and D commercial manufacture, import, or processing of the 12 substances by anyone between January 1, 1975 and the publication of the notice.

EPA received 11 comments in response to the June 10 notice. Issues discussed in the comments included EPA's definition of the scope of R and D and the Agency's legal authority to delist substances from the Inventory. None of the commenters provided EPA with new information indicating that any of the 12 substances have as yet been manufactured for other than R and D purposes. No Comments were received on the subject of renaming the four shale oil substances.

II. Purpose of the Inventory

EPA is required by section 8(b) of TSCA to identify, compile, and keep current a list of chemical substances which are manufactured, imported, or processed for commercial purposes in the United States.

The Inventory's primary function is to define what is a "new" chemical substance for purposes of section 5(a)(1)(A) of TSCA. If a chemical substance is not included on the

Inventory, it is considered a "new" substance, and a section 5 notice is required at least 90 days before the commencement of non-R and D commercial manufacture or import of such a substance.

III. EPA's Authority To Delist

To meet the requirements of section 8(b), EPA promulgated the Inventory Reporting Regulations (40 CFR 710), which were published in the **Federal Register** of December 23, 1977 (42 FR 64572). These regulations govern reporting of chemical substances for the Inventory. A "reportable substance," as defined by the regulations, was required to have been manufactured, processed, or imported for commercial, non-R and D purposes between January 1, 1975 and the close of reporting for the Inventory. Substances manufactured solely for R and D purposes were specifically excluded from the Inventory by section 8(b) of TSCA, which was implemented by §710.4(c)(3) of the regulations. Therefore, any substances which were reported for the Inventory while still in R and D were inappropriately reported and were not eligible for listing on the Inventory.

EPA believes that it is the clear intent of TSCA that substances which are found to have been inappropriately reported for the Inventory be removed, or "delisted." The rationale for delisting is consistent with the Inventory's purpose. If substances which are identified as ineligible for listing on the Inventory are allowed to remain there, these "new" chemical substances will in effect be granted an exemption from TSCA's section 5 premanufacture notification requirements and need not undergo EPA review before non-R and D commercial manufacture commences.

EPA views delisting as righting a reporting mistake made at the time the Inventory was compiled and correcting a violation of the Inventory Reporting Regulations. No intent to violate the reporting regulations is necessarily implied by the Agency's decision to delist these inappropriately reported substances. The Agency's authority for delisting is based on the initial ineligibility of the substances for the Inventory, not the motives of the submitter.

Several commenters stated that it is now inappropriate for EPA to remove ineligible listings from the Inventory. They asserted that the proper time to delist would have been during or immediately after the compilation of the Inventory in 1979. Several commenters stated that industry has relied on the listing of these substances on the Inventory and that delisting would prove detrimental to some companies.

EPA's failure to delist these substances earlier was caused by the extremely high volume of reports received for the Inventory. Nearly 100,000 reporting forms were submitted to EPA for almost 60,000 different chemical substances. It was both impossible and impractical for the Agency to analyze and correct all reports initially for anything but apparent mistakes, unless evidence of ineligibility were readily available. Information indicating the possible ineligibility of these synfuel substances did not come to EPA's attention until well after the close of the reporting period.

Though several commenters raised the general issue of detrimental reliance by industry, none provided the Agency with tangible evidence of such reliance in the case of these 12 substances. As discussed below, based on the information available to the Agency, no companies have yet engaged in non-R and D commercial manufacture, import, or processing of these 12 substances. In addition, to EPA's knowledge, no companies have at this time progressed to the stage of development for these synfuel products at which they would be required to report to the Agency pursuant to the premanufacture notification requirements of section 5 of TSCA. If specific information had been submitted to the Agency indicating that a company or companies, relying on the Inventory, had entered into non-R and D commercial production for any of the 12 substances since the publication of the Inventory, the Agency would have considered the significance of the reliance.

Several commenters also asserted that EPA has failed both to publish and follow appropriate procedures for removing listings from the Inventory. EPA believes that the delisting procedures published and followed to this point substantially exceed what is legally required by TSCA or the Administrative Procedure Act and provide sufficient protection to the interests of the companies that are affected by this delisting action. EPA considers delisting to be an administrative action which does not require rulemaking to be put into effect. Although EPA is not necessarily required to do so, the Agency has included in its delisting procedures provisions for a **Federal Register** notice proposing delisting, a 60-day comment period during which affected parties may rebut assertions made by EPA in the proposal, as well as a final notice announcing that the substances have been removed from the Inventory.

IV. Decision to Delist the Twelve Synfuel Substances

As noted above, 20 shale oil and SRC synfuel substances were reported for the Inventory. After the publication of the Initial Inventory, EPA received information suggesting that some of these substances may have been inappropriately reported because they had not been manufactured, imported, or processed for non-R and D commercial purposes since January 1, 1975. As part of its ongoing synfuels program, the Agency began an investigation to determine whether, in fact, any of these substances were still in R and D, as defined by TSCA and § 170.2(y) of the Inventory Reporting Regulations, when reported for the Inventory.

On December 19, 1980, EPA sent letters to the five companies that reported the 20 substances, requesting that the companies provide specific evidence showing that the substances were eligible for inclusion on the Inventory. Following careful analysis of the information received, each of the companies was notified in July 1981 that the agency believed that no case for Inventory eligibility had been made for some of the synfuel substances in question. The companies were asked to submit additional evidence showing that these substances had progressed past R and D. On the basis of these submissions EPA concluded that 12 of the products had been produced for only R and D purposes and were therefore not eligible for the Inventory. The other substances were determined to be appropriately listed on the Inventory.

The Agency has fully considered all the information received from concerned parties in coming to its decision to delist the 12 experimental synfuel products.

Determining whether these synfuel substances have progressed past R and D requires consideration of a number of interrelated factors that are discussed below. Further factors to be considered in determining the point at which other synfuel substances progress beyond R and D are discussed in Unit VII.

1. *Small quantities.* Section 710.2(g) of the Inventory Reporting Regulations defines R and D stage, or "small," production quantities as being those that "are no greater than reasonably necessary for such purposes * * *" EPA considered, but decided against establishing upper limits for small quantities concept must be flexible for various groups of substances depending

upon intended uses and patterns of commercial development.

Some commenters stated that the fact that some of the synfuel substances have been produced in relatively large quantities is, by itself, sufficient to prove that they have progressed past R and D. However, EPA believes that "small quantities" for R and D is a relative concept and that the relatively large production volumes required for synfuels research and development are not enough standing alone to determine that these substances have progressed past R and D. The determination of whether a substance is in R and D, instead depends on whether production has exceeded the level necessary to carry out the R and D purpose of evaluating a substance's physical, chemical, production, or performance characteristics. Development of synfuels has taken place in large pilot plants and relatively large quantities of the experimental substances have been produced. However, EPA has received no evidence indicating that any of the 12 substances have ever intentionally been produced in quantities greater than those reasonably necessary to carry out the purposes of R and D.

2. *Conditions of manufacture and use.* The fact that these substances were produced at pilot plants is indicative, though not determinative, of their being in R and D as opposed to other production stages. Typically, pilot plant activities are designed to (a) arrive at an efficient process for manufacture of a substance, (b) develop the engineering data required to design a large scale facility, and (c) produce enough of the product to evaluate physical, chemical, production, and performance characteristics of a substance. EPA considers these to be R and D activities.

Even more determinative of R and D status are the uses a substance is put to. Quantities produced solely to analyze a substance's physical, chemical, production, or performance characteristics are considered R&D production. If no other uses were intended for the quantities of a substance that have been produced, it was not eligible for reporting for the Inventory. Though some commenters asserted that some of these substances have been produced for commercial purposes, EPA has received no tangible evidence indicating that the substances have been put to commercial uses outside the scope of R and D. The commercial activities described as non-R and D activities by commenters were, in fact, carefully monitored tests of limited quantities of fuel which assessed the performance of the products in utility boilers, stationary engines, and elsewhere. These activities properly fall within the definition of research and development. (See Unit VII).

3. *Sale for commercial purposes.* Sale of a substance does not necessarily remove it from R and D. If the purchaser is solely evaluating the substance's physical, chemical, production, or performance characteristics, on the sale constitutes disposing of excess quantities of a product produced for these evaluative purposes, the substance is still classified as in R and D. EPA believes that any product sales that have taken place to this point for these 12 substances have not exceeded the scope of R and D purposes.

4. *Test marketing.* Substances produced for test marketing purposes are not considered to be in R and D and therefore are eligible for listing on the Inventory. Several commenters contended both that the distinction between test marketing and R and D is, at best, difficult to make under real market conditions and that some of the substances have been test marketed.

EPA recognizes that the distinction between test marketing and R and D is not always clear-cut. However, the Agency does not see major difficulties in applying the two categories to these synfuel substances. Test marketing focuses on how a substance is accepted in a competitive market situation. R and D focuses on analysis of performance and other factors, whether that testing or analysis is done by the producer of the substance or another party. Based on available evidence, EPA believes that all of the 12 substances were, at the time of Inventory reporting, and are still at some stage of performance evaluation and thus in R and D.

V. Impacts of Delisting

As of the publication date of this notice the 12 synthetic fuel and related substances identified in Unit VI of this notice are no longer on the TSCA Chemical Substances Inventory. This delisting action is taken because EPA has determined that the 12 substances were and are only in R and D and therefore not eligible for Inventory listing.

R and D substances are exempted from the PMN reporting requirement by section 5(h)(3) of TSCA. Pursuant to Section 5(a) of the Act, any manufacturer of the 12 delisted substances will be required to file PMNs 90 days prior to the initiation of non-R and D commercial manufacture or import of the substances. If by the date of the publication of this notice non-R and D commercial production has commenced for any of the substances, manufacturers of the substances should contact the Agency to set up a timetable for fulfilling the PMN reporting requirements.

The definition of R and D described in this notice will give developers of synfuel products greater flexibility in conducting R and D than a narrower one which would have allowed these 12 substances to be left on the Inventory. A narrower definition of R and D would move the PMN reporting requirement up to a much earlier point in the development and production cycle and could result in unnecessary, more burdensome, and potentially inconclusive PMN reporting. It could also place some developers of new synfuel substances in present violation of section 5 reporting requirements.

EPA recognizes that some companies may be adversely affected by this delisting action; because of this action some companies may in the future be subject to PMN reporting requirements for some of the 12 substances. However, the Agency believes that these products are legitimately "new" substances for purposes of section 5 of TSCA and congressional intent is clear that such substances undergo PMN review. Furthermore, EPA believes that the benefits to the public and industry of using this definition of R and D for purposes of the Inventory for outweigh any adverse impacts of the delisting action.

VI. Substances That Are Removed From the Inventory

Twelve synthetic fuels and related substances identified in the **Federal Register** notice of June 10, 1982 are now removed from the TSCA Inventory. The Agency has concluded that the 12 substances have not been manufactured, imported, or processed for non-R and D commercial purposes since January 1, 1975 and thus were not eligible for the Inventory.

BILLING CODE 6720-01-M

The substances are listed below by CAS Registry Numbers accompanied by descriptive names.

64741-76-0	Heavy hydrocracked distillate (shale oil)
64742-14-9	Acid treated heavy hydrocracked naphtha (shale oil)
64742-38-7	Clay treated light hydrocracked distillate (shale oil)
64742-38-7	Clay treated heavy hydrocracked naphtha (shale oil)
64742-13-8	Acid treated light hydrocracked distillate (shale oil)
71060-56-5	Heavy hydrocracked naphtha (shale oil)
68409-94-9	SRC vacuum distillation residues (SRC I solid product)
68911-57-9	SRC middle distillates (SRC II middle distillates)
68410-07-1	SRC heavy distillates (SRC II heavy distillates)
68410-08-2	SRC recycle distillates (SRC I process solvent)
68476-35-7	SRC gas (SRC I and SRC II gas)
68910-58-7	SRC II vacuum residues (SRC II vacuum bottoms)

BILLING CODE 6720-01-C

Effective February 23, 1983 these 12 substances are no longer included on the Inventory—the presence of the names of these substances in previously published Inventory listings notwithstanding. Any persons wishing to manufacture or import any of these 12 substances must comply with the premanufacture notification requirements of section 5 of TSCA.

VII. Determination of R and D Status

As a result of this action, the 12 delisted synfuel products will be subject to TSCA section 5 reporting requirements before non-and D commercial manufacture. In addition, many other synfuel products may be subject to the reporting requirements of section 5 in the future. These requirements are briefly described in two EPA policy statements, published in the **Federal Register** of May 15, 1979 (44 FR 28564) and November 7, 1980 (45 FR 74378). EPA is now working with industry and public interest groups to clarify the applicability of these requirements to new synfuels. Individual synfuel developers are encouragaed to consult EPA to determine whether they must report under section 5 and what information should be supplied in premanufacture notices.

This unit provides an outline of the factors which should be considered prospectively to determine whether a synfuel product has progressed past R and D and is therefore subject to TSCA section 5 reporting requirements.

As noted above, absolute production quantity alone is not a very determinative criterion of whether a substance is in R and D. Synthetic fuel pilot plant operations are normally considered to be R and D even if such operations are large. Pilot plant operations are designed to produce R and D samples of a material for technical evaluation or to test basic production characteristics. Technical evaluation includes tests of a substance's physical, chemical, production, or performance characteristics. Tests of performance characteristics include monitored tests of a product's performance (in utility boilers, stationary engines, etc.) by a potential user. Tests of production characteristics include pilot plant or refinery runs necessary to define process conditions and equipment performance. However, non-R and D commercial production would occur at a pilot plant if specific products are sold for non-R and D purposes.

Pilot plant activities are considered R and D as long as a material is produced exclusively for product testing and evaluation of process and plant design and equipment. However, in the case of synfuel pilot plants, EPA recognizes that in some instances excess synfuel material may be produced in an R and D operation. Because of the large scale of synfuel pilot plant operations, relatively large amounts of excess materials may be produced. EPA believes that the definition of R and D for the Inventory should allow for reasonable methods of disposal of this material, even if some energy value is recovered in the disposal. These activities would include selling excess quantities for Btu-value or bleeding proportionately very small amounts of synfuel substances into a petroleum refinery stream. While R and D facilities may recover some portion of their product development investment as a result of such commercial uses, EPA believes that these activities are primarily methods of disposal and therefore do not exceed the boundaries of the R and D defintition. However, if excess quantities of test materials are processed to create an article of commerce, for instance when a synfuel substance is processed into other chemical substances which are sold at a competitive price, or when unrestricted sale is made of a synfuel product as asphalt, the scope of R and D is exceeded. Therefore, producers should contact EPA if other disposal methods than those specifically discussed above are employed so that a determination can be made as to whether they come within the scope of R and D.

Dated: February 3, 1983.

John A. Todhunter,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 83-4480 Filed 2-22-83; 8:45 am]

BILLING CODE 6560-50-M

[OW-FRL 2291-6]

Approval of Mississippi's NPDES Program To Regulate Federal Facilities

AGENCY: Environmental Protection Agency.

ACTION: Notice of approval of the State of Mississippi's request for authority to administer the National Pollutant Discharge Elimination System (NPDES) program with respect to Federal facilities.

SUMMARY: On January 28, 1983, the Environmental Protection Agency (EPA) approved the State of Mississippi's request to include regulation of Federal facilities under its State water pollution permit program responsibility. Previously the State had been approved to participate in the NPDES program.

FOR FURTHER INFORMATION CONTACT: Allen J. Danzig, Permits Division (EN-336), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, 202-755-0750.

SUPPLEMENTARY INFORMATION: In 1977 Congress amended section 313 of the Clean Water Act (33 U.S.C. 1251, et seq.) to authorize States to regulate Federally owned or operated facilities under their water pollution control programs. Prior to the amendments, States including those authorized pursuant to section 402(b) of the Clear Water Act to participate in the NPDES program, were precluded from regulating Federal facilities. Therefore, EPA in approving State programs under section 402(b), reserved the authority to issue NPDES permits to Federal facilities.

With the passage of the 1977 amendments, EPA has been transferring NPDES authority over Federal facilities to approved States. Today's **Federal Register** notice is to announce the approval of the State of Mississippi's request to assume NPDES authority over Federal facilities. EPA did not receive any comments during the public comment period.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Dated: December 15, 1982.

Frederic A. Eidsness, Jr.,

Assistant Administrator for Water.

Review Under the Regulatory Flexibility Act and Executive Order 12291

Under the Regulatory Flexibility Act, EPA is required to prepare a Regulatory Flexibility Analysis for all rules which may have a significant impact on a substantial number of small entities. The approval of the Mississippi NPDES permit program to administer Federal facilities merely transfers responsibility for administration of these facilities from the Federal to the State government. No new substantive requirements are established by this action. Therefore, this notice does not have a significant impact on a substantial number of small entities. It does not trigger the requirement of a Regulatory Flexibility Analysis.

Dated: January 28, 1983.

Anne M. Gorsuch,

Administrator.

[FR Doc. 83-4526 Filed 2-22-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Forms Submitted to the Office of Management and Budget

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for clearance in accordance with the Paperwork Reduction Act (44 USC Chapter 35).

Type: New.

Title: Federal Crime Insurance Program—Policy Change Request.

Abstract: Form allows the Federal Crime Insurance Program to make policy changes by endorsement rather than by return of old policy and submission of new application.

Types of respondents: Individuals, businesses.

Number of respondents: 4,800.

Burden hours: 400.

OMB Desk Officer: Ken Allen (202) 395-3786.

Copies of the above information collection clearance package can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley, (202) 287-9906, 500 C Street, SW, Washington, DC 20472 and to Ken Allen, Desk Officer, OMB Reports Management Branch, Room 3235, New Executive Office Building, Washington, DC 20503.

Dated: February 15, 1983.

Charles M. Girard,

Associate Director.

[FR Doc. 83-4436 Filed 2-22-83; 8:45 am]

BILLING CODE 6718-01-M

[FEMA-677-DR]

California; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of California (FEMA-677-DR), dated February 9, 1983, and related determinations.

DATED: February 9, 1983.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0501.

Notice

Pursuant to the authority vested in the Director of the Federal Emergency Management Agency by the President under Executive Order 12148, effective July 15, 1979, and delegated to me by the Director under Federal Emergency Management Agency Delegation of Authority, and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that, in a letter of February 9, 1983, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of California resulting from severe storms, high tides, wave action, mudslides and flooding beginning on January 21, 1983, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 93-288. I therefore declare that such a major disaster exists in the State of California.

In order to provide Federal assistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Pub. L. 93-288 for Public Assistance will be limited to 75 percent of total eligible costs in the designated area.

Pursuant to Section 408(b) of Pub. L. 93-288, you are authorized to advance to the State its 25 percent share of the Individual and Family Grant program, to be repaid to the United States by the State when it is able to do so.

The time period prescribed for the implementation of Section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of Federal Emergency Management Agency under Executive Order 12148, and delegated to me by the Director under Federal Emergency Management Agency Delegation of Authority, I hereby appoint Mr. Robert L. Vickers of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas of the State of California to have been affected adversely by this declared major disaster.

For Individual Assistance, the Counties of:

Alameda	San Mateo
Colusa	Santa Barbara
Los Angeles	Santa Clara
Marin	Santa Cruz
Orange	Sonoma
San Diego	Ventura

and the adjacent Counties of:

Contra Costa	San Benito
Lake	San Luis Obispo
Mendocino	

(Catalog of Federal Domestic Assistance No. 83-516, Disaster Assistance.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 83-4432 Filed 2-22-83; 8:45 am]

BILLING CODE 6718-22-M

[FEMA-677-DR]

California; Amendment to Notice of Major-Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of California (FEMA-677-DR) dated February 9, 1983, and related determinations.

DATED: February 11, 1983.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0501.

Notice

The notice of a major disaster for the State of California dated February 9, 1983, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of February 9, 1983:

For Public Assistance, the Counties of:

Colusa	Trinity
Los Angeles	San Mateo
Marin	Santa Barbara
Mendocino	Sana Cruz
Lake	Solano
Monterey	Sonoma
Orange	San Luis Obispo
San Benito	Ventura
San Diego	

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 83-4433 Filed 2-22-83; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-677-DR]

California; Amendment to Notice of Major-Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the Notice of a major disaster for the State of California (FEMA–677–DR), dated February 9, 1983, and related determinations.

DATED: February 14, 1983.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0501.

Notice

The Notice of a major disaster for the State of California dated February 9, 1983, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of February 9, 1983: Monterey County for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 83-4434 Filed 2-22-83; 8:45 am]

BILLING CODE 6718-02-M

[FEMA–675–DR]

Louisiana; Amendment to Notice of Major-Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Louisiana (FEMA–675–DR), dated January 11, 1983, and related determinations.

DATED: February 2, 1982.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0501.

Notice

The notice of a major disaster for the State of Louisiana dated January 11, 1983, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 11, 1983: Caldwell Parish for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 83-4435 Filed 2-22-83; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-224]

Alpine Federal Savings & Loan Association; Steamboat Springs, Colorado; Final Action; Approval of Conversion Applications

Notice is hereby given that on February 7, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Alpine Federal Savings and Loan Association, Steamboat Springs, Colorado, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agency of said Corporation at the Federal Home Loan Bank of Topeka, P.O. Box 176, Topeka, Kansas 66601.

Dated: February 17, 1983.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83-4506 Filed 2-22-83; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and may request a copy of each agreement and the supporting statement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in section 522.7 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: T–3957–2.

Title: Oakland/Neptune Orient Lines Agreement.

Parties: Port of Oakland (Port)/ Neptune Orient Lines, Ltd. (NOL).

Synopsis: Agreement No. T–3957–2 modifies the basic agreement between the parties, which provides for the preferential assignment by Port to NOL of certain marine terminal facilities in the Port's Outer Harbor Terminal Area. The purpose of the modification is to amend provisions of the agreement relating to secondary-use dockage charges, as well as annual through-put volume and/or vessel call amounts per contract year.

Filing agent: John E. Nolan, Assistant Port Attorney, Port of Oakland, P.O. Box 2064, 66 Jack London Square, Oakland, California 94604.

Agreement No.: T–4087.

Title: Los Angeles/Evergreen Permit.

Parties: City of Los Angeles (City)/ Evergreen Marine Corporation (Taiwan), Ltd. (Evergreen).

Synopsis: Agreement No. T–4087 provides for the assignment by City to Evergreen of 28 acres of terminal property and 1200 feet of wharf on the main channel at the Port of Los Angeles. As compensation, Evergreen will pay City a guaranteed annual minimum payment equal to the tariff charges on 400,000 revenue tons of cargo, after which City and Evergreen will share wharfage and dockage revenues equally. The term of the agreement is for ten years.

Filing party: Frank Wagner, Deputy City Attorney, Office of the City Attorney, Harbor Division, P.O. Box 151, San Pedro, California 90731.

Agreement No: T–4001.

Title: Galveston Wharves/Trans Freight Agreement.

Parties: Board of Trustees of the Galveston Wharves (Galveston)/Trans Freight lines, Inc. (Trans Freight).

Synopsis: Agreement No. T–4091 provided for the preferential assignment of berthing space by Galveston to Trans Freight at Galveston's East End Container Terminal. The agreement also provides for a wharfage sharing plan after the collection of wharfage on the first 200,000 short tons of cargo. The

term of the agreement is for three years with two one-year renewal options.

Filing party: Mr. Carl S. Parker, Jr., Board of Trustees of the Galveston Wharves, P.O Box 328, Galveston, Texas 77553.

Agreement No.: 5200–41.

Title: Pacific Coast European Conference.

Parties: Blue Star Line, Ltd., Compagnie Generale Maritime (French Line), D'Amico Societa de Navigazione Per Azioni, A/S Det Ostasiatiske Kompagni (The East Asiatic Co., Ltd.), Hapag-Lloyd AG, Intercontinental Transport (ICT) B.V., Italia Societa Per Azioni di Navigazione (Italian Line), Johnson Line AB, Scan-Pacific Line, Splosna Plovba (United Yugoslav Line), and Zim Israel Navigation Co., Ltd.

Synopsis: The basic agreement would be amended to expand the scope of the Conference authority to include intermodal service from inland U.S. points, in the states of Alaska, Washington, Oregon, California, Idaho, Wyoming, Montana, Nevada, Utah, Arizona, Colorado, and New Mexico, to destinations.

Filing agent: David C. Nolan, Esq., Graham & James, One Maritime Plaza, Third Floor, San Francisco, California 94111.

Agreement No. 10467.

Title: Latin American Common Carrier Charter Agreement.

Parties: Compania Sud Americana De Vapores; Delta Steamship Lines, Inc.; Lykes Bros. Steamship Co., Inc.; Compania Peruana De Vapores and Transportes Navieros Ecuatorianos.

Synopsis: To authorize the parties to charter space to each other on vessels operated by them on an as-needed-as-available basis.

Filing agent: Nathan J. Bayer, Esquire, Freehill, Hogan & Mahar, 80 Pine Street, New York , New York 10005.

By Order of the Federal Maritime Commission.

Dated: February 17, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 83-4472 Filed 2-22-83; 8:45 am]

BILLING CODE 6730-01-M

Section 15 Agreements; Cancellation

The Commission has inquired of the parties to a number of seemingly inactive agreements, previously approved under section 15 of the Shipping Act, 1916, asking if the agreements were inactive and should be cancelled. In compliance with the stated wishes of the parties to the agreements, the following agreements between the parties designated are cancelled effective February 14, 1983:

Agreement No.	Parties
9562	Lykes Lines, Deutsche Ost-Afrika/South African Lines Ltd.
9627	Farrell Lines, Meyer Line Inc.
9628	Delta Line, Booth Line.
9674	Mexican Line, Gulf-Puerto Rico Line.
9734	Farrell Lines, Hapag-Lloyd.
9861	South African Marine (Safmarine), Royal Interocean Lines.
9885	Safmarine, Paceria Maritime.
9886	Safmarine, Companhia Colonial de Navegacao.
9887	Safmarine, Empresa de Limpopo.
9888	Safmarine, Companhia Nacional de Navegacao.
9894	Safmarine, Durban Lines.
10091	Lykes Lines, American Export Lines.
10134	Farrell Lines, Green R. Line.
10260	Columbus Line, Associated Container Transportation (Australia) Ltd., Australia National Line, Farrell Lines, Refrigerated Express Lines (A/Asia) Pty. Ltd., Atlantraffik Express Service.
10315	Lykes Lines, Compagnie National Algerienne de Navigation.

By Order of the Federal Maritime Commission.

Dated: February 17, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 83-4462 Filed 2-22-83; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 83-9]

Prudential Lines, Inc. v. Farrell Lines, Inc.; Filing of Complaint and Assignment

Notice is given that a complaint filed by Prudential Lines, Inc. against Farrell Lines, Inc. was served February 9, 1983. Complainant alleges that respondent's filing of its Tariff FMC 136 and intended operations thereunder will be violative of sections 16, 17, and 18 of the Shipping Act, 1916.

This proceeding has been assigned to Administrative Law Judge William Beasley Harris. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,

Secretary.

[FR Doc. 83-4469 Filed 2-22-83; 8:45 am]

BILLING CODE 6730-01-M

Independent Ocean Freight Forwarder License Applicants; Furnam Shipping & Forwarding, Inc., et al.

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission application for licenses as independent ocean freight forwarders pursuant to section 44(a) of 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.

Furnam Shipping & Forwarding, Inc., 3433 Trembley Point Road, Linden, NJ 07306

Officers: Pieter van Vliet, President/Director, Richard A. Katz, Secretary/Director/Stockholder, L.B.M. Bracco Gartner, Director

Siamerican International, Inc., 57–10 Flushing Avenue, Maspeth, NY 11378

By the Federal Maritime Commission.

Dated: February 17, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 83-4471 Filed 2-22-83; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 1614]

Robert Nako Enterprises, Inc. d.b.a. Yamko Truck Lines; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Robert Nako Enterprises Inc. d.b.a. Yamko Truck Lines, P.O. Box 716, Montebello, CA 90640 was cancelled effective February 3, 1983.

By letter dated January 13, 1983, Robert Nako Enterprises, Inc. d/b/a Yamko Truck Lines was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1614 would be automatically revoked unless a valid surety bond was filed with the Commission.

Robert Nako Enterprises, Inc. d.b.a. Yamko Truck Lines has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), section 10.01(f) dated November 12, 1981:

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 1614 be and is hereby revoked effective February 3, 1983.

It is ordered, that Independent Ocean Freight Forwarder License No. 1614 issued to Robert Nako Enterprises, Inc. d.b.a. Yamko Truck Lines be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the Federal Register and served upon Robert Nako Enterprises, Inc. d.b.a. Yamko Truck Lines.

Albert J. Klingel, Jr.,

Director, Bureau of Certification, Licensing.

[FR Doc. 83-4470 Filed 2-22-83; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Filing of Annual Reports of Federal Advisory Committees

Notice is hereby given that pursuant to section 13 of Pub. L. 92-463, the Annual Reports for the following Office of the Assistant Secretary for Health Federal Advisory Committees have been filed with the Library of Congress:

Health Services Research and Developmental Grants Review Committee
Health Care Technology Study Section

Copies are available to the public for inspection at the Library of Congress, Special Forms Reading Room, Main Building, or weekdays between 9:00 a.m. and 4:30 p.m. at the Department of Health and Human Services, Department Library, North Building, Room 1436, 330 Independence Avenue, SW., Washington, D.C. 20201, Telephone (202) 245-6791. Copies may be obtained from Mr. Hoke S. Glover, National Center for Health Services Research, Room 1-52, Park Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-3091.

Dated: February 10, 1983.

John E. Marshall,

Director, National Center for Health Services Research.

[FR Doc. 83-4510 Filed 2-22-83; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Final Determination for Federal Acknowledgement of Narragansett Indian Tribe of Rhode Island

Correction

In FR Doc. 83-3560 beginning on page 6177 in the issue for Thursday, February 10, 1983, the following correction should be made on page 6178: In the middle column, the seventeenth line from the bottom, the word "more" should have read "most".

BILLING CODE 1505-01-M

Bureau of Land Management

[INT DEIS 82-80]

Arizona Strip Wilderness Study Areas; Draft Environmental Impact Statement

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Extension of Comment Period of Draft Environmental Impact Statement (draft EIS).

SUMMARY: In response to public requests BLM has granted a 30-day extension for receiving public comments on the Draft EIS, published at 48 FR 744, January 6, 1983. The closing date of March 7, 1983 is changed to April 6, 1983.

FOR FURTHER INFORMATION CONTACT: G. William Lamb, Arizona Strip District Manager, 196 East Tabernacle, P.O. Box 250, St. George, Utah 84770, Telephone (801) 673-3545.

Julian L. Anderson,

Acting District Manager, Arizona Strip District.

[FR Doc. 83-4486 Filed 2-22-83; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

United States World Heritage Nomination; Calendar Year 1983

AGENCY: National Park Service, Interior.

ACTION: Public Notice and Request for Comment.

SUMMARY: The Department of the Interior, through the National Park Service, announces the process that will be used in calendar 1983 to identify possible U.S. nominations to the World Heritage List. This notice lists the properties that are included in the inventory of potential future U.S. World Heritage nominations, and solicits public comments and suggestions on properties that should be considered as potential U.S. World Heritage nominations this year. This notice identifies the requirements that U.S. properties must satisfy to be considered for nomination, and references the rules that the Department of the Interior has adopted to implement the World Heritage Convention. In addition, this notice contains the criteria which cultural or natural properties must satisfy for World Heritage status, and the 112 properties inscribed on the World Heritage List as of December 13, 1982.

DATE: Comments or suggestions of cultural or natural properties as potential 1983 U.S. World Heritage nominations must be received within 60 days of this notice. Comments should pertain to the merits of properties included on the draft inventory or others which the respondent believes should be considered for nomination to the World Heritage List in 1983. Comments should also specify how the recommended property satisfies one or more of the World Heritage criteria. The Department will decide the issue of nominations for this year and will publish the decision in the Federal Register on or before April 15, 1983, with a request for further public comment in the event that potential nominations are identified for 1983. Comments on potential U.S. nominations which may be listed must be received within 30 days of the April notice. In the event that nominations are favorably identified and received, the Department of Interior will publish in the Federal Register a final list of proposed 1983 U.S. World Heritage nominations on or before July 1, 1983. A detailed nomination document will be prepared for each such proposed nomination. In November 1983, the Federal Interagency Panel for World Heritage will review the accuracy and completeness of draft 1983 U.S. nominations, and will make recommendations to the Department of the Interior. The Assistant Secretary for Fish and Wildlife and Parks will subsequently transmit approved nomination(s) on behalf of the United States to the United Nations Educational, Scientific, and Cultural Organization, though the Department of State, by December 15, 1983, for evaluation by the World Heritage Committee in a process that could lead to inscription on the World Heritage List by fall 1984.

ADDRESS: Written comments or recommendations should be sent to the Director, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240. Attention: World Heritage Convention-773.

FOR FURTHER INFORMATION CONTACT: Mr. Robert A. Ritsch, Associate Director, Recreation Resources, National Park Service, U.S. Department of the Interior, Washington, D.C. 20204 (202/343-4462).

SUPPLEMENTARY INFORMATION: The Convention Concerning the Protection of the World Cultural and Natural Heritage, ratified by the United States and 68 other countries, has established a system of international cooperation through which cultural and natural properties of outstanding universal value to mankind may be recognized and protected. The Convention seeks to put into place an orderly approach for coordinated and consistent heritage resource protection and enhancement throughout the world. The Convention complements each participating nation's heritage conservation programs, and provides for:

(a) The establishment of an elected 21-member World Heritage Committee assisted by UNESCO to further the goals of the Convention and to approve properties for inclusion on the World Heritage List;

(b) The development and maintenance of a World Heritage List to be comprised of natural and cultural properties of outstanding universal value;

(c) The preparation of a List of World Heritage in Danger;

(d) The establishment of a World Heritage Fund to assist participating countries in identifying, preserving, and protecting World Heritage properties;

(e) The provision of technical assistance to participating countries, upon request; and

(f) The promotion and enhancement of public knowledge and understanding of the importance of heritage conservation at the international level.

Participating nations identify and nominate their sites for inclusion on the World Heritage List. The World Heritage Committee judges all nominations against estalished criteria. Under the Convention, each participating nation assumes responsibility for taking appropriate legal, scientific, technical, administrative, and financial measures necessary for the identification, protection, conservation, and rehabilitation of World Heritage properties situated within its borders.

In the United States, the Department of the Interior is responsible for directing and coordinating U.S. participation in the World Heritage Convention. The Department implements its responsibilities under the Convintion in accordance with the statutory mandate contained in Title IV of the National Historic Preservation Act Amendments of 1980 (Pub. L. 96-515; 16 U.S.C. 470a-1, a-2). On may 27, 1982, the Interior Department published in the **Federal Register** the policies and procedures which will be used to carry out this legislative mandate (47 FR 23392). The rules contain additional information on the Convention and its implementation in the United States, and identify the specific requirements that U.S. properties must satisfy before they can be nominated for World Heritage status, i.e., the property must have previously been determined to be of national significance, its owner must concur in writing to its nomination, and its nomination must include evidence of such legal protections as may be necessary to ensure preservation of the property and its environment.

The Federal Interagency Panel for World Heritage assists the Department in implementing the Convention by making recommendations on U.S. World Heritage policy, procedures, and nominations. The Panel is chaired by the Assistant Secretary for Fish and Wildlife and Parks, and includes representatives from the Office of the Assistant Secretary for Fish and Wildlife and Parks, the National Park Service, and the U.S. Fish and Wildlife Service within the Department of the Interior; the President's Council on Environmental Quality; the Smithsonian Institution; the Advisory Council on Historic Preservation; National Oceanic and Atmospheric Administration, Department of Commerce; and the Department of State.

I. Potential U.S. World Heritage Nominations

The Department encourages any agency, organization, or individual to submit written comments on how one or more properties on the U.S. World Heritage indicative inventory which follows, or other qualified property, relates to and satisfies one or more of the World Heritage criteria (Section II of this notice). In order for a United States property to be considered for nomination to the World Heritage List, it must satisfy the requirements set forth earlier, i.e., (a) it must have previously been determined to be of national significance, (b) its owner must concur in writing to such nomination, and (c) its nomination document must include evidence of such legal protections as may be necessary to preserve the property and its environment. Information provided by interested parties will be used in evaluating the World Heritage potential of a particular cultural or natural property.

The following properties were published in the **Federal Register** on May 6, 1982, as the inventory of potential future U.S. World Heritage nominations (47 FR 19648). The inventory discusses briefly the significance of each site, and identifies the specific World Heritage criteria that the sites appear to satisfy. The properties included on the inventory are as follows:

Natural

Acadia National Park, Maine
Aleutian Islands Unit of the Alaska Maritime National Wildlife Refuge, Alaska
Arches National Park, Utah
Arctic National Wildlife Refuge, Alaska
Big Bend National Park, Texas
Bryce Canyon National Park, Utah
Canyonlands National Park, Utah
Capitol Reef National Park, Utah
Carlsbad Caverns National Park, New Mexico
Colorado National Monument, Colorado
Crater Lake National Park, Oregon
Death Valley National Monument, California
Denali National Park, Alaska
Gates of the Arctic National Park, Alaska
Glacier Bay National Park, Alaska
Glacier National Park, Montana
Grand Teton National Park, Wyoming
Great Smoky Mountains National Park, Tennessee–North Carolina
Guadalupe Mountains National Park, Texas
Hawaii Volcanoes National Park, Hawaii
Joshau Tree National Mounment, California
Katmai National Park, Alaska
Mount Rainier National Park, Washington
North Cascades National Park, Washington
Okefenokee National Wildlife Refuge, Georgia–Florida
Organ Pipe Cactus National Mounment/ Cabeza Prieta National Wildlife Range, Arizona
Point Reyes National Seashore, California
Rainbow Bridge National Mounment, Utah
Rocky Mountain National Park, Colorado
Saguaro National Monument, Arizona
Sequoia/Kings Canyon National Parks, California
Virginia Coast reserve, Virginia
Yosemite National Park, California
Zion National Park, Utah

Cultural

Aleutian Islands Unit of the Alaska Maritme National Wildlife Refuge (Fur Seal Rookeries), Alaska
Auditorium Building, Illinois-Chicago
Bell Telephone Laboratories, New York-New York City
Brooklyn Bridge, Brooklyn, New York
Cape Krusenstern Archaeological District, Kotzebue, Alaska
Carson, Pirie, Scott and Company Store, Chicago, Illinois
Casa Grande National Monument, Coolidge, Arizona
Chaco Culture National Historical Park, New Mexico
Chapel Hall, Gallaudet College, District of Columbia

Eads Bridge, Illinois-Missouri
Fallingwater, Mill Run, Pennsylvania
Frank Lloyd Wright Home and Studio, Oak Park, Illinois
General Electric Research Laboratory, Schenectady, New York
Goddard Rocket Launching Site, Auburn, Massaschusetts
Hohokam Pima National Monument, Arizona
Leiter II Building, Chicago, Illinois
Lindenmeier Site, Colorado
Lowell Observatory, Flagstaff, Arizona
Marquette Building, Chicago, Illinois
McCormick Farm and Workshop, Walnut Grove, Virginia
Monticello, Charlottesville, Virginia
Mound City Group National Monument, Ohio
Moundville Site, Alabama
New Harmony Historic District, New Harmony, Indiana
Ocmulgee National Monument, New Mexico
Poverty Point, Bayou Macon, Louisianna
Prudential (Guaranty) Building, Buffalo, New York
Pupin Physics Laboratories, Columbia University, New York
Reliance Building, Chicago, Illinois
Robie House, Chicago, Illinois
Rookery Building, Chicago, Illinios
San Xavier Del Bac, Tucson, Arizona
Savannah Historic District
South Dearborn Street-Printing House Row North Historic District, Chicago, Illinois
Statue of Liberty National Monument, New Jersey–New York
Taliesin, Spring Green, Wisconsin
Taos Pueblo, Taos, New Mexico
Trinity Site, Bingham, New Mexico
Unity Temple, Oak Park, Illinois
University of Virginia Historic District, Charlottesville, Virginia
Ventana Cave, Arizona
Wainwright Building, St. Louis, Missouri
Warm Springs Historic District, Georgia
Washington Monument, District of Columbia

Additional information on each of the properties listed above may be found in the May 6, 1982, **Federal Register** notice (47 FR 19648), which includes a description of the properties on the U.S. World Heritage inventory. This notice is available from the National Park Service (see addresses). Written comments are welcome on these and other qualified properties.

II. World Heritage Criteria

The following criteria are used by the World Heritage Committee in evaluating the World Heritage potential of cultural and natural properties nominated to it:

A. Criteria for the Inclusion of Cultural Properties on the World Heritage List

(1) A monument, group of buildings or site which is nominated for inclusion on the World Heritage List will be considered to be of outstanding universal value for the purposes of the Convention when the Committee finds that it meets one or more of the following criteria *and* the test of authenticity. Each property nominated should therefore:

(i) Represent a unique artistic achievement, a masterpiece of the creative genius; or

(ii) Have exerted great influence, over a span of time or within a cultural area of the world, on developments in architecture, monumental arts or townplanning and landscaping; or

(iii) Bear a unique or at least exceptional testimony to a civilization which has disappeared; or

(iv) Be an outstanding example of a type of structure which illustrates a significant stage in history; or

(v) Be an outstanding example of a traditional human settlement which is representative of a culture and which has become vulnerable under the impact of irreversible change; or

(vi) Be directly or tangibly associated with events or with ideas or beliefs of outstanding universal significance. (The Committee considered that this criterion should justify inclusion in the List only in exceptional circumstances or in coonjuntion with other criteria); and In addition, the property must meet the test of authenticity in design, materials, workmanship, or setting.

(2) The following additional factors will be kept in mind by the Committee in deciding on the eligibility of a cultural property for inclusion on the List:

(i) The state of preservation of the property should be evaluated relatively, that is, it should be compared with that of other property of the same type dating from the same period, both inside and outside the country's borders; and

(ii) Nominations of immovable property which is likely to become movable will not be considered.

(B) Critereia for the Inclusion of Natural Properties on the World Heritage List

(1) A natural heritage property which is submitted for inclusion in the World Heritage List will be considered to be of outstanding universal value for the purposes of the Convention when the Committee finds that it meets one or more of the following criteria and fulfills the conditions of integrity set out below. Properties nominated should therefore:

(i) Be outstanding examples representing *the major stages of the earth's evolutionary history.* This category would include sites which represent the major "eras" of geological history such as "the age of reptiles" where the development of the planet's natural diversity can well be demonstrated and such as the "ice age" where early man and his environment underwent major changes; or

(ii) Be outstanding example representing *significant ongoing geological processes, biological evolution, and man's interaction with his natural environment;* as distinct from the periods of the Earth's development, this focuses upon ongoing processes in the development of communities, of plants and animals, landforms, and marine and fresh watere bodies; or

(iii) *Contain superlative natural phenomena, formations or features or areas of exceptional natural beauty,* such as superlative examples of the most important ecosystems, natural features, spectacles presented by great concentrations of animals, sweeping vistas covered by natural vegetation and exceptional combinations of natural and cultural elements; or

(iv) *Contain the foremost natural habitats where threatened species of animals or plants of outstanding universal value* from the point of view of science or conservation still survive.

(2) In addition to the above criteria, the sites should also fulfill the conditions of integrity:

(i) The areas described in (i) above should contain all or most of the key interrelated and interdependent elements in their natural relationships; for example, an "ice age" area would be expected to include the snow field, the glacier itself, and samples of cutting patterns, deposition, and colonization (striations, moraines, pioneer stages of plant succession, etc.).

(ii) The areas described in (ii) above should have sufficient size and contain the necessary elements to demonstrate the key aspects of the process and to be self-perpetuating. For example, an area of "tropical rain forest" may be expected to include some variation in elevation above sea level, changes in topography and soil types, river banks or oxbow lakes, to demonstrate the diversity and complexity of the system.

(iii) The areas described in (iii) above should contain those ecosystem components required for the continuity of the species or of the objects to be conserved. This will vary according to individual cases; for example, the protected area of a waterfall would include all, or as much as possible, of the supporting upstream watershed; or a coral reef area would be provided with control over siltation or pollution through the stream flow or ocean currents which provide its nutrients.

(iv) The area containing threatened species as described in (iv) above should be of sufficient size and contain necessary habitat requirements for the

survival of the species.

(v) In the case of migratory species, seasonal sites necessary for their survival, wherever they are located, should be adequately protected. If such sites are located in other countries, the Committee must receive assurances that the necessary measures be taken to ensure that the species are adequately protected throughout their life cycle. Agreements made in this connection, either through adherence to international conventions or in the form of other multilateral or bilateral arrangements, would provide this assurance.

(3) The property should be evaluated relatively, that is, it should be compared with other properties of the same type, both inside and outside the country's borders, within a biogeographic province, or migratory pattern.

III. World Heritage List

As of December 13, 1982, the World Heritage Committee had approved the following 112 cultural and natural properties for inscription on the World Heritage List. The properties are arranged alphabetically by the country which nominated them:

Algeria: Al Qal'a of Ben Hammad;
Argentina: Los Glaciares;
Australia: Great Barrier Reef; Kakadu National Park; Willandra Lakes Region;
Brazil: Historic Town of Ouro Preto;
Bulgaria: Boyana Church; Madara Rider; Rock-hewn Churches of Ivanovo; Thracian Tomb of Kazanlak;
Canada: Anthony Island; Burgess Shale Site; Dinosaur Provincial Park; Head-Smashed-In Bison Jump; L'Anse aux Meadows; Nahanni National Park;
Cyprus: Paphos;
Ecuador: Galapagos National Park; Historic Center of Quito;
Ethiopia: Aksum; Fasil Ghebbi, Gondar Region; Lower Valley of the Awash; Lower Valley of the Omo; Rock-hewn Churches of Lalibela; Simien National Park; Tiya;
Egypt: Abu Mena; Ancient Thebes with its Necropolis; Islamic Cairo; Memphis and its Necropolis—the Pyramid Fields from Giza to Dahshur; Nubian Monuments from Abu Simbel to Philae;
Federal Republic of Germany: Aachen Cathedral; Speyer Cathedral; Wurzburg Residence with the Court Gardens and Residence Square;
France: Amiens Cathedral; Chartres Cathedral; Chateau and Estate of Chambord; Cistercian Abbey of Fontenay; Decorated Grottoes of the Vezere Valley; Mont St. Michel and its Bay; Palace and Park of Fontainebluea; Palace and Park of Versailles; Roman and Romanesque Monuments of Arles; The Roman Theatre and its Surroundings and the Triumphal Arch of Orange; Vezelay, Church and Hill;
Ghana: Ashante Traditional Buildings; Forts and Castles, Volta Greater Accra.
Guatemala: Antigua; Archeological Park and Ruins of Quirigua; Tikal National Park;
Guinea: Nimba Strict Nature Reserve;
Honduras: Maya Site of Copan;
Iran: Meidan-e Sha, Esfahan; Persepolis; Tchogha Zanbil;
Italy: Church and Dominican Convent of Santa Maria delle Grazie with "The Last Supper" by Leonardo da Vinci; Historic Centre of Rome; Rock Drawings in Valcamonia;
Malta: City of Valetta; Ggantija Temples; Hal Saflieni Hypogeum;
Morocco: Medina of Fez;
Nepal: Kathmandu Valley; Sagarmatha National Park;
Norway: Bryggen; Roros; Urnes Stave Church;
Pakistan: Archeological Ruins at Mohenjodaro; Buddhist Ruins at Takht-i-Bahi and Neighboring City Remains at Sahr-i-Bahlol; Fort and Shalimar Gardens at Lahore; Thatta; Taxila;
Panama: Darien National Park; Fortifications on the Caribbean Side of Panama—Portobelo San Lorenzo;
Poland: Auschwitz Concentration Camp; Bialowieza National Park; Historic Centre of Cracow; Historic Centre of Warsaw; Wieliczka Salt Mines;
Senegal: Djoudj National Bird Sanctuary; Island of Goree; Niokolo-Koba National Park;
Syrian Arab Republic: Ancient City of Bosra; Ancient City of Damascus; Site of Palmyra;
Tanzania: Ngorongoro Conservation Area; Ruins of Kilwa Kisiwani and Ruins of Songa Mnara; Serengeti National Park;
Tunisia: Ampitheatre of El Djem; Archeological Site of Carthage; Ichkeul National Park; Medina of Tunis;
United States of America: Everglades National Park, Grant Canyon National Park; Independence Hall; Mammoth Cave National Park; Mesa Verde National Park; Olympic National Park; Redwood National Park; Yellowstone National Park;
Yugoslavia: Durmitor National Park; Historical Complex of Split with the Palace of Diocletian; Natural and Cultural-Historical Region of Kotor; Ohrid Region with its Cultural and Historical Aspects and its Natural Environment; Old City of Dubrovnik; Plitvice Lakes National Park; Stari Ras and Sopocani;
Zaire: Garamba National Park; Kahuzi-Biega National Park; Virunga National Park;
International:
Canada/U.S.: Kluane National Park-Wrangell/St. Elias National Park, Old City of Jerusalem and Its Walls (Territory in dispute).

Dated: January 31, 1983.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-4436 Filed 2-22-83; 8:45 am]
BILLING CODE 4310-70-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Housing Guaranty Program; Investment Opportunity

The Agency for International Development (A.I.D.) has authorized loan guaranties to the Republic of the Ivory Coast ("Borrower"), in the amount of up to twenty million dollars ($20,000,000), as part of A.I.D.'s development assistance program. The proceeds of the loans will be used to finance shelter projects for low income families residing in the Ivory Coast.

The Borrower is interested in entering into an agreement to borrow the $20,000,000 in two disbursements of approximately $12,000,000 and $8,000,000. By this notice of investment opportunity the Borrower is soliciting expressions of interest from U.S. lenders or investment bankers to (a) arrange financing for the first disbursement of $12,000,000 at a fixed interest rate for thirty (30) years with a ten (10) year grace period on principal repayment and (f) to discuss, in the context of one loan agreement for the total $20,000,000, the optimum way to stucture the second disbursement borrowing of $8,000,000 prior to June 1985. A Representative of the Government of the Ivory Coast will be in New York during the period of March 7–9, 1983 to discuss and review these matters and intends to select an investor by overnight auction at the conclusion of these discussions in accordance with A.I.D. procedures. Interested U.S. lenders or investment bankers should contact the following individuals to establish meetings with the representative:

Prior to March 4, 1983 contact: Mr. N'Golo Coulibaly, Directeur de la Dette Publique, Caisse Autonome D'Amortissement, BP 670, Abidjan, Ivory Coast, Telephone number: 32–06–11, Telex Number: 3798–CAMORC I.

After March 4, 1983 contact: Mr. Daouda Tanon, Ivory Coast Development Office, 521 Fifth Avenue, New York, N.Y. 1007, Telephone Number: 212–355–6975, Telex Number: 620928—Answer back Ivory C.

Selection of investment bankers and/or lenders and the terms of the loans are initially subject to the individual discretion of the Borrower and thereafter subject to approval by A.I.D. The lenders and A.I.D. shall enter into a Contract of Guaranty covering the loans. Disbursements under the loans will be subject to certain conditions required of the Borrower by A.I.D. as set forth in an

implementation agreement between A.I.D. and the Borrower.

The full repayment of the loans will be guaranteed by A.I.D. The A.I.D. guaranty will be backed by the full faith and credit of the United States of America and will be issued pursuant to the authority of Section 222 of the Foreign Assistance Act of 1961, as amended (the "Act").

Lenders eligible to receive an A.I.D. guaranty are those specified in Section 238(c) of the Act. They are: (a) U.S. citizens; (2) domestic U.S. corporations, partnerships, or associations substantially beneficially owned by U.S. citizens; (3) foreign corporations whose share capital is at least 95 percent owned by U.S. citizens; and (4) foreign partnerships or associations wholly owned by U.S.citizens.

To be eligible for an A.I.D. guaranty, the loans must be repayable in full no later than the thirtieth anniversary of the disbursement of the principal amount thereof and the interest rates may be no higher than the maximum rate established by A.I.D.

Information as to the eligibility of investors and other aspects of the A.I.D. Housing Guaranty program can be obtained from: Director, Office of Housing and Urban Programs, Agency for International Development, Room 625, SA–12, Washington, D.C. 20523, Telephone: (202) 632–9637.

Dated: February 15, 1983.

John T. Howley,

Deputy Director, Office of Housing and Urban Programs.

[FR Doc. 83-4427 Filed 2-22-83; 8:45 am]

BILLING CODE 4710-02-M

INTERSTATE COMMERCE COMMISSION

Forms Under Review by Office of Management and Budget

The following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) is being submitted to the Office of Management and Budget for review and approval. Copies of the forms and supporting documents may be obtained from the Agency Clearance Officer, Lee Campbell, (202) 275–7236. Comments regarding this information collection should be addressed to Lee Campbell, Interstate Commerce Commission, Room 1325, 12th and Constitution Ave., NW., Washington, DC 20423 and to Gary Waxman, Office of Management and Budget, Room 3001 NEOB, Washington, DC 20503, (202) 395–7313.

Type of Clearance: Extension
Bureau/Office: Bureau of Accounts
Title of Form: Quarterly Report of Revenues, Expenses and Income
OMB Form No.: 3120–0027
Agency Form No.: RE and I
Frequency: Quarterly
Respondents: Class I Railroads
No. of Respondents: 35
Total Burden Hrs.: 840

Type of Clearance: New
Bureau/Office: Bureau of Accounts
Title of Form: Classification Index Survey Form for Railroad Companies that do not file an Annual Report with the ICC
OMB Form No.: 3120–0077
Agency Form No.: RCS
Frequency: The form will be filed only when there is a change in classification
Respondents: All Railroads except Class I
No. of Respondents: 500
Total Burden Hrs.: 125

Type of Clearance: Extension
Bureau/Office: Bureau of Accounts
Title of Form: Annual Report for Class I Railroads and Holding Companies
OMB Form No.: 3120–0029
Agency Form No.: R–1
Frequency: Annually
Respondents: Class I Railroads
No. of Respondents: 44
Total Burden Hrs.: 46,860

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-4450 Filed 2-22-83; 8:45 am]

BILLING CODE 7035-01-M

Agricultural Cooperative; Notice to the Commission of Intent To Perform Interstate Transportation for Certain Nonmembers

Dated: February 17, 1983.

The following Notices were filed in accordance with section 10526(a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change.

The name and address of the agricultural cooperative (1) and (2), the location of the records (3), and the name and address of the person to whom inquiries and correspondence should be addressed (4), are published here for interested persons. Submission of information which could have bearing upon the propriety of a filing should be directed to the Commission's Office of Compliance and Consumer Assistance, Washington, D.C. 20423. The Notices are in a central file, and can be examined at ther Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

(1) California Canners and Growers.

(2) 3100 Ferry Bldg., San Francisco, CA 94106.

(3) 2150 East Fremont St., Stockton, CA 95205.

(4) Michael Scott, 2150 E. Fremont St., Stockton, CA 95205.

(1) Mid-State Farm Lines.

(2) P.O. Box 1767, 824 South Combee, Eaton Park, FL 33840.

(3) 824 South Combee, Eaton Park, FL 33840.

(4) Richard Cobb, P.O. Box 1652, Lakeland, FL 33802.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-4454 Filed 2-22-83; 8:45 am]

BILLING CODE 7035-01-M

[Volume OPI–62]

Motor Carriers; Finance Applications; Decision-Notice

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by 49 CFR 1182.1 of the Commission's Rules of Practice. See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the Federal Register. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1182.2. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and

payment to applicant of $10.00, in accordance with 49 CFR 1182.2 (d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decison is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: February 10, 1983.

By the Commission, Review Board No. 2, Members Carlton, Williams and Ewing.

Agatha L. Mergenovich,

Secretary.

Note—Please direct status inquiries to Team 1, (202) 275-7992.

MC-F-15023, filed February 10, 1983. ROBERT P. SACK (Sack) (445 W. Marie Ave., West St. Paul, MN 55118)—CONTINUANCE IN CONTROL—NORTH STAR TRANSPORT, INC. (North Star) (Route No. 1, Thief River Falls, MN 56701) and UNITED STATES BUS TOURS, INC. (U.S. Bus) (445 W. Marie Ave., West St. Paul, MN 55118). Representative: Robert P. Sack, 445 W. Marie Ave., West St. Paul, MN 44118. Sack seeks to continue in control of North Star and U.S. Bus upon the institution by U.S. Bus of operations, in interstate or foreign commerce, as a motor common carrier of passengers. North Star, a motor common carrier of property, operates pursuant to certificates issued in No. MC-135231 and sub-numbers thereunder. U.S. Bus, by decision of Review Board Number 2 in No. MC-159491, served March 25, 1982, was granted motor common carrier authority to transport (1) passengers and their baggage, in the same vehicle with passengers, and (2) baggage of passengers, in separate vehicles, in charter or special operations, between points in Scott, Carver, Washington, Dakota, Anoka, Hennepin, and Ramsey Counties, MN, on the one hand, and, on the other, points in the United States, conditioned on the filing of an application for approval by the person or persons who appear to be engaged in common control of applicant and another carrier or the submission of an affidavit indicating why such approval is unnecessary.

Note.—U.S. Bus is cautioned not to begin operations in No. MC-159491 until common control has been approved.

[FR Doc. 83-4455 Filed 2-22-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Finance Applications; Decision-Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

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.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

Agatha L. Mergenovich,

Secretary.

For status, please call Team 1 at 202-275-7992.

Volume No. OP1-FC-61

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC-FC-81030. By decision of February 10, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 3 approved the transfer to CLIFTON MOVING & STORAGE, INC., Decatur, IL, of Certificate No. MC-5881 and Sub Nos. 2 and 3 issued August 23, 1965, May 1, 1981, and October 9, 1981, respectively, to UNDERFANGER MOVING & STORAGE, INC., Springfield, IL, authorizing the transportation of household goods and used household goods, over irregular routes, (1) between points in IL, MO, IN, IA, WI, and KY, and (2) between points in IL, MO, IN, IA, WI, and KY, on the one hand, and, on the other, points in CO, ND, SD, NE, KS, OK, TX, MN, IA, MO, AR, LA, WI, IL, MS, AL, TN, KY, IN, MI, OH, WV, VA, NC, SC, GA, FL, MA, RI, CT, NY, NJ, PA, DE, MD and DC. Representative: Leslieann G. Maxey, 907 South Fourth St., Springfield, IL 62703. (217) 529-8476.

For status, please call Team 3 at 202-275-5223.

Volume No. OP3-MCFC-59

Decided: February 8, 1983.

By the Commission, Review Board No. 2, Members Carleton, Ewing, and Williams.

MC-FC-81110. By decision of February 8, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 2 approved the transfer to DORAN BROTHERS WORLD-WIDE MOVING, INC., Portchester, NY, of Certificate No. MC-108914 Subs 2 and 4, issued May 6, 1974,

and August 5, 1974, respectively, to RUGBY VANS, INC., Brooklyn, NY, authorizing the transportation of (1) *household goods*, between Hartford, elmwood, East Hartford, West Hartford, and Wethersfield, CT, on the one hand, and, on the other, points in MA, NJ, and NY, restricted against services between Hartford, Elmwood, East Hartford, West Hartford, and Wethersfield, CT, on the one hand, and, on the other, points in the New York, NY Commercial Zone as defined by the Commission, and (2) *household goods*, between New York, NY, on the one hand, and, on the other, points in NY, CT, NJ, and PA. Representative: William J. O'Hara, 598 Madison Avenue, New York, NY 10022.

For the following, please direct status calls to Team 5 at 202-275-7289.

Volume No. OP5-FC-61

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC-FC-81135. By Decision of February 3, 1983 issued under 49 U.S.C. 10962 and the transfer rules at 49 CFR 1181, Review Board Number 3 approved the transfer to ARCHER-DANIELS-MIDLAND-COMPANY, of Decatur, IL, of Certificate No. MC-116328, issued October 5, 1978, to CROSS & MURRAY, INC., of Minneapolis, MN, authorizing over irregular routes, the transportation of edible corn syrup, liquid sugar, and blends thereof, in bulk, in tank vehicles, from named points in MN to points in MN, points in that part of ND on and east of US Hwy 281, and those in that part of WI north of US Hwy 16 and west of US Hwy 51, including points on the indicated portions of the highways specified, and Mason City, IA. An application of temporary authority has not been filed. Representative: Denise M. O'Brien, 888 Sixteenth Street, N.W., Washington, DC 20006, (202) 835-8095.

Volume No. OP5-FC-62

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC-FC-81119. By decision of February 3, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 3 approved the transfer to COAST TO COAST TRUCKING, INC., Mt. Royal, NJ of Certificate No. MC-154009 Sub 1 issued December 3, 1982, to EAST COAST CONSOLIDATORS, INC., Paulsboro, NJ, authorizing the transportation of *general commodities* (except commodities in bulk, classes A and B explosives, and household goods as defined by the Commission), between points in the U.S. (except AK and HI). Transferee is not a carrier. An application for temporary authority has been filed. Representative: Thomas F. X. Foley, P.O. Box F, Colts Neck, NJ 07722.

Volume No. OP5-FC-63

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC-FC-81186. By decision of February 8, 1983 issued under 49 U.S.C. 10926, and the transfer rules of 49 CFR Part 1181, Review Board Number 1 approved the transfer to DLM TRANSPORTATION, INC., of Des Moines, IA, of the operating rights of KSS TRANSPORTATION CORP., of North Brunswick, NJ, set forth in Certificate Nos. MC-145468 Sub 17, issued August 15, 1980, and MC-145468 Sub 27, issued March 20, 1981, authorizing the transportation of (1) meats, meat products, meat byproducts, and articles distributed by meat packinghouses as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 anf 766, from Tama, IA, to points in CT, DE, KY, ME, MD, MA, NH, NJ, NY, NC, PA, RI, SC, TN, VT, VA, WV and DC, restricted to traffic originating at the facilities of Tama Meat Packing Corp., of Tama, IA, and destined to the indicated destinations, and (2) meats, meat products, meat byproducts, and articles distributed by meat packinghouses, and such commodities as are used by meat packers in the conduct of their business when destined to and for use by meat packers as described in Sections A, C, and D of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk and hides), between the facilities of Armour and Company at Mason City, IA, and the facilities of Lauridsen Foods, Inc., at or near Britt, IA, on the one hand, and, on the other, points in the U.S. in and east of MT, CO, WY, and NM, restricted to traffic originating at and destined to points in the above-described territory, and No. MC-145468 (Sub No. 46X) issued July 8, 1981, and its underlying authority set forth in Certificate No. MC-145468 Sub 13F issued November 6, 1980, authorizing the transportation of food and related products, between Chicago, IL, on the one hand, and, on the other, points in the U.S. An application for temporary authority has been filed. Representative: Arlyn L. Westergren, Suite 201, 9202 West Dodge Road, Omaha, NE 68114.

[FR Doc. 83-4456 Filed 2-22-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions

In the matter of; Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods).

The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon 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

Within the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated 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 applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Agatha L. Mergenovich,

Secretary.

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 Team Three at (202) 275–5223.

Volume No. OP 3–55

Decided: February 8, 1983.

By the Commission, Review Board No. 3. Members Krock, Joyce, and Dowell.

MC 675 (Sub-2), filed January 24, 1983. Applicant: A & M TRANSIT LINES, INC., 170 East Prospect Street, Alliance, OH 44601. Representative: Lewis S. Witherspoon, 2455 N. Star Rd., Columbus, OH 43221, 1 (614) 486–0448. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note. Applicant seeks to provide privately funded charter and special transportation.

MC 1255 (Sub-14), filed January 25, 1983. Applicant: MCGINN BUS COMPANY, INC., 31 Milk Street, Room 1111, Boston, MA 02109. Representative: Jeremy Kahn, Suite 733, Investment Bldg., 1511 K Street NW., Washington, DC 20005, (202) 783–3525. Transporting *passengers*, in charter and special operatings, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 83134 (Sub-2), filed January 27, 1983. Applicant: FITZGERALD BUS COMPANY, INC., 19 Birchwood Drive, Ansonia, CT 06401. Representative: George R. Blake, Jr., 36 Cedar Street, Ansonia, CT 06401, (203) 734–8162. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 95375 (Sub-1), filed January 28, 1983. Applicant: WEST POINT TOURS, INC., Terminal Bldg., Highland Falls, NY 10928. Representative: Arthur J. Piken, Queens Office Tower, 95–25 Queens Blvd., Rego Park, NY 11374, (212) 275–1000. Transporting *passengers*, in special and charter operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 123285 (Sub-16), filed January 18, 1983. Aplicant: CLETEX TRUCKING, INC., P.O. Box 812, Cleburne, TX 76031. Representative: Clayte Binion, 623 So. Henderson, 2nd Fl., Fort Worth, TX 76104, (817) 332–4415. (1) Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI) and (2) *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 144225 (Sub-6), filed January 28, 1983. Applicant: JADEEL TRUCKING, INC., 8333 W. McNab Rd., Tamarac, FL 33321. Representative: Raymond P. Keigher, 401 E. Jefferson St., Suite 102, Rockville, MD 20850, (301) 424–2420. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 158075 (Sub-1), filed January 31, 1983. Applicant: T & S BUS SERVICE, INC., 5009 Wheeler Rd., Oxon Hill, MD 20754. Representative: Brian L. Troiano, 918–16th St., NW., Washington, DC 20006, (202) 785–3700. Transporting *passengers*, in special and charter operations, between points in the U.S. (except AK and HI)

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165814, filed January 21, 1983. Applicant: O'DONNELL, LTD., 1004 29th St., Sioux City, IA 51104. Representative: Barbara June O'Donnell (same address as applicant), (712) 255–3127. (1) Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S., (2) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S., (3) *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except AK and HI) and (4) as a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 165844, filed January 21, 1983. Applicant: TRANSOCEANIC SHIPPING COMPANY, INC., 2190 North Loop West, Suite 401, Houston, TX 77018. Representative: Erwin B. Melzer (same address as applicant), (713) 681–6885. As a broker of *general commodities* (except household goods), between points in the U.S.

MC 165854, filed January 20, 1983. Applicant: CCCA, INC., P.O. Box 26; Union St., Union City, GA 30291. Representative: R. J. Hall (same address as applicant), (404) 964–0491. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 165874, filed January 24, 1983. Applicant: ADRAN COMPANY, Rt. No. 1, Box 86, Dayton, WA 99328. Representative: James F. Korsberg (same address as applicant), (509) 382–2422. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of motor vehicle in such vehicle, between points in the U.S.

MC 165894, filed January 25, 1983. Applicant: BROKERAGE AND TRANSPORTATION SALES, INC., 9534 Williams, Rosemont, IL 60018. Representative: Irwin D. Rozner, 134 North LaSalle St., Chicago, IL 60602, (312) 782–6937. As a broker of *general commodities* (except household goods), between points in the U.S. (except HI).

MC 165935, filed January 27, 1983. Applicant: CHICAGO MESSENGER SERVICE, INC., 1600 S. Ashland Ave., Chicago, IL 60608. Representative: Forrest M. Tatel, 221 N. LaSalle St., Suite 3010, Chicago, IL 60601, (312) 782–2511. Transporting *shipments weighing 100 pounds or less*, if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 165994, filed January 31, 1983. Applicant: YELLOW BOLT EXPRESS, INC., 1604 S. Vineyard, Ontario, CA 91761. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakersfield, CA 93306, (805) 872–1106. Transporting *shipments weighing 100 pounds or less*, if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 165995, filed January 28, 1983. Applicant: OLYMPIC LIMOUSINE SERVICE, INC., 5505 Rt. 33 & 34, Farmingdale, NJ 07727. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425–13th St., NW., Washington, D.C. 20004, (202) 737–1030. Transporting *passengers*, in charter and special operation, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 166005, filed February 1, 1983. Applicant: NOEL E. LOVE, d.b.a. LOVE'S BRIDGEVIEW CHARTERS, 1234 Military West, Benicia, CA 94510. Representative: (Same as applicant), (707) 745–2078. Transporting *passenger*, in special and charter operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

For the following, please direct status calls to Team 4 at 202–275–7669.

Volume No. OP4–086

Decided: February 15, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 155337 (Sub-1), filed February 3, 1983. Applicant: KENNESAW TRANSPORTATION, INC., 115 Dixie Dr., Woodstock, GA 30188. Representative: Robert M. Hamilton (same address as applicant), (404) 928–0322. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except HI).

MC 155337 (Sub-2), filed February 3, 1983. Applicant: KENNESAW TRANSPORTATION, INC., 115 Dixie Dr., Woodstock, GA 30188. Representative: Robert M. Hamilton (same address as applicant), (404) 928–0322. As a *broker of general commodities* (except household goods), between points in the U.S. (except HI).

Volume No. OP4–088

Decided: February 15, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 70267 (Sub-28), filed January 27, 1983. Applicant: ECKERT TRUCKING, INC., P.O. Box 1682, York, PA 17405. Representative: David Zimmerman, P.O. Box 1564, York, PA 17405, (717) 854–3138. Transporting *general commodities* (except classes A and B explosives and household goods), between Nine Springs, McFarland, Stroughton, Edgerton, Lyons, Springfield, Elkhorn, Darien, Delavan, Porters, Hematite, Spread Eagle, Bear Creek, and Clintonville, WI, Robert Lee and Skellytown, TX, Ranger and Lewiston, NC, Mount Blanchard, Jenera, Pandora, Vaughnsville, Rimer, Rushmore, Oberlin, Pittsfield, and Edon, OH, Sodus, Eau Claire, Berrien Center, Dollar Bay, Houghton, Chassell, Keweenaw Bay, Baraga, L'Anse, Herman, Summit, Scott Lake, Pentoga, Naults, Stagger, Elmwood, Basswood, Beechwood, Iron River, Stambaugh, Palatka, Lyons, Sheridan, Vickeryville, and Butternut, MI, Cheraw and McClave, CO, Delight, Sheridan, and Belfast, AR, Holcomb, Frisbee, Whiteoak, Hopkins, and Pickering, MO, MacKay, Moore, Leslie, and Darlington, ID, Coalmont, TN, Kent, Bedford, Merle Jct., Lenox, Conway, and Clearfield, IA, Ithaca, Memphis, Prague, Malmo, Avoca, Cushing, Wolbach, Greeley, Elyria, and Burwell, NE, Mays, Sexton, New Lisbon, Milton, Wadesville, Oliver, Springfield, Solitude, Foraker, Benton, Topeka, Eddy, South Milford, Helmer, Hudson, and Hamilton, IN, Agar, Gorman, and Gettysburg, SD, Liverpool, Bryant, Maple Mills, Richmond, Moon, Fisher, Dewey, Tomlinson, and Prospect, IL, Parkdale, OR, Mineral Bluff, GA, Glenwood, Brantley, Dozier, Searight, Gnatt, and Heath, AL, Richton, Tucker, Blodgett, Panther Burn, and Anguilla, MS, Aloha, Carlisle, and Copalis Crossing, WA, Durupt and Clementsville, ND, and Tilford, KY, on the one hand, and, on the other, points in the U.S (except AK and HI). Condition: Issuance of a certificate in this proceeding is conditioned upon applicant certifying to the Commission, prior to commencing operations, that all rail service has actually terminated at specified points. The certification should be sent to the Deputy Director, Section of Operating Rights, Interstate Commerce Commission, Washington, DC 20423.

MC 100737 (Sub-3), filed February 8, 1983. Applicant: BRONX BUS CORPORATION, 188 Mountaindale Rd., Yonkers, NY 10710. Representative: Robert J. Sturtevant, (same address as applicant), (914) Sp9–1025. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 144016 (Sub-1), filed February 4, 1983. Applicant: WIDEMAN CHARTER SERVICE, 804 Burdine Rd., Anderson, SC 29624. Representative: Nathaniel Wideman, Sr. (same address as applicant), (803) 226–7427. Transporting *passengers*, in charter and special operations, beginning and ending at points in SC, GA (except Atlanta), and NC (except Raleigh and Charlotte), and extending to points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 149566 (Sub-15), filed February 8, 1983. Applicant: COMMONWEALTH COACH, INC., 88 Hicks Avenue, Medford, MA 02155. Representative: Elliott Bunce, 1600 Wilson Blvd., Suite 1301, Arlington, VA 22209, (703) 522–0900. Transporting *passengers*, in special and charter operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 153177 (Sub-1), filed February 7, 1983. Applicant: STEPHAN CORPORATION, d.b.a. SUBURBAN LINES, 196 Fountain St., Framingham, MA 01701. Representative: D. W. Stephan (same address as applicant), (617) 872–4255. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 166127, filed February 4, 1983. Applicant: BRIGHTON BUS SERVICE, INC., 626 Sheepshead Bay Rd., New York, NY 11224. Representative: Norman Turk, 225 Broadway, New York, NY 10007, (212) 619–1540. Transporting *passengers*, in charter and special operations, between New York, NY, on the one hand, and, on the other, points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 166136, filed February 8, 1983. Applicant: D.W.R. TRANSPORTATION,

INC., 52 Coulter Pine, Mentone, CA 92359. Representative: Robin Coleman, (same address as applicant), (714) 790–1987. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 166137, filed February 8, 1983. Applicant: EGOTRIPS, INC., 2022 Spruce St., Philadelphia, PA 19103. Representative: James W. Patterson, 1800 Penn Mutual Tower, 510 Walnut St., Philadelphia, PA 19106, (215) 925–6300. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 5 at 202–275–7289.

Volume No. OP5–65

Decided: February 9, 1983.

By the Commission, review Board No. 1, Members Parker, Chandler, and Fortier.

MC 112699 (Sub-5), filed February 1, 1983. Applicant: TRIANGLE TRANSPORTATION CO., INC., 1611 Central Ave., N.W., East Grand Forks, MN 56721. Representative: Thomas J. Van Osdel, 15 Broadway—Suite 502, Fargo, ND 58102, 701–235–4487. Transporting *passengers* in charter and special operations, beginning and ending at points in MN, ND, SD and WI, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 115068 (Sub-6), filed February 4, 1983. Applicant: COLUMBIANA COACH LINES, INC., 101 Thomas Street, East Palestine, OH 44413. Representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, PA 15219, (412) 471–1800. Transporting *passengers*, in charter and special operations, between points in the United States (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 135518 (Sub-33), filed February 1, 1983. Applicant: WESTERN CARRIERS, INC., 3600 Sisk Rd., Suite 3–C, Modesto, CA 95356. Representative: A.J. Swanson, P.O. Box 1103, Sioux Falls, SD 57101–1103, (605) 335–1777. (1) Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI), and (2) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 159239 (Sub-1), filed January 28, 1983. Applicant: ROYAL CHARTERS, LTD., 724–2 Skinner, Kalamazoo, MI 49001. Representative: Karl L. Gotting, 1200 Bank of Lansing Bldg., Lansing, MI 48933, 517–482–2400. Transporting *passengers* in charter and special operations, beginning and ending at points in MI, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 159738 (Sub-1), filed January 27, 1983. Applicant: SUPREME BUS COMPANY, INC., 2609 Evergreen Road, Odenton, MD 21113. Representative: Demosthenes McDow (same address as applicant), 301–261–3086. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165888, filed January 25, 1983. Applicant: R K CORP., 725 Market Street, Wilmington, DE 19801. Representative: David Earl Tinker, 1000 Conneticut Avenue, NW., Suite 1112, Washington, DC 20036–5391, (202) 887–5868. To operate as a *broker* of *general commodities* (except household goods), between points in the United States (except AK and HI).

MC 165889, filed January 25, 1983. Applicant: LES MEIER, P.O. Box 339, Arlington, NE 68002. Representative: Max H. Johnston, P.O. Box 6597, Lincoln, NE 68506, 402–488–4841. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle, in such vehicle, between points in the U.S. (except AK and HI).

MC 165959, filed January 28, 1983. Applicant: LA SALLE CORPORATION, 8408 Elliston Drive, Philadelphia, PA 19118. Representative: Gerald P. Nugent, Jr., (same address as applicant), (609) 933–1130. Transporting *passengers*, in charter of special operations, between points in AL, AZ, AR, CA, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MS, MO, NE, NV, NH, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SC, TN, TX, VT, VA, WA, WV, WI, and DC. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either (1) state that a petition has been filed under 49 U.S.C. 11343(e) seeking an exemption from the requirements of 49 U.S.C. 11343, (2) file an application under 49 U.S.C. 11343(A), or (3) 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 this filing to Team 5, Room 2414.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 166008, filed February 1, 1983. Applicant: CHERRY HILL BUS COMPANY, INC. 149 Seventeenth Ave., Elmwood, NJ 07407. Representative: Edward F. Bowes, 7 Becker Farm Rd., P.O. Box Y, Roseland, NJ 07068, (201) 992–2200. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 166018, filed January 31, 1983. Applicant: B. A. McKENZIE & CO., INC., 813 Pacific Ave., Tacamo, WA 98401. Representative: Kenneth R. Mitchell, 2320A Milwaukee Way, Tacoma, WA 98421, (206) 383–3998. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

[FR Doc. 83–4457 Filed 2–22–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions

In the matter of; Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers.

The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR

1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon 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 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.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions 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 At 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 applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Agatha L. Mergenovich,

Secretary.

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." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly noted.

Please direct status inquiries to Team 3 at (202) 275–5223.

Volume No. OP3–51

Decided: February 14, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 1515 (Sub-329), filed January 24, 1983. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077. Representative: R. L. Wilson (same address as applicant), (602) 248–5016. Over *regular routes*, transporting *passengers*, (1) between Stroudsburg, PA and Easton, PA: from Stroudsburg, PA over Interstate Hwy 80 to its junction with U.S. Hwy 209, then over U.S. Hwy 209 to its junction with PA Hwy 33, then over PA Hwy 33 to its junction with U.S. Hwy 22, then over U.S. Hwy 22 to Easton, PA; (2) between Gettysburg, PA and York, PA: from Gettysburg, PA over PA Hwy 116, via Hanover, PA to its junction with U.S. Hwy 30, then over U.S. Hwy 30 to York, PA; (3) between Harrisburg, PA and Lancaster, PA: from Harrisburg, PA over Interstate Hwy 83 to its junction with Interstate Hwy 283, then over Interstate Hwy 283 to its junction with PA Hwy 283, then over PA Hwy 283 to its junction with U.S. Hwy 30, then over U.S. Hwy 30 to Lancaster, PA; (4) between Utica, NY and Hamilton, NY: from Utica, NY over NY Hwy 12 to East Hamilton, NY, then over Unnumbered NY Hwy to Hamilton, NY; (5) between Ithaca, NY and Owego, NY: from Ithaca, NY over NY Hwy 96B to its intersection with NY Hwy 96 near Candor, NY, then over NY Hwy 96 to Owego, NY; and (6) between Pulaski, NY and Utica, NY: from Pulaski, NY over NY Hwy 13 to its intersection with NY Hwy 69, then over NY Hwy 69 to Utica, NY.

Note.—Applicant seeks to provide regular-route service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C. 10922(c)(2)(B) over the same route.

Note.—Applicant seeks to tack this authority to its existing authority in MC 1515.

MC 140294 (Sub-32), filed January 19, 1983. Applicant: GENERAL FREIGHTS, INC., P.O. Box 1946, Hagerstown, MD 21740. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740, (301) 797–606. Transporting *general commodities* (except classes A and B explosives and household goods), between those points in the U.S. in and east of WI, IL, KY, TN, and MS.

MC 141324 (Sub-3), filed January 28, 1983. Applicant: CHENANGO VALLEY BUS LINES, INC., 17 Franklin Turnpike, Mahwah, NJ 07430. Representative: Michael J. Marzano, 99 Kinderkamack Rd., Westwood, NJ 07430. Transporting *passengers*, in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant receives governmental financial assistance for the purchase or operation of buses, or is an operator for such a recipient.

MC 148554 (Sub-5), filed January 18, 1983. Applicant: WALD TRANSFER & STORAGE CO., P.O. Box 344, Houston, TX 77001. Representative: John W. Carlisle, P.O. Box 967, Missouri City, TX 77459, (713) 437–1768. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in the U.S. (except AK and HI).

MC 163435, filed January 18, 1983. Applicant: RYSDAM LOGGING COMPANY, Rt. 2 Box 30 AB, Elgin, OR 97827. Representative: Kathleen L. Rysdam, Box 519, Elgin, OR 97827, (503) 437–4205. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in OR, WA, ID, MT, WY, NV, UT, CO, and CA.

MC 164764, filed January 18, 1983. Applicant: WHITEFORD NATIONALEASE, INC. d.b.a. DEDICATED TRUCK SERVICE, 2020 West Sample St., P.O. Box 76, South Bend, IN 46624. Representative: Alki E. Scopelitis, 1301 Merchants Plaza,

Indianapolis, IN 46204, (317) 638–1301. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except HI), under continuing contract(s) with (1) American Rubber and Plastics Corporation, of LaPorte, IN, (2) Dietrich Industries, Inc., of Hicksville, OH, (3) Figge International, Inc., of Richmond, Va, (4) Howmet Turbine Components Corporation, of Greenwich, CT, and Recticel Foam Corp., of Buffalo, NY.

Note.—The person or persons who appear to be engaged in common control of another regulated carrier has filed a petition of exemption, which is assigned MC–F 15108.

MC 165774, filed January 18, 1983. Applicant: FATHER AND SON MOVING AND STORAGE, INC., 2525 Tilden Ave., Brooklyn, NY 11226. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1200, Washington, DC 20036. Transporting *household goods*, between points in NY, on the one hand, and, on the other, points in ME, VT, NH, MA, RI, CT, NY, PA, OH, NJ, MD, VA, NC, SC, GA, FL, DE, IN, WV, AL, KY, TN, and DC.

Volume No. OP3–58

Decided: February 8, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 101075 (Sub-125), filed January 28, 1983. Applicant: TRANSPORT, INC., P.O. Box 396, Moorhead, MN 56560. Representative: Robert S. Lee, 1600 TCF Tower, 121 So. 8th Street, Minneapolis, MN 55402, (612) 333–1341. Transporting *commodities in bulk*, between points in CO, on the one hand, and, on the other, points in IL, IN, IA, KS, the Upper Peninsula of MI, MN, MO, MT, NE, ND, SD, WI and WY.

MC 110525 (Sub-1327), filed January 25, 1983. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Lionville, PA 19353. Representative: Paul L. Gausch (same address as applicant), (215) 363–4285. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. under continuing contract(s) with Texaco Chemical Company, a Division of Texaco Inc., of Bellaire, TX.

MC 119634 (Sub-59), filed January 25, 1983. Applicant: DICK IRVIN, INC., Hwy 2 West, P.O. Box F, Shelby, MT 59474. Representative: Mark A. Cole (same address as applicant), (406) 434–5583. Transporting *building materials*, between points in MT, ID, WA and OR, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 127505 (Sub-84), filed January 17, 1983. Applicant: R.H. BOELK TRUCK LINES, INC., 1201 14th Ave., Mendota, IL 61342. Representative: Jack L. Schiller, 111–56 76th Dr., Forest Hills, NY 11375, (212) 263–2078. Transporting (1) *beer, wine and alcoholic beverages*, between points in IL, on the one hand, and, on the other, points in CO, IN, KY, MI, MN, OH, and WI, (2) *animal and poultry feed, and animal health aids and sanitation products*, between points in the U.S. (except AK and HI), and (3) *metal products*, between points in Bourbon County, KS, on the one hand, and, on the other, points in AR, CO, IL, MO, NE, NM, and TX.

MC 133695 (Sub-5), filed January 26, 1983. Applicant: PIGGYBACK CARTAGE COMPANY, INC., 1518 Garst Avenue, Boone, IA 50036. Representative: Robert L. Cope, Suite 501, 1730 M Street, NW., Washington, DC 20036, (202) 296–2900. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Commerce Express, Inc., of New Brighton, MN.

MC 134645 (Sub-50), filed January 24, 1983. Applicant: LAKE STATE TRANSPORT, INC., P.O. Box 944, St. Cloud, MN 56301. Representative: Robert P. Sack, P.O. Box 21–307, Eagan, MN 55121, (612) 452–8770. Transporting *such merchandise* as are dealt in by wholesale and retail food business houses, between points in MN and ND, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MG 142935 (Sub-31), filed January 31, 1983. Applicant: PLASTIC EXPRESS, 2301 E. Francis St., Ontario, CA 91761. Representative: Richard C. Celio, 2300 Camino Del Sol, Fullerton, CA 92633, (714) 738–3889. Transporting *general commodities* (except household goods and classes A and B explosives), between points in the U.S. (except AK and HI).

MC 148105 (Sub-5), filed January 19, 1983. Applicant: OVERLAND EXPRESS, INC., P.O. Box 12322, Houston, TX 77017. Representative: John W. Carlisle, P.O. Box 967, Missouri City, TX 77459, (713) 437–1768. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in the U.S. (except AK and HI).

MC 149244 (Sub-10), filed February 14, 1983. Applicant: PEAKE, INC., 2022 Avenue "A", Kearney, NE 68847. Representative: Kenneth L. Kessler, P.O. Box 855, Des Moines, IA 50304, (515) 245–2725. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 149295 (Sub-5), filed January 19, 1983. Applicant: H & W HOT SHOT DELIVERY SERVICE, INC., P.O. Box 96503, Houston, TX 77015. Representative: John W. Carlisle, P.O. Box 967, Missouri City, TX 77459, (713) 437–1768. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in the U.S. (except AK and HI).

MC 154555 (Sub-1), filed January 25, 1983. Applicant: RAYMOND M. MYLET d.b.a. RAY MYLET TRUCKING, 628 Landmesser St., West Hazleton, PA 18201. Representative: John W. Frame, P.O. Box 128, Camp Hill, PA 17011, (717) 761–0520. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods) between points in Lawrence, Luzerne and Schuylkill Counties, PA, and Trumbull County, OH, on the one hand, and, on the other, points in CT, DE, ME, MA, MD, NH, NJ, NY, RI, and VT.

MC 155294 (Sub-1), filed January 20, 1983. Applicant: MARK MONTGOMERY, P.O. Box 1084, Searcy, AR 72143. Representative: (Same as above), (501) 268–9290. Transporting *general commodities* (except household goods, classes A and B explosives, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 160104, filed January 24, 1983. Applicant: GENERAL GENERICS CORPORATION, 2835 Middlebury Street, Elkhart, IN 46514. Representative: Paul D. Borghesani, Suite 300, Communicana Bldg., 421 South Second Street, Elkhart, IN 46516, (219) 293–3597. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with (1) APG, Inc., and its subsidiaries, of Elkhart, IN, (2) Kiwi Polish Company Proprietary Ltd., of Douglassville, PA, and (3) Magic American Chemical Corp., of Cleveland, OH.

MC 161714 (Sub-1), filed January 25, 1983. Applicant: TYGARD EQUIPMENT COMPANY, INC., 101 East Carson Street, Pittsburgh, PA 15219. Representative: William A. Gray, 2310 Grant Building, Pittsburgh, PA 15219, (412) 471–1800. Transporting *metal products*, between points in Allegheny and Washington Counties, PA, on the one hand, and, on the other, points in NY.

MC 164324, filed January 21, 1983. Applicant: MOBILEHOME TOWING SERVICE, INC., 7910 Mulhall Dr., Jacksonville, FL 32216. Representative: Norman Bolinger, Suite 225, 3100 University Blvd., So., Jacksonville, FL 32216, (904) 724–7539. Transporting *mobile homes, mobile office trailers and prefabricated buildings*, between points in FL and GA.

MC 165435 (Sub-1), filed January 20, 1983. Applicant: TELE-TRANSPORT, INC., P.O. Box 11509, Clearwater, FL 33516. Representative: Etta Netherton (same address as applicant), (813) 442–6975. Transporting *general commodities* (except household goods, classes A and B explosives, and commodities in bulk), between points in the U.S., under continuing contract(s) with Bay State National Corp., of Springfield, MA.

MC 165815, filed January 21, 1983. Applicant: PACESETTER TRUCKING INC., P.O. Box 1757, Stockton, CA 95201. Representative: J. R. Fallabel (same address as applicant), (916) 687–6325. Transporting *food and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Custom Warehousing, Inc., of Stockton, CA.

MC 165914, filed January 24, 1983. Applicant: ELDON STANLEY MARQUIS & KEITH A. MARQUIS, d.b.a. MARQUIS TRUCKING, P.O. Box 64, Donovan, IL 60931. Representative: Leslieann G. Maxey, 907 South Fourth, P.O. Box 5039, Springfield, IL 62705, (217) 528–8476. Transporting (1) *fertilizer*, between points in Lake, Newton, Montgomery, and White Counties, IN, on the one hand, and, on the other, points in Iroquis County, IL, and (2) *limestone and crushed lime*, between points in Newton County, IN, on the one hand, and, on the other, points in Iroquois, Kankakee, and Vermilion Counties, IL.

MC 165944, filed January 31, 1983. Applicant: LARRY JOHNSON TRUCKING, INC., Rural Route 4, Box 6A, Chadron, NE 69337. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501, (402) 475–6761. Transporting *transportation equipment*, between points in Box Butte County, NE, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 165955, filed January 28, 1983. Applicant: PULLEN MOVING COMPANY, 8938 Telegraph Rd., Lorton, VA 22079. Representative: Carroll B. Jackson, 1810 Vincennes Rd., Richmond, VA 23229, (804) 282–3809. Transporting *household goods*, between points in MD, VA, and DC, on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, KS, OK and TX.

MC 166014, filed January 31, 1983. Applicant: ROBER L. ZEIGLER d.b.a. R & K COURIER, 105 Mountain Laurel Dr., Butler, PA 16001. Representative: (Same as applicant), (412) 452–5837. Transporting *machinery and metal products*, between points in PA, on the one hand, and, on the other, points in OH, NY, MD, WV, KY, VA, AL, and UT.

MC 166015, filed January 31, 1983. Applicant: VALLEY TRANSPORTATION, INC., Upton Rd., Uxbridge, MA 01569. Representative: Robert G. Parks, 20 Walnut St., Suite 101, Wellesley Hills, MA 02181, (617) 235–5571. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in MA and RI, on the one hand, and, on the other, points in CT, MA, NH, and RI.

For the following, please direct status calls to Team 5 at 202–275–7289.

Volume No. OP5–64

Decided: February 9, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 228 (Sub-84), filed January 23, 1983. Applicant: HUDSON TRANSIT LINES, INC., 17 Franklin Turnpike, Mahwah, NJ 07430. Representative: Michael J. Marzano, 99 Kinderkamack Rd., Westwood, NJ 07675, (201) 666–5111. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant receives governmental financial assistance for the purchase or operation of buses, or is an operator for such a recipient.

MC 5649 (Sub-33), filed January 31, 1983. Applicant: KULP & GORDON, INC., Pothouse Rd., P.O. Box 628, Phoenixville, PA 19460. Representative: James W. Patterson, 1800 Penn Mutual Tower, 510 Walnut St., Philadelphia, PA 19106, 215–925–8300. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in DE and PA.

MC 81779 (Sub-4), filed January 26, 1983. Applicant: PAUL JOHNSON, INCORPORATED, 340 West Adams St., Waterman, IL 60556. Representative: E. Stephen Heisley, 1919 Pennsylvania Avenue NW., Suite 500, Washington, DC 20006, (202) 828–5015. Transporting *metal products, machinery, chemicals and related products, lumber and wood products*, and *food and related products*, between Omaha, NE, and points in WI, IL, IN, IA, MI, OH, and NJ, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 106679 (Sub-18), filed January 31, 1983. Applicant: WHEELER FREIGHTWAYS, 3375 S. Polaris Ave., Las Vegas, NV 89102. Representative: Robert G. Harrison, 4299 James Drive, Carson City, NV 89701, (702) 882–5649. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 4 at 202–275–7669.

Volume No. OP4–087

Decided: February 15, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 27817 (Sub-179), filed February 7, 1983. Applicant: H. C. GABLER, INC., 1580 Gabler Rd., P.O. Box 220, Chambersburg, PA 17201. Representative: Christian V. Graf, 407 N. Front St., Harrisburg, PA 17101, (717) 236–9318. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between those points in the U.S. in and east of MN, IA, MO, AR, and LA.

MC 33037 (Sub-25), filed February 7, 1983. Applicant: STUDER TRUCK LINE, INC., Beattie, KS 66406. Representative: John E. Jandera, P.O. Box 1979, Topeka, KS 66601, (913) 234–0565. Transporting *chemicals and related products*, between points in Sherman County, TX, on the one hand, and, on the other, points in AZ, CA, LA, and UT.

MC 160896 (Sub-2), filed February 7, 1983. Applicant: NICHOLAS TRANSPORT, INC., P.O. Box 568, Marion, IN 46952. Representative: Andrew K. Light, 1301 Merchants Plaza, Indianapolis, IN 46204, (317) 638–1301. Transporting *general commodities* (except classes A and B explosives, commodities in bulk and household goods), between points in IN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162987 (Sub-1), filed February 8, 1983. Applicant: GOLDEN RING TRUCKING, INC., 1413 West Lincoln Ave., Fergus Falls, MN 56537. Representative: A. J. Swanson, P.O. Box 1103, Sioux Falls, SD 57101, (605) 335–1777. Transporting *lumber and wood products, forest products*, and *building materials*, between points in the U.S. (except AK and HI).

MC 165216, filed February 7, 1983. Applicant: STEIL TRUCK LINES INC., 591 Montgomery Rd., Aurora, IL 60538. Representative: Anthony E. Young, 29 South LaSalle St., Suite 350, Chicago, IL 60603, (312) 782–8880. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in

Lake, Porter and LaPorte Counties, IN, and points in IL, on the one hand, and, on the other, points in IL, IN, OH, MI, WI, NE, KS, TN, MN, KY, IA, and MO.

MC 166146, filed February 8, 1983. Applicant: ALL FREIGHT TRUCKING, INC., P.O. Box 780, Sturbridge, MA 01566. Representative: David M. Marshall, 6th Floor—95 State St., Springfield, MA 01103, (413) 732–1136. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with All Freight Distributors, Inc., of Sunderland, MA.

MC 123179 (Sub-7), filed February 1, 1983. Applicant: ARROW FREIGHT LINES, INC., 80 Progress Ave., West Springfield, MA 01089. Representative: David M. Marshall, Sixth Floor, 95 State St., Springfield, MA 01103, (413) 732–1136. Transporting *such commodities* as are dealt in by a manufacturer or distributor of furniture and related items, between points in the U.S. (except AK and HI), under continuing contract(s) with The Berkline Corporation, of Morristown, TN.

MC 135439 (Sub-3), filed January 31, 1983. Applicant: MICHAEL JOSEPH MANNING, d.b.a. MANNING TRANSFER, 1601 127th Ave., NW., Coon Rapids, MN 55433. Representative: Michael Joseph Manning (same address as applicant), (612) 757–2848. Transporting (1) *paper and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with International Paper Corporation, of Arden Hills, MN, and (2) *semi-trailers and trailers*, between points in the U.S. (except AK and HI), under continuing contract(s) with Design Space International/Transport International Pool, Divisions of Gelco Corporation, of Minneapolis, MN.

MC 138929 (Sub-6), filed January 28, 1983. Applicant: AIR FREIGHT DELIVERY SERVICE, INC., P.O. Box 2834, Winchester, VA 22601. Representative: Louis H. Foltz (same address as applicant), 703–667–4360. Transporting *such commodities* as are dealt in or use in the manufacture, sale and distribution of automobile parts and accessories, between points in Culpeper, Frederick, and Shenandoah Counties, VA, on the one hand, and, on the other, points in IL, MA, MD, MI, NH, NJ, NY, OH, and PA.

MC 141529 (Sub-2), filed January 10, 1983. Applicant: WAINWRIGHT TRANSFER CORP. OF VIRGINIA, P.O. Box 1854, Quantico, VA 22134. Representative: Paul F. Sullivan, Suite 202, 3408 Wisconsin Avenue NW., Washington, DC 20016, 202–363–1848. Transporting *household goods*, between points in MD, VA and DC., on the one hand, and, on the other, points in VA, NC, SC, MD, PA, DE, NJ, NY, and DC.

MC 148308 (Sub-3), filed January 28, 1983. Applicant: ROTRANSCO, INC., 6516 West 74th Street, Bedford Park, IL 60638. Representative: Edward G. Bazelon, 135 South La Salle Street, Chicago, IL 60603, (312) 236–9375. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the United States (except AK and HI), under continuing contract(s) with Jet Age Containers, Inc., and Rose Packaging Corp., both of Bedford Park, IL.

MC 149229 (Sub-4), filed January 31, 1983. Applicant: SOUTHERN CHEMICAL TRUCKING SERVICE, INC., 451 Lower Boundary St., Macon, GA 31202. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328, 404–256–4320. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI) under continuing contract(s) with American Industrial Chemical Corporation of Atlanta, GA.

MC 153258 (Sub-2), filed February 1, 1983. Applicant: DENNIS R. HILKER TRUCKING, INC., 712 West Millard St., New London, WI 54961. Representative: Harold O. Orlofske, P.O. Box 368, Neenah, WI 54956, 414–722–2848. Transporting (1) *food and related products*, between Milwaukee, WI on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) *pulp, paper and related products*, between points in Montgomery County, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 159299 (Sub-1), filed January 31, 1983. Applicant: LEACH BROTHERS BROKERAGE, INC., 683 East Third St., Forest, MS 39074. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701, (601) 335–3576. Transporting *machinery* between Mobile, AL, and points in Covington, Forrest, Jasper, Kemper, and Wayne Counties, MS, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 159509 (Sub-1), filed January 28, 1983. Applicant: HOWARD NUNN, INC., 2511 Estrella Ave., Loveland, CO 80537. Representative: Robert W. Wright, Jr., 5711 Ammons St., Arvada, CO 80002, (303) 424–1761. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 161009, filed January 27, 1983. Applicant: JAMES WHITE, d.b.a. JAMES WHITE TRUCKING, 11222 Hooper Road, Baton Rouge, LA 70811. Representative: Fred W. Johnson, Jr., P.O. Box 1291, Jackson, MS 39205, 601–355–3543. Transporting *asphalt and asphalt products* between points in AL, LA, MS and TX.

MC 161338 (Sub-2), filed January 28, 1983. Applicant: LARRY FRICK, d.b.a. L & S TRUCKING, 3303 East Wausau Ave., Wausau, WI 54401. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Rd., Madison, WI 53719, (608) 273–1003. Transporting *food and related products*, between points in Outagamie County, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162769, filed January 31, 1983. Applicant: KANOWSKY FURNITURE, INC., 60 Main St., Sacramento, CA 95813. Representative: Bruce R. Miner (same address as applicant), 916–929–9029. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AZ, CA, CO, ID, KS, MT, NM, NV, OR, TX, UT, WA and WY.

MC 165938, filed January 27, 1983. Applicant: MOULTON TRUCKING CO., INC., 1795 Princess Anne Rd., Virginia Beach, VA 23456. Representative: James T. Darby, 1021 Irving Ave., Colonial Beach, VA 22443, 804–224–0773. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 166028, filed February 1, 1983. Applicant: L & M WEST, 4420 Skye Dr., So. Jordan, UT 84065. Representative: Mike Harrison (same address as applicant), (801) 561–7424. Transporting *general commodities* (except classes A and B explosives and household goods) between points in the U.S. (except AK and HI), under continuing contract(s) with All-Minerals Corporation of Murray, UT.

[FR Doc. 83-4459 Filed 2-22-83; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Applications

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These

rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note:—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F-239

The following applications were filed in Region I. Send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 152291 (Sub-1-7TA), filed February 4, 1983. Applicant: ASSEMBLY SQUARE TRANSPORTATION, INC., 20 Sturtevant Street, Somerville, MA 02145. Applicant's Representative: Frank M. Cushman, 36 South Main Street, Sharon, MA 02067. *Contract carrier:* irregular routes: *General commodities (except Classes A and B explosives, hazardous waste, household goods as defined by the Commission, commodities in bulk and those requiring special equipment* between all points in the 48 contiguous U.S. (except AK and HI), under continuing contract(s) with Bos-Taun Consolidating Company, Inc., Somerville, MA. SUPPORTING SHIPPER: Bos-Taun Consolidating Company, Inc., 20 Sturtevant Street, Somerville, MA 02145.

MC 134806 (Sub-1-55TA), filed February 8, 1983. Applicant: B-D-R TRANSPORT, INC., Vernon Drive, P.O. Box 1277, Brattleboro, VT 05301. Representative: Edward T. Love, 4401 East West Highway, Suite 404, Bethesda, MD 20814. *Contract carrier:* irregular routes: *Woodburning stoves and garden tillers*, between Woodstock, VT, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA, and WY, under continuting contract(s) with Woodstock Soapstone Co., Inc., Woodstock, VT, and Precision Valley Manufacturing Co., Woodstock VT, (affiliated companies). Supporting shipper(S): Woodstock Soapstone Co., Inc., Box 223, Woodstock, VT 05091; Precision Valley Manufacturing Co., Box 223 Woodstock, VT 05091.

MC 138730 (Sub-1-1TA), filed February 9, 1983. Applicant: CARAVAN COACH LINES, INC., R.D. 3, Box 451, Wharton, NJ 07885. Representative: William F. King, Esq., 6121 Lincolnia Road, Suite 304, P.O. Box 11278, Alexandria, VA 22312. *Common carrier:* regular routes: *Passengers* between Paterson, NJ and New York, NY, serving all intermediate points, as follows: From Paterson over Market St. to Madison Ave., then over Madison Ave. to Park Ave., then over Park Ave. to Vreeland Ave., then over Vreeland Ave. to Market St., then over Market St. to Lakeview Ave., then over Lakeview Ave. to Service Rd., then over Service Rd. to Market St., at or near Elmwood Park, NJ, then over Market St. to River Dr., then over River Dr. to U.S. Hwy 46, then over U.S. Hwy 46 to Main St., at or near Little Ferry, NJ, then over Main St. to Liberety St. (Moonachie Rd.), then over Liberty St. (Moonachie Rd) to Washington Ave., then over Washingtion Ave. to Interestate Hwy 495, then over Interstate Hwy 495 to the Lincoln Tunnel, then through the Lincoln Tunnel to New York, NY, and return over the same routes. SUPPORTING SHIPPER(S): There are 57 statements of support attached to this application which may be examined at the I.C.C. Regional Office in Boston, MA.

MC 144826 (Sub-1-2TA), filed February 8, 1983. Applicant: COMET TRUCKING, INC., 6 Stuart Road, Chelmsford, MA 01824. Representative: David Gordon, 6 Stuart Road, Chelmsford, MA 01824. *Contract carrier:* irregular routes: *Textile mill products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Nathan Solomon & Co., Lowell, MA. Supporting Shipper: Nathan Solomon & Co., Foot of John St., Llowell, MA 01852.

MC 161281 (Sub-1-2TA), filed February 9., 1983. Applicant: A. CUPIDO HAULAGE LIMITED, 1035 Howard Road, Burlington, Ontario, CD L7R 3X5. Representative: Stanley J. Collesano, Esq., 580 Elmwood Avenue, Buffalo, NY 14222. *Contract carrier:* irregular routes: *Lime products and limestone*, between the International Boundaries of the U.S. and CD located in Erie and Niagara Counties, NY and Detroit, MI, on the one hand, and, on the other, Millersville, and Woodville, OH, Dearborn, Ecorse, Trenton, and Warren, MI, under continuing contract(s) with Steetley Industries, Ltd., Ontario, CD. Supporting shipper: Steetley Industries, Ltd., Minerals Group, MPO Box 2029, 604 James Street, N., Hamilton, Ontario, CD L8N 3S9.

MC 149059 (Sub-1-1TA), filed February 8, 1983. Applicant: E. W. GRENON & SON, INC., 42 Tosca Drive, Stoughton, MA 02072. Representative: Robert J. Gallager, Esq., 1000 Connecticut Avenue NW., Suite 1200, Washington, DC 20036. *Household goods as defined by the Commission and General commodities (except Class A & B explosives, and commodities in bulk)*, for the U.S. Government, between points in AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, and WY. Supporting shipper(s): Allen Young Mover, Inc., 176 Milton Street, Dedham, MA 02026; Kilroy Bros., Inc., 136 Arlington Street, Hyde Park, MA. 02136; Westways Moving & Storage, 21401 Curtis Street, Hayward, CA 94545; Ocean-Air International, Inc., R.D.#1, Burgettstown, PA 15021.

MC 3252 (Sub-1-8TA), filed February 8, 1983. Applicant: MERRILL TRANSPORT CO., 1037 Forest Avenue, P.O. Box 739, Portland, ME 04104. Representative: Francis E. Barrett, Jr., Esq., 10 Industrial Park Road, Hingham, MA 02043. *Ground limestone, in bulk*, from Florence, VT to Winston-Salem, NC. Supporting shipper: OMYA, Inc., 61 Main Street, Proctor, VT 05765.

MC 127610 (Sub-1-5TA), filed February 8, 1983. Applicant: J. P. NOONAN TRANSPORTATION, INC., 436 West Street, West Bridgewater, MA 02379. Representative: J. Peter Noonan (same as applicant). *Ground limestone, in bulk*, from Florence, VT to Winston-Salem, NC. Supporting shipper: OMYA, Inc., 61 Main Street, Proctor, VT 05765.

MC 151193 (Sub-1-43 TA), filed February 4, 1983. Applicant: PAULS TRUCKING CORPORATION, 286

Homestead Avenue, Avenel, NJ 07001. Representative: Michael A. Beam (same as applicant). *Contract carrier:* irregular routes: *Juices, in cartons, plastics and bottles* from Flemington, NJ, to Salisbury and Hickory, NC, under continuing contract(s) with Apple and Eve, Inc., Great Neck, NY. Supporting shipper: Apple and Eve, Inc., P.O. Box 237, Great Neck, NY 11022.

MC 151193 (Sub-1–44 TA), filed February 4, 1983. Applicant: PAULS TRUCKING CORPORATION, 286 Homestead Avenue, Avenel, NJ 07001. Representative: Michael A. Beam (same as applicant). *Contract carrier:* irregular routes: *Liquid paint dryers, chemicals, NOI (except hazardous waste),* from points in NJ, to points in CA, FL, GA, IL, KS, MI, MN, MO, OR and TX, under continuing contract(s) with Interstab Chemicals, Inc., New Brunswick, NJ. Supporting Shipper: Interstab Chemicals, Inc., 500 Jersey Ave., P.O. Box 683, New Brunswick, NJ 08903.

MC 165779 (Sub-1–2 TA), filed February 8, 1983. Applicant: RICHMOND EXPRESS CO., INC., 1201 Corbin Street, Elizabethport, NJ 07201. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *General commodities, (except commodities in bulk, household goods and Class A and B explosives) having a prior or subsequent movement by water* between New York, NY Commercial Zone, on the one hand, and, on the other, Philadelphia, PA Commercial Zone. Supporting shipper: Delta Steamship Lines, 1 World Trade Center, New York, NY 10046.

MC 159874 (Sub-1–2 TA), filed February 2, 1983. Applicant: TAPWOOD TRUCKING CO., INC., 3657 Naomi Street, Seaford, L. I., NY 11783. Representative: Derwood A. Fish (same as applicant). *Contract carrier:* irregular routes: *Swimming pools, swimming pool supplies and accessories, to include barbeque grills, small electric appliances, and those related parts,* from points in CO, CT, FL, GA, IL, MA, MI, MO, NJ, NY, OH, TX and VA to the facilities of Island Swimming Sales, Inc., at Carrollton, TX, Nassau and Suffolk County, NY, under continuing contract(s) with Island Swimming Sales, Inc., Farmingdale, NY. Supporting shipper: Island Swimming Sales Inc., 40 Gazza Blvd., Farmingdale, NY 11735.

The following applications were filed in Region 2. Send protests to: ICC, Fed. Res. Bank Bldg., 101 North 7th St. Rm. 620, Philadelphia, PA 19106.

This was first published in the **Federal Register** dated January 24, 1983.

MC 2796 (Sub-II–1TA), filed January 4, 1983. Applicant: FULLINGTON AUTO BUS COMPANY, 316 Cherry St., Clearfield, PA 16830. Representative: Christian V. Graf, 407 N. Front St., Harrisburg, PA 17101. Common, regular: *Passengers and their baggage,* between Williamsport, PA and State College, PA, over the following route: U.S. Hwy 220 to its intersection with PA Hwy 120 at or near Castanea, PA; then over PA 120 to its intersection with PA 150; then over PA 150 to its intersection with PA 144–PA 150 at or near Milesburg, PA; then over PA 144–PA 150 to Bellefonte, PA; then over PA 550 to its intersection with PA 150; then over PA 150 to its intersection with PA 26; then over PA 26 to State College; and return over the same route. Alternate route: Beginning at the intersection of PA 150 and PA 64 at or near Mill Hall, PA; then over PA 64 to its intersection with PA 26; then over PA 26 to State College, PA and return over the same route in the reverse direction. Applicant intends to tack this authority with its existing regular route authority and its pending application in Sub-11. Applicant also seeks to provide regular service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C. 10922(c)(2)(B). An underlying ETA seeks 120 days authority. Supporting shippers: There are eight supporting statements attached to this application which may be examined at the Phila. Regional Office. The purpose of republishing this application is to show Alternate Route which was not shown on the previous publication.

This was first published in the **Federal Register** dated January 17, 1983.

MC 165319 (Sub-II–2TA), filed December 22, 1982. Applicant: L & L TRANSFER, INC., 56 Wheeler St., Pittsburgh, PA 15205. Representative: Jan C. Swensen, 2208 Lawyers Bldg., Pittsburgh, PA 15219. Contract, irregular: *Household appliances,* between Pittsburgh, PA, on the one hand, and, on the other, points in Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Clarion, Clearfield, Crawford, Elk, Erie, Fayette, Forest, Fulton, Greene, Indiana, Jefferson, Lawrence, Mercer, Somerset, Venango, Warren, Washington and Westmoreland Counties, PA, having a prior movement in interstate commerce. Under continuing contract(s) with General Electric Co. Supporting shipper(s): General Electric Co., Appliance Park, KY. The purpose of republishing this application is to correct the description of the territorial scope.

MC 160698 (Sub-II–2TA), filed January 31, 1983. Applicant: JBM ENTERPRISES, INC., 405 Hansen Ave., Butler, PA 16001. Representative: Arthur J. Diskin, 402 Law & Finance Bldg., Pittsburgh, PA 15219. *Such commodities as are dealt in or used by homeproducts manufacturers and distributors of cosmetics, toilet preparations and jewelry,* from Ada, MI to Butler, PA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Amway Corporation, 7575 East Fulton Rd., Ada, MI 49355.

MC 165002 (Sub-II–1TA), filed February 2, 1983. Applicant: KNIGHT LINES, INC., P.O. Box 896, Moon Township, Pittsburgh, PA 15108. Representative: Barry Weintraub, Suite 510, 8133 Leesburg Pike, Vienna, VA 22180. *Contract; Irregular; iron and steel products, and materials, equipment and supplies used in the manufacturing and distribution thereof* between Cannonsburg, PA and Wilmington, DE, on the one hand, and, on the other, points in the U.S. (except AK & HI) under continuing contract with Forbes Steel and Wire Corporation. An underlying ETA seeks 120 days authority. Supporting shipper: Forbes Steel and Wire Corporation, P.O. Box 329, Cannonsburg, PA 15317.

MC 165833 (Sub-II–2TA), filed January 27, 1983. Applicant: NORTHEAST VALLEY TRANSPORTATION, INC., 1258 Route 315, Suite B, Wilkes-Barre, PA 18702. Representative: Edward F.V. Pietrowski, 336 Scranton Life Bldg., Scranton, PA 18505. Contract, irregular: *passengers and their baggage,* between White Haven, PA, on the one hand, and, on the other, New York, NY, under continuing contract(s) with Pocono Hershey Resort. An underlying ETA seeks 120 days authority. Supporting shipper(s): Pocono Hershey Resort, White Haven, PA 18661.

MC 143730 (Sub-II–7TA), filed February 3, 1983. Applicant: PENINSULA TRUCKING CO., INC., 705 Morehouse Dr., New Castle, DE 19720. Representative: Richard M. Ochroch, 316 South 16th St., Philadelphia, Pa. 19102. *General commodities (except Classes A and B explosives)* between points in ME, NH, VT, NY, MA, CT, RI, PA, NJ, DE, MD, DC, WV, VA, NC, SC, GA, FL, and AL, on the one hand, and, on the other, points in the U.S. (except AK and HI), for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: There are twelve supporting shippers statements attached to this application which may be examined at the Phila. Regional office.

MC 165926II–1TA, filed January 27, 1983. Applicant: RONALD H. STOCKSTILL, d.b.a. R&D TRANSPORT, 759 Midland Ave., York, PA 17403. Representative: Wilmer B. Hill, Suite

366, 1030 Fifteenth Street, NW., Washington, D.C. 20005. *General commodities (except classes A and B explosives, commodities in bulk, and household goods),* between points in PA, on the one hand, and, on the other, points in DE, GA, MD, NJ, NY, NC, OH, SC, TN, VA, WV, and DC. Supporting shipper(s): There are five supporting shippers statements attached to this application which may be examined at the Phila. Regional office.

MC 113499 (Sub-II-4TA), filed February 3, 1983. Applicant: EDWARD M. RUDE CARRIER CORP., RFD No. 1, Falling Waters, WV 25419. Representative: Edward T. Love, 4401 East West Highway, Suite 404, Bethesda, MD 20814. *Automotive and truck tires,* (1) from Charlotte, NC, Waco, TX, Mayfield, KY and Mt. Vernon, IL, to Allentown, Wilkes-Barre and Scranton, PA, Hilton and Buffalo, NY, and points in NJ; and (2) from Ridgefield, NJ to points in GA, IN, KY, MD, NC, OH, SC, TN, TX, VA, and WV. An underlying ETA seeks 120 days authority. Supporting shipper: Englewood Tire Distributors, Inc., P.O. Box 9883, Englewood, NJ 07631.

MC 110683 (Sub-II-19TA), filed January 27, 1983. Applicant: SMITH'S TRANSFER CORPORATION, P.O. Box 1000, Staunton, VA 24001. Representative: Robert L. Stover (same address as applicant). Contract, irregular; *General commodities (except household goods as defined by the Commission, commodities in bulk and Classes A and B explosives);* between points in the U.S. (except AK and HI), under continuing contract(s) with American Hardware Supply Company. An underlying ETA seeks 120 days authority. Supporting shipper(s): American Hardware Supply Company, Grant Street, East Butler, PA 16029.

MC 165850 (Sub-II-1TA), filed February 2, 1983. Applicant: TREK TOURS OF AMERICA CORP., P.O. Box 9023, Lester, PA 19113. Representative: Larry R. McDowell, 1200 Avenue of the Arts Bldg., Philadelphia, PA 19107. *Passengers and their baggage and outdoor equipment,* in special and charter operations, in round-trip personally conducted all-expense camping tours, in vehicles limited to 15 passengers (not including driver and escort), beginning and ending at New York, NY, Miami, FL, Los Angeles, CA, and Seattle, WA, and their commercial zones, and extending to points in the U.S. (including AK, but excluding HI), for 270 days. Supporting shipper: Trekamerica LTD, London, England.

MC 165965 (Sub-II-1TA), filed January 31, 1983. Applicant: UNDERWOOD TRUCKING CO., INC., P.O. Box 649, Grantsville, WV 26147. Representative: John M. Friedman, 2930 Putnam Ave., P.O.B. 426, Hurrican, WV 25526. Contract, irregular: *Natural gasoline and butane* from points in WV to Indianola, PA. An underlying ETA seeks 120 days authority. Under continuing contract(s) with American Refining Group Inc. Supporting shipper(s): American Refining Group, Inc., Rt. 910, Box 33, Indianola, PA 15051.

MC 108631 (Sub-II-9TA), filed February 3, 1983. Applicant: BOB YOUNG TRUCKING, INC., Schoenersville Rd. at Industrial Dr., Bethlehem, PA 18017. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110. *Malt beverages* from Eden and Winston-Salem, NC to Somerville, NJ and Reading and Plumsteadville, PA for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: EAGLE DISTRIBUTING COMPANY, 530 Riverfront Dr., Reading, PA 19602. STADLER DISTRIBUTING COMPANY, Route 611, P.O. Box 329, Plumsteadville, PA 18949. WARREN DISTRIBUTING CO., 47 Readington Rd., Somerville, NJ 08876.

The following applications were filed in Region 3. Send protests to: ICC, Regional Authority Center, Room 300, 1776 Peachtree Street, N.E., Atlanta, GA 30309.

MC 164547 (Sub-3-1TA), filed February 9, 1983. Applicant: M&M TRUCKING, Route 2, Box 94, Caryville, FL 32427. Representative: Jerry D. Miller (Same address as applicant). *Fertilizer and Lime, in bag and bulk, Farm Equipment, Machinery and Supplies* between points in GA, FL, and AL. Supporting shippers: International Minerals & Chemical Corporation, Fourth Avenue North, Hartford, AL 36344. Brennon & Welch Spreader Service, 509 W. Birch, Hartford, AL 36344. Hartford Farmers Cooperative, 316 E. Mill Street, Hartford, AL 36344.

MC 146649 (Sub-3-2TA), filed February 9, 1983. Applicant: JOHNNY'S TRANSFER CO., INC., Rt. 1, Box 105-G, Mt. Holly, NC 28120. Representative: John C. Rogers, President (same address as above). Contract, irregular routes, *chemicals and dyestuffs, in containers,* from Martin, SC to Charlotte, NC and Atlanta, GA, under a continuing contract or contracts with Sandoz, Inc., Martin, SC. Supporting shipper: Sandoz Colors and Chemicals, Highway 102, Martin, SC 29863.

MC 35807 (Sub-3-6 TA), filed February 8, 1983. Applicant: WELLS FARGO ARMORED SERVICE CORPORATION, Post Office Box 4313, Atlanta, GA 30302. Representative: David E. Wells, Wells Fargo Armored Service Corporation, Post Office Box 4313, Atlanta, GA 30302. *Currency, coin, securities, food stamps and other articles of unusual value* between points in OH and KY. Supporting shipper: Federal Reserve Bank of Cleveland, 1455 East Sixth Street, Cleveland, OH 44114.

MC 166126 (Sub-3-1 TA), filed February 8, 1983. Applicant: KWIK-WAY-WEST, INC., 925 W. Main St., Rock Hill, S. C. 29730. Representative: C. Jack Pearce, 1000 Connecticut Avenue, NW., Suite 1200, Washington, D.C. 20036. *Contract,* Irregular: *Commodities as are dealt in by retail stores,* between Rock Hill, SC on the one hand, and on the other hand, points in the U.S. except AK and HI, under continuing contract(s) with Smith Enterprises, Inc., Rock Hill Industrial Park, Drawer 12006, Rock Hill, S. C. 29730.

MC 164263 (Sub-3-2 TA), filed February 8, 1983. Applicant: ACME, INC., P.O. Box 2698, Gastonia, NC 28052. Representative: Eric Meierhoefer, 915 Pennsylvania Building, 425 13th Street, NW. Washington, DC 20004. *Contract,* irregular: *petroleum products,* between points in Gaston and Mecklenburg Counties, NC, on the one hand, and, on the other, points in York County, SC, under continuing contract(s) with Acme of South Carolina, Inc., of Gaffney, SC. Supporting shipper: Acme of South Carolina, Inc., P.O. Box 296, Gaffney, SC 29342.

MC 2934 (Sub-3-56 TA), filed February 8, 1983. Applicant: AERO MAYFLOWER TRANSIT CO., INC., 9998 North Michigan Road, Carmel, IN 46032. Representative: W. G. Lowry (same as above). *Contract* Carrier: Irregular; *Household Goods* between points in the U.S. (including AK and HI), under continuing contracts with Standard Oil Company (Indiana) and its subsidiaries, 200 East Randolph Drive, Chicago, Illinois, 60680. Supporting shipper: Standard Oil Company (Indiana), 200 East Randolph Drive, Chicago, IL 60680.

MC 163457 (Sub-3-2 TA), filed February 8, 1983. Applicant: JOWIN EXPRESS, INC., 1498 Highway 13 North, Columbia, MS 39429. Representative: Fred W. Johnson, Jr., P.O. Box 1291, Jackson, MS 39205. *Asphalt roofing* from Lauderdale County, MS to points in the states of AL, AR, FL, GA, KY, LA, TN, TX and SC. Supporting shipper: Atlas Roofing Company, P.O. Box 5777, Meridian, MS 39301.

MC 2934 (Sub-3-57TA), filed February 8, 1983. Applicant: AERO MAYFLOWER

TRANSIT CO., INC., 9998 North Michigan Road, Carmel, IN 46032. Representative: W. G. Lowry (same as above). *Contract:* Irregular: *Electronic equipment and components;* between points in the U.S. (including AK and HI), under continuing contracts with Texas Instruments, Inc., 12501 Research Boulevard, Austin, TX 78759. Supporting shipper: Texas Instruments, Inc., 12501 Research Boulevard, Austin, TX 78759.

MC 96889 (Sub-3–6TA), filed February 8, 1983. Applicant: E–B TRUCKING COMPANY, INCORPORATED, Hwy 301 North—P.O. Box 518, Battleboro, NC 27809. Representative: E. Lisk Everett-President (same as applicant). *Materials, supplies, and equipment (except cellulose and paper products and commodities in bulk, in tank vehicles)* used in the processing, packing, storing, handling and marketing of unmanufactured tobacco between points in FL, GA, KY, NC, SC, TN, and VA. Supporting shipper: Philip Morris U.S.A., P.O. Box 26603, Richmond, VA 23261.

MC 166110 (Sub-3–1TA), filed February 8, 1983. Applicant: J&J TRANSFER, INC., Carters Ridge Rd., Spruce Pine, NC 28777. Representative: Henry E. Seaton, 1024 Pennsylvania Bldg., 425 13th St. NW., Washington, DC 20004. *Dolomite and Feldspar,* between Mitchell County, NC, Cumberland County, NJ and Wyandot and Wood Counties, OH. Supporting shipper(s): Wheaton Ind., Box 269, Millville, NJ 08332.

MC 165896 (Sub-3–1TA), filed February 8, 1983. Applicant: JAMES W. KING, an individual, 422 West College Street, Kenton, TN 38233. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105. *Plastic Articles, Boots and Shoes NOI, Boot and Shoe Factory Supplies, Equipment used in the manufacture of boots and shoes,* between points in TN, AR, IL, MS and MO on the one hand, and on the other, points in IN, KS, MO, OH, NE and PA. Supporting shipper: Brown Shoe Co., 8500 Maryland St., St. Louis, MO 63105.

MC 165761 (Sub-3–1 TA), filed February 8, 1983. Applicant: ROY WILSON TRUCKING CO., 111 Saul Adams Lane, Crystal Springs, MS 39050. Representative: Donald B. Morrison, P.O. Box 22828, Jackson, MS 39205. *Contract* carrier: irregular: *Expanded clay aggregate,* in dump vehicles, between the facilities of Jackson Ready-Mix, Inc. at Jackson, MS on the one hand, and, on the other, points in LA under continuing contract(s) with Jackson Ready-Mix, Inc. of Jackson, MS. Supporting shipper: Jackson Ready-Mix, Inc., P.O. Box 1292, Jackson, MS 39205.

MC 105636 (Sub-3–1TA), filed February 8, 1983. Applicant: ARMELLINI EXPRESS LINES, INC., P.O. Box 2394, Stuart, FL 33494. Representative: Wilmer B. Hill, Suite 366 1030 Fifteenth Street, NW., Washington, D.C. 20005. *General commodities (except Classes A and B explosives, commodities in bulk, and household goods),* from points in CT, MA, TI, NY, NJ, PA, OH, MI, IL, MO, and WI to points in GA and FL, under continuing contract(s) with Merchants Shipping Association, Jersey City, NJ. Supporting Shipper: Merchants Shipping Association, 141 Provost St., Jersey City, NJ 07302.

MC 145637 (Sub-3–9TA), filed February 7, 1983. Applicant: B&B EXPRESS, INC., P.O. Box 5552, Station B, Greenville, SC 29606. Representative: Henry E. Seaton, 1024 Pennsylvania Bldg., 425 13th St., NW., Washington, D.C. 20004. *Synthetic fibers,* from Cartersville, GA to Los Angeles, CA and its commercial zone. Supporting shipper(s): Barnet Southern Corporation, P.O. Box 131, Arcadia, SC 29230.

MC 136291 (Sub-3–6TA), filed February 7, 1983. Applicant: CUSTOMIZED PARTS DISTRIBUTION, INC., 3600 N.W. 82 Avenue, Miami, Florida 33166. Representative: Dale A. Tibbets (same address as applicant) Contract: irregular: *such merchandise as is dealt in by food distributors* from Ann Arbor, MI and Tulsa, OK to points in IN, IL, KY, MI, OH, PA, WI, and WV under continuing contract(s) with Midwest Natural Foods Distributors, Inc. Supporting shipper: Midwest Natural Foods Distributors, Inc., 170 April Drive, Ann Arbor, MI 48103.

MC 166100 (Sub-3–1TA), filed February 7, 1983. Applicant: O. HARVEY GRIGGS, INC., Post Office Box 824, 1015 West Pine Street, Mount Airy, NC 27030. Representative: William E. West, JR., 11 West Fourth Street, Winston-Salem, NC 27101. *Contract:* Irregular: *Fuel Oil and Gasoline* between NC, SC, and VA. Supporting shippers: Proctor Silex, Inc., Post Office Box 511, Hay Street, Mount Airy, NC 27030 and Anderson and Webb Trucking Company, 770 West Lebanon Street, Mount Airy, NC 27030.

MC 136291 (Sub-3–5TA), filed February 7, 1983. Applicant: CUSTOMIZED PARTS DISTRIBUTION, INC., 3600 N.W. 82nd Avenue, Miami, FL 33166. Representative: Dale A. Tibbets (same address as applicant). *Contract;* irregular: *such commodities as are dealt in by tobacco, candy and food distributors* from Livonia, MI to points in IN, IL, KY, IA, MN, MO, OH, WI and WV under continuing contract(s) with International Tobacco Wholesalers Alliance, Ltd.; Supporting shipper: International Tobacco Wholesalers Alliance, Ltd., 13623, Otterson Court, Livonia, MI 48150.

MC 2934 (Sub-3–61TA), filed February 10, 1983. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Road, Carmel, IN 46032. Representative: W. G. Lowry (same as above). *Contract:* Irregular: *Household goods,* between points in the U.S. (except AK and HI), under continuing contracts with ARA Services, Inc., Independence Square West, Philadelphia, PA 19106. Supporting shipper: ARA Services, Inc., Independence Square West, Philadelphia, PA 19106.

MC 2934 (Sub-3–60TA), filed February 10, 1983. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Road, Carmel, IN 46032. Representative: W. G. Lowry (same as above). *Contract:* Irregular: *Household goods and electronic equipment,* between points in the U.S. (excluding AK and HI), under continuing contracts with Applied Technology Ventures and its subsidiaries, 2921 South Daimler Avenue, Santa Ana, CA 92711. Supporting shipper: Applied Technology Ventures, and its subsidiaries, 2921 South Daimler Avenue, Santa Ana, CA 92711.

MC 149229 (Sub-3–1TA), filed February 10, 1983. Applicant: SOUTHERN CHEMICAL, TRUCKING SERVICE, INC., 451 Lower Boundry Street, Macon, GA 31202. Representative: Clyde W. Carver, Attorney, P.O. Box 720434, Atlanta, GA 30328. *Contract:* Irregular: *General Commodities* (except household goods, classes A and B explosives, and commodities in bulk) between points in the U.S. (except AK and HI), under the continuing contract(s) with American Industrial Chemical Corporation, P.O. Box 723117, Atlanta, GA 30309.

MC 2934 (Sub-3–58TA), filed February 10, 1983. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Road, Carmel, IN 46032. Representative: W. G. Lowry (same as above). *Contract:* Irregular: *Household goods,* between points in the US (including AK and HI), under continuing contracts with International Playtex, Inc., P.O. Box 631, Dover, DE 19901. Supporting Shipper: International Playtex, Inc., P.O. Box 631, Dover, DE 19901.

MC 2934 (Sub-3–59TA), filed February 10, 1983. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Road, Carmel, IN 46032. Representative: W. G. Lowry (same as above). *Contract:* Irregular: *Household goods*, between points in the US (excluding AK and HI), under continuing contracts with H. F. Ahmanson & Co., 3731 Wilshire Boulevard, Los Angeles, CA 90010. Supporting Shipper: H. F. Ahmanson & Co., 3731 Wilshire Boulevard, Los Angeles, CA 90010.

MC 165093 (Sub-3–3 TA), filed February 10, 1983. Applicant: HOLLIS RAINES d.b.a. RAINES TRUCKING, Rt. 1, Box 363, Munford, AL 36268. Representative: Hollis Raines (same address as applicant). *Contract:* Irregular: *Concrete panels*, from Birmingham, AL to Midland, TX under continuing contract with GRC Panels Unlimited, Inc. Supporting shipper: GRC Panels Unlimited, Inc., P.O. Box 6944, Birmingham AL 35210.

MC 164313 (Sub-3–3 TA), filed February 10, 1983. Applicant: QUALITY MULCH COMPANY, INC., Rte. 1, Box 203, Hamlet, NC 28345. Representative: Jack L. Schiller, 111–56 76th Dr., Forest Hills, NY 11375. *Contract*, Irregular: *wood stoves* from the facilities of Cesco Industries, Inc., located at or near Sanford, N.C to points in DE, GA, MD, NJ, NY, OH, PA and TN, under account with Cesco Industries, Inc. of Sanford, NC. Supporting shipper: Cesco Industries, Inc. P.O. Box 2747 Sanford, NC 27330.

MC 78728 (Sub-3–2 TA), filed February 11, 1983. Applicant: EVERETT EXPRESS, INC., Hwy 258, North, Tarboro, NC 27886. Representative: J. D. Dorn, P.O. Box 6274, Chesapeake, VA 23323. *General Commodities, except classes A & B explosives, household goods, and commodities in bulk*, between all points in NC and VA on the one hand, and all points in the state of VT on the other. Supporting shipper: Fulflex of N.C., Inc., 500 E. 7th St., Scotland Neck, NC 27874.

MC 31389 (Sub-3–17 TA), filed February 11, 1983. Applicant: McLEAN TRUCKING COMPANY, 1920 West First Street, Winston-Salem, NC 27104. Representative: Daniel R. Simmons, P.O. Box 213, Winston-Salem, NC 27154. *Contract Carrier:* Irregular: *Plastic or Rubber Articles* from Streamwood, IL to points in the U.S., under continuing contract or contracts with Duraco Products, Inc., of Streamwood, IL. Supporting shipper: Duraco Products, Inc., 1109 E. Lake Street, Streamwood, IL 60103.

MC 166221 (Sub-3–1 TA), filed February 11, 1983. Applicant: CENTURY FURNITURE COMPANY, P.O. Box 608, Hickory, NC 28603. Representative: Terrell Price, 600 Briar Creek Rd., DD–504, Charlotte, NC 28205. *Contract*, irregular, *paper, resins in bags, clay and crude rubber* from Mosinee, WI; Baton Rouge, LA; Fitchburg, MA; Beaumont, TX; Wrens, GA; and Norfolk, VA to Hickory, and Stony Point, NC under a continuing contract or contracts with Shuford Mills, Hickory, NC. Supporting shipper: Shuford Mills, Inc., 15th and Highland Aves., N.E., Hickory, NC 28601.

MC 166186 (Sub-3–TA), filed February 11, 1983. Applicant: KENTUCKY OIL AND REFINING COMPANY, Route 1, Box 63, Betsy Layne, KY 41065. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. *Contract carrier*, irregular routes, *petroleum and petroleum products*, between Floyd County, KY, on the one hand, and, on the other, points in KY, IN, OH, TN, NC, VA, and WV, under contract with Sun Refining and Marketing Co., of Philadelphia, PA. Supporting shipper: Sun Refining and Marketing Co., P.O. Box 7399, 2–V–F–5, Philadelphia, PA 19104.

The following applications were filed in Region 6. Send protests to: Interstate Commerce Commission, Region 6 Motor Carrier Board, 211 Main St., Suite 501, San Francisco, CA 94105.

MC 164651 (Sub-6–2TA), filed February 8, 1983. Applicant: WALTER MOSLEY, JR. d.b.a. MOSLEY'S MOBILE HOME MOVERS, 920 N. Arizona Ave., Apt. 9, Chandler, AZ 85224. Representative: Jack L. Schiller, 111–56 76th Dr., Forest Hills, NY 11375. *Such commodities as are dealt in or used in the manufacture, distribution and installation of mobile homes* between points in AZ, on the one hand, and, on the other, points in CA, for 270 days. Supporting shippers: Golden West Homes 25805 S. Arizona Ave., Chandler, AZ; Ray's Mobile Home Services 5716 Player Pl. Mesa, AZ 85205; Palm Harbor Homes Inc. P.O. Box 3169, Tempe, AZ 85281; and Sko's Mobile Home Sales, Inc. 109 W. 24th St., Yuma, AZ 85364.

MC 160799 (Sub-6–2TA), filed February 3, 1983. Applicant: H. M. SMITH TRANSPORT, LTD., P.O. Box 421, Elrose, Saskatchewan, CD SOL OZO. Representative: Jerome Anderson, P.O. Drawer 849, Billings, MT 59103–0849. *Dry fertilizer* between points of entry on the International Boundary line between the U.S. and CD in MT and ND, on the one hand, and on the other, points in MT, ND, and Caribou County, ID, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Con Agra-Agri Basics, POB 2548, Great Falls, MT 59403.

MC 161914 (Sub-6–1 TA), filed February 4, 1983. Applicant: NORMAN K. SPERRY, P.O.B. 308, Heber City, UT 84032. Representative: (same as applicant). *Contract carrier*, irregular routes, *bakery products, materials, equipment and supplies used in the production of bakery products* from Salt Lake City, UT on the one hand and points in MT, CA, CO, NV, ID and AZ on the other hand, for 270 days, for the account of Bakery Service, Inc. Supporting shipper: Bakery Service, Inc., 6860 South 1346 East, Salt Lake City, UT 84121.

MC 142698 (Sub-6–1 TA), filed February 4, 1983. Applicant: B. A. STRICKLAND, 620 Old Hiway 99 No., Burlington, WA 98233. Representative: (same as applicant). *Contract carrier*, irregular routes, *such commodities as may be dealt in by manufacturers of fiberglas insulation and roofing products* from points in CA to points in Skagit County, WA, for the account of Barrys Insulation Service, and/or Burlington Builders Supply, for 270 days. An underlying ETA seeks 120 day authority. Supporting shipper: Barrys Insulation Service and/or Burlington Builders Supply, 1303 S. Anacortes St., Burlington, WA 98233.

MC 121439 (Sub-6–1 TA), filed February 8, 1983. Applicant: THOMAS TRANSFER, INC., P.O. B. 5623 Denver, CO 80202. Representative: Charles M. Williams, McCullough Building, 1750 Gilpin St., Denver, CO 80218. *General commodities (except commodities in bulk and household goods as defined by the Commission)*, between Denver, CO, and its commercial zone, Scottsbluff County, NE and points in WY, restricted to shipments having a prior or subsequent movement by rail, for 270 days. Supporting shipper: Burlington Northern Railroad Co., 1405 Crutis St., Denver, CO 80202.

MC 151878 (Sub-6–9 TA), filed February 4, 1983. Applicant: THREE WAY CORPORATION, 1120 Karlstad Dr., Sunnyvale, CA 94086. Representative: Charles H. White, Jr., 1019 19th St., NW., Suite 800, Washington, D.C. 20036. *Contract Carrier*, irregular routes, *General commodities (except Classes A and B explosives and commodities in bulk)* between points in the U.S. under continuing contract with Rapicom, Inc., for 270 days. Supporting shipper: Rapicom, Inc., 7 Kingsbridge Rd., Fairfield, NJ 07006.

MC 166072 (Sub-6–1TA), filed February 4, 1983. Applicant: TRAFFIC WEST FREIGHT SYSTEMS, INC., 1225 Sixth St., San Francisco, CA 94107. Representative: Michael Leiden, P.O. Box 421636, San Francisco, CA 94142. *General commodities* (except commodities in bulk, class A and B explosives, and used household goods) between points in CA, for 270 days. Interline privileges requested. Supporting Shipper: Manufacturer's Consolidation Service, Inc., Hwy 64–70 State Rd. 1730, Claremont, NC 28610.

MC 148791 (Sub-6–20TA), filed February 3, 1983. Applicant: TRANSPORT-WEST, INC., 1850 S 1100 W, Woods Cross, UT 84987. Representative: Rick J. Hall, P.O. Box 2465, Salt Lake City, UT 84110. *Contract carrier*, Irregular routes: *General commodities* (except household goods, Classes A and B explosives and commodities in bulk), between points in the U.S. (excluding AK and HI) for the account of Aspen Distribution of Salt Lake City, UT for 270 days. Supporting shipper: Aspen Distribution Center, 1765 S 5250 W, Salt Lake City, UT 84104.

MC 158840 (Sub-6–1TA), filed February 3, 1983. Applicant: C.P.K. d.b.a. WESTERN VILLAGE TRUCK STOP AND CASINO, 3700 Grant Dr., Reno, NV 89509. Representative: David L. Mousel, P.O. Box 460, Reno, NV 89504. *Passengers and their baggage* in *special* and *charter operations*, between Mesquite, NV, and St. George, UT, over U.S. Interstate Highway 15, for 270 days. Supporting shipper: There are fifteen (15) shippers. Their statements may be examined at the Regional Office above.

MC 166128 (Sub-6–1TA), filed February 8, 1983. Applicant: RICH LEHMANN d.b.a. RICH LEHMANN TRUCKING, 2205 Rosewyn Lane, Billings, MT 59102. Representative: Charles A. Murray, Jr., 2822 Third Ave. N., Billings, MT 59101. *Dry bulk cement* from Rapid City, SD, to Billings, MT, for 270 days. Supporting shipper: Quality Concrete Company, 2111 Fourth Ave., No., Billings, MT. 59103

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-4460 Filed 2-22-83; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 23]

Motor Carriers; Applications, Alternate Route Deviations, and Intrastate Applications

Motor Carrier Intrastate Application(s)

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 10931 (formerly Section 206(a)(6)) of the Interstate Commerce Act. These applications are governed by 49 CFR Part 1161 of the Commission's Rules of Practice which provide, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

By the Commission.

Agatha L. Mergenovich,

Secretary.

New York Docket No. T–1976 filed February 9, 1983. Applicant: A. F. D., INC., 300 Factory Ave., Syracuse, NY 13211. Representative: Herbert M. Cantor, Esq., and Benjamin D. Levine, Esq., 305 Montgomery St., Syracuse, NY 13202. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General Commodities, as defined in Section 800.1 of Title 17 of the Official Compilation of Codes, Rules and Regulations of the State of New York: Between all points in Albany, Erie, Monroe, Oneida and Onondaga Counties, NY. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Request for procedural information should be addressed to the New York State Department of Transportation, 1220 Washington Avenue, State Campus, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

New York Docket No. T–10050, filed February 8, 1983. Applicant: SECURITIES COURIER CORP., 33 Desbrosses Street, New York, NY 10013. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportion of: *General commodities:* Between New York City on the one hand, and, on the other, all points in the State. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Request for procedural information should be addressed to the New York State Department of Transportation, 1220 Washington Avenue, State Campus, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

[FR Doc. 83-4458 Filed 2-22-83; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 388; Sub-37]

Rail Carriers; State Intrastate Rail Rate Authority, Pub. L. 96–448 (Wyoming)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Discontinuance.

SUMMARY: Pursuant to applicant's written request, the Commission discontinues this proceeding in which the Wyoming Public Service Commission sought certification to regulate intrastate rail rates in Wyoming. Intrastate rates in Wyoming will be regulated by the Interstate Commerce Commission.

DATES: The Commission's decision is effective on February 22, 1983.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (D.C. Metropolitan area) or toll-free (800) 424–5403.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-4451 Filed 2-22-83; 8:45 am]

BILLING CODE 7035-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel; Meetings

AGENCY: National Endowment for the Humanities, NFAH.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street, NW., Washington, D.C. 20506:

1. Date: March 3–4, 1983.
Time: 9:00 a.m. to 5:30 p.m.
Room: 1134.
Program: This meeting will review applications submitted for Research Materials: Literature, Music, and Art (RT and RE) Panel, Division of Research Programs, for projects beginning after July 1, 1983.

2. Date: March 4, 1983.
Time: 8:30 a.m. to 5:00 p.m.
Room: 607.

Program: This meeting will review applications submitted for the Youth Grants Program, Division of General Programs for projects beginning after June 1, 1983.

3. Date: March 10, 1983.
Time: 8:30 a.m. to 5:00 p.m.
Room: 807
Program: This meeting will review applications submitted for Exemplary Projects, Division of Education, for projects beginning after June 1, 1983.

4. Date: March 11, 1983.
Time: 9:00 a.m. to 5:30 p.m.
Room: 1134.
Program: This meeting will review applications submitted to the Research Materials Program (Research Tools and Editions) in the field of history and social studies Division of Research Programs, for projects beginning after July 1, 1983.

5. Date: March 14, 1983.
Time: 8:30 a.m. to 5:00 p.m.
Room: 807.
Program: This meeting will review applications submitted to the Elementary and Secondary Education Program, for projects beginning after July 1, 1983.

6. Date: March 17–18, 1983.
Time: 8:30 a.m. to 5:00 p.m.
Room: 807.
Program: This meeting will review applications submitted for the Youth Projects Program, Division of General Programs, for projects beginning after June 1, 1983.

The proposed meetings 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. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which would significantly frustrate implementation of proposed agency action, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Futher information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506, or call (202) 724–0367.

Stephen J. McCleary
Advisory Committee, Management Officer.

[FR Doc. 83-4524 Filed 2-22-83; 8:45 am]
BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Proposed Meetings

In order to provide advance information regarding proposed meetings of the ACRS Subcommittees and of the full Committee, the following preliminary schedule is published to reflect the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published January 18, 1983 (48 FR 2237). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the Federal Register approximately 15 days (or more) prior to the meeting. Those Subcommittee meetings for which it is anticipated that there will be a portion or all of the meeting open to the public are indicated by an asterisk (*). It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 a.m. and Subcommittee meetings usually begin at 8:30 a.m. The time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the March 1983 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone 202/634–3267, ATTN: Barbara Jo White) between 8:15 a.m. and 5:00 p.m., Eastern Time.

ACRS Subcommittee Meetings

**Systematic Evaluation Program (SEP),* February 23, 1983, Washington, DC. The Subcommittee will review the Yankee Rowe systematic evaluation program.

**Clinch River Breeder Reactor (CRBR),* February 23 and 24, 1983, Washington, DC—Cancelled.

**CRBR Working Group on Systems Integration and Instrumentation and Control,* February 24, 1983, Washington, DC. The Subcommittee will continue to review the CRBR instrumentation and control and plant protection systems and the CRBR reliability program.

**Catawba,* March 4 and 5, 1983, Charlotte, NC. The Subcommittee will visit the plant and review the application by the Duke Power Company for an operating license.

**Qualification Program for Safety-Related Equipment,* March 8, 1983, Washington, DC. The Subcommittee will discuss "Service Qualification of Equipment for Operating Reactors," Status USI A–46, the NRC research program for plant aging, and the use of seismic experience data for seismic qualification of certain types of equipment.

**Reliability and Probabilistic Assessment,* March 9, 1983, Washington, DC. The Subcommittee will discuss the recent NRC study on "Precursors to Potential Severe Core Damage Accidents: 1969–1979—A Status Report," NUREG/CR–2497, and the peer review of this report.

**CRBR Working Group on Structures and Materials,* March 16 and 17, 1983, Washington, DC. The Subcommittee will continue the review of the CRBR construction permit application.

**Waste Management,* March 18 and 19, 1983 (Tentative), Washington, DC. The Subcommittee will review the Department of Energy's proposed general guidelines for recommendation of high-level waste (HLW) repository sites.

Groupe Permanent/ACRS Meeting, March 24, and 25, 1983, Washington, DC. The Groupe Permanent and the ACRS will exchange views regarding existing and proposed regulatory policies, practices and criteria for the regulation of nuclear facilities.

**Joint Metal Components and Combination of Dynamic Loads,* March 30, 1983, Washington, DC. The Subcommittee will review the reevaluation of double-ended guillotine pipe break design requirements for Westinghouse PWR plants.

**Clinch River Breeder Reactor (CRBR),* March 31, 1983, (Tentative), Washington, DC. The Subcommittee will continue the review of the CRBR construction permit application.

**Seabrook 1,* March 31 and April 1, 1983, Location to be determined. The Subcommittee will visit the plant and review the application of the Public Service Company of New Hampshire for an operating license.

**Metal Components Working Group.* Date to be determined (March, Tentative), Washington, DC. The Subcommittee will review the status of

the NRC pressurized thermal shock program.

Reactor Operations, April 6, 1983, Washington, DC. The Subcommittee will review the draft final rules, "Immediate Notification Requirements," 10 CFR 50.72, and the revised "Licensee Event Report (LER) Rule," 10 CFR 50.73.

Class-9 Accidents, April 21, 1983 (Tentative), Washington, DC. The Subcommittee will review "Nuclear Power Plant Severe Accident Research Plan," NUREG-0900.

Waste Management, April 21-23, 1983 (Tentative), Washington, DC. The Subcommittee will review and comment on the Department of Energy's Site Characterization Report for the Basalt Waste Isolation Project (Hanford).

Reactor Radiological Effects, April 29, 1983 (Tentative), Washington, DC. The Subcommittee will review the Shippingport Reactor decommissioning.

GE Water Reactors/Westinghouse Water Reactors/Safeguards and Security, Date to be determined (April, Tentative), Washington, DC. The Subcommittee will discuss applications for Final Design Approvals (FDA) by General Electric and preliminary design information for the Westinghouse advanced pressurized water reactor (APWR).

Systematic Evaluation Program (SEP), Date to be determined (April, Tentative), Washington, DC. The Subcommittee will review the Haddam Neck Reactor Systematic evaluation program.

Plant Features Important to Safety, May 11, 1983, Washington, DC. The Subcommittee will discuss program plans on Equipment Qualifications and Classification Systems dealing with both mechanical and electrical components. New initiatives in the quality assurance area will be explored. Items such as a "graded QA" system are of interest.

Midland Plant Units 1 and 2, Date to be determined, Washington, DC. The Subcommittee will review Consumers Power Company's (CPCo) plan for an audit of plant quality at Midland Plant Units 1 and 2. In addition, representatives of CPCo will report on design and construction problems at Midland, their disposition, and the overall effectiveness of the effect to assure appropriate plant quality. The Committee will be briefed on CPCo's Systems Completion Plan.

Human Factors, Date to be determined, Washington, DC. The Subcommittee will meet: (a) To review the question of what qualifications would be desirable for members of a nuclear power plant operating staff; (b) to review the adequacy of the application of the generic safety issue prioritization methodology to human factors related safety issues; (c) to review proposed human factors related modifications to the "General Design Criteria for Nuclear Power Plants," 10 CFR 50 Appendix A; (d) to discuss Dr. G. Salvendy's proposal for training human factors engineers relative to the safe design and operation of nuclear power plants; and (e) to be briefed by the Office of Inspection and Enforcement on recent activities at the NRC's emergency response center.

Metal Components, Date to be determined, Washington, DC. The Subcommittee will discuss the NRC action plant on integrity of bolts.

ACRS Full Committee Meeting

March 10-12, 1983: Items are *tentatively* scheduled.

A. *Clinch River Breeder Reactor (CRBR)*—Proposed facility design (partial review).

B. *Yankee (Rowe) Nuclear Power Plant*—SEP Evaluation (Integrated Reliability Assessment).

C. *Catawba Nuclear Station Units 1 and 2*—Operating License.

D. *Prioritization of Generic Issues*—Application of proposed methodology to specific issues.

E. *Hydraulic Control Unit Line Integrity*—Proposed ACRS comments regarding the integrity of control rod drive hydraulic control lines.

F. *Regulatory Reform*—Discussion of proposed changes in legislation applicable to nuclear power plant licensing and proposed regionalization of NRC staff licensing activities.

G. *Sizewell Technical Exchange*—Briefing by the NRC staff regarding safety-related modifications of the Sizewell Nuclear Plant.

H. *ACRS Subcommittee Activities*—Reports regarding safety-related activities including proposed changes in ECCS evaluation models, decay heat removal systems, and consideration of class-9 accidents.

April 14-16, 1983—Agenda to be announced.

May 12-14, 1983—Agenda to be announced.

Dated: February 17, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-4507 Filed 2-22-83; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Qualification Program for Safety-Related Equipment; Meeting

The ACRS Subcommittee on Qualification program for Safety-Related Equipment will hold a meeting on March 8, 1983, Room 1046, 1717 H Street, NW, Washington, D.C. The Subcommittee will discuss the Status USI A-46, RES Program for plant aging, and using seismic experience data for seismic qualification of certain types of equipment.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions which will be closed to protect proprietary information (Sunshine Act Exemption 4). One or more closed sessions may be necessary to discuss such information. To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Tuesday, March 8, 1983—8:30 a.m. until the conclusion of business

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with respresentatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Anthony Cappucci (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EST.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close portions of this meeting to public attendance to protect proprietary information. The authority

for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: February 16, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-4506 Filed 2-22-83; 8:45 am]

BILLING CODE 7590-01-M

Advisory Panel for the Decontamination of Three Mile Island, Unit 2

Notice is hereby given pursuant to the Federal Advisory Committee Act that the Advisory Panel for the Decontamination of Three Mile Island, Unit 2 will be meeting on March 17, 1983, from 7:00 p.m. to 10:00 p.m. at the Holiday Inn, 23 South Second Street, Harrisburg, Pennsylvania 17101. The meeting will be open for public observation.

At this meeting, the Panel will discuss TMI-2 cleanup activities. Specifically addressed will be the State of Pennsylvania's participation in a regional low level waste compact.

Further information on the meeting may be obtained from Dr. Michael T. Masnik, Three Mile Island Program Office, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone 301/492-7466.

Dated: February 16, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-4496 Filed 2-22-83; 8:45 am]

BILLING CODE 7590-01-M

Applications for Licenses To Import Nuclear Facilities or Materials

Pursuant to 10 CFR 110.70(b) "Public notice of receipt of an application", please take notice that the Nuclear Regulatory Commission has received the following applications for import licenses. A copy of the application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, NW., Washington, D.C.

A request for a hearing or a petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register.** Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, the Secretary, U.S. Nuclear Regulatory Commission and the Executive Secretary, Department of State, Washington, D.C. 20520.

The table below lists the new major import applications.

Dated this 10th day of February at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

James V. Zimmerman,

Assistant Director, Export/Import and International Safeguards, Office of International Programs.

Name of applicant, dated of application, date received, application No.	Material type	Material in kilograms		End-use	Country of destination
		Total element	Total isotope		
New York Nuclear Corporation, Feb. 4, 1983, Feb. 8, 1983, ISNM83003.	5 pct. enriched uranium	5,000,000	250,000	Use as fuel in various U.S. Nuclear Power Reactors	From various countries.

[FR Doc. 83-4499 Filed 2-22-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-373 and 50-374]

Commonwealth Edison Co., La Salle County Station, Units 1 and 2; Issuance of Director's Decision Under 10 CFR 2.206

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has issued a Director's Decision which denied the petition and amendment under 10 CFR 2.206 filed by the Attorney General of Illinois, and the petitions filed by the Illinois Friends of the Earth and Citizens Against Nuclear Power. These petitions are related to La Salle County Station Units 1 and 2. In an initial Director's Decision, issued July 19, 1982, the petitions of the Attorney General of Illinois and Illinois Friends of the Earth were denied as they pertained to La Salle Unit 1. For La Salle Unit 2, a decision was deferred pending completion of the NRC staff investigations. The final Director's Decision deals with those deferred items as well as the petition of the Citizens Against Nuclear Power. In its petition, the Citizens Against Nuclear Power reiterated the alleged construction deficiencies cited in the petitions filed by the Attorney General of Illinois and Illinois Friends of the Earth; cited alleged deficiencies in the work of the Zack Company, a subcontractor on heating, ventilating and air conditioning systems; and questioned the competency of the Morrison Construction Company project management.

The reasons for the above conclusions are fully described in the "Director's Decision Under 10 CFR 2.206" dated February 9, 1983, which is available for public inspection in the Commission's Public Document Room located at 1717 H Street, NW., Washington, D.C. 20555, and at the Public Library of Illinois Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348. A copy of the decision will be filed with the Secretary for the Commission's review in accordance with 10 CFR 2.206(c).

Dated at Bethesda, Maryland, this 9th day of February 1983.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 83-4500 Filed 2-22-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-321]

Georgia Power Co., et al.; Issuance of Amendment to Facility Operation License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 93 to Facility Operating License No. DPR-57, issued to Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, and City of Dalton, Georgia, which added a license condition and revised Technical Specifications (TSs) for operation of the Edwin I. Hatch Nuclear Plant, Unit No. 1 (the facility) located in Appling County, Georgia. The amendment is effective as of the date of issuance.

The amendment revises the license for

Hatch Unit No. 1 to: (1) Add a condition concerning submittal of plans for inspection of the Recirculation and Reactor Heat Removal Piping Systems during the next refueling outage for Commission review and approval, and (2) change the TSs to augment the leak detection requirements.

The application for the amendment complies 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 the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that 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 issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated February 10, 1983, (2) Amendment No. 93 to License No. DPR-57, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513. 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 11th day of February 1983.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 83-4501 Filed 2-22-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-309]

Maine Yankee Atomic Power Co. (Maine Yankee Atomic Power Station); Issuance of Director's Decision Under 10 CFR 2.206 (DD-83-3)

By petition dated October 20, 1982, Safe Power for Maine, Emil G. Garrett, John B. Green, and John Jerabek, requested that the Director of Nuclear Reactor Regulation revoke, suspend or modify the license of the Maine Yankee Atomic Power Company to operate the Maine Yankee Atomic Power Station pending demonstration of adequate financial resources to continue operation and to provide for eventual decommissioning. Notice was published in the **Federal Register** on December 8, 1982 (47 FR 55353) that the petition was being considered under 10 CFR 2.206 of the Commission's regulations. For the reasons set forth in a "Director's Decision under 10 CFR 2.206" regarding this matter, the petition has been denied.

Copies of the "Director's Decision under 10 CFR 2.206" are available for inspection in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. 20555 and in the local public document room at the Wiscasset Public Library Association, High Street, Wiscasset, Maine. A copy of the decision will also be filed with the Secretary for the Commission's review in accordance with 10 CFR 2.206(c). As provided in 10 CFR 2.206(c), this decision will constitute the Commission's final action 25 days after issuance, unless the Commission on its own motion institutes review of the decision within that time.

Dated at Bethesda, Maryland, this 14th day of February, 1983.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 83-4502 Filed 2-22-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-387]

Pennsylvania Power & Light Co. and Allegheny Electric Cooperative, Inc.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 10 to Facility Operating License No. NPF-14, issued to Pennsylvania Power & Light Company and Allegheny Electric Cooperative, Inc., for Susquehanna Steam Electric Station, Unit 1 (the facility) located in Luzerne County, Pennsylvania. This amendment grants changes to Technical Specifications to add Fire Zone 1-2B and delete Fire Zone 1-6A from the listing of areas where spray and sprinkler systems shall be operable. This amendment is effective as of the date of issuance.

The application for the amendment complies with the standands and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that 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 issuance of this amendment.

For further details with respect to this action, see (1) the application for the amendment dated October 19, 1982 (PLA-1351); (2) Amendment No. 10 to License NPF-14 dated February 10, 1983; and (3) the Commission's evaluation dated February 10, 1983. All of these items are available for public inspection at the Commission's Public Document Room 1717 H Street, NW., Washington, D.C. 20555, and at the Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701. A copy of items (1), (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, Md., this 10th day of February 1983.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Licensing Branch No. 2, Division of Licensing.

[FR Doc. 83-4503 Filed 2-22-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-244]

R. E. Ginna Nuclear Power Plant; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 56 to Provisional Operating License No. DPR-18, issued to Rochester Gas and Electric Corporation (the licensee), which revised the Technical Specifications for operation of the R. E. Ginna Plant (facility) located in Wayne County, New York. This amendment is effective as of its date of issuance.

The amendment authorizes technical specification changes to require annual audits of the Emergency and Security Plans.

The application for the amendment complies 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 the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that 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 issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment notarized December 1, 1982, and (2) Amendment No. 56 to License No. DPR-18, including the Commission's letter of transmittal which contains its evaluation. 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 Rochester Public Library, 115 South Avenue, Rochester, New York 14627. A single copy of item (2) may be obtained by request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 9th day of February 1983.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 83-4504 Filed 2-22-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-395]

Virgil C. Summer Nuclear Station, Unit No. 1; Issuance of Amendment to Facility Operating License No. NPF-12

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 10 to Facility Operating License No. NPF-12, issued to South Carolina Electric & Gas Company and South Carolina Public Service Authority (the licensees) for the Virgil C. Summer Nuclear Station, Unit No. 1 (the facility) located in Fairfield County, South Carolina. The amendment authorizes a change in the Technical Specifications related to the engineered safety feature actuation system instrumentation. The amendment is effective as of its date of issuance.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that 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 issuance of this amendment.

For further details with respect to this action, see (1) South Carolina Electric & Gas Company letter, dated January 20, 1983, (2) Amendment No. 10 to Facility Operating License No. NPF-12 with Appendix A Technical Specifications page change, and (3) the Commission's related Safety Evaluation.

All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and the Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180. A copy of Amendment No. 10 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, Md., this 4th day of February 1983

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 83-4505 Filed 2-22-83; 8:45 am]

BILLING CODE 7590-01-M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

SUMMARY OF PROPOSAL(S):

(1) Collection title: Pay Rate Reports.
(2) Form(s) submitted: UI-1e, UI-1g.
(3) Type of request: Extension.
(4) Frequency of use: On occasion.
(5) Respondents: Railroad Employees and Employers.
(6) Annual responses: 2,600.
(7) Annual reporting hours: 367.
(8) Collection description: Under the RUIA, the daily benefit rate for unemployment and sickness benefits depends on the employee's last daily rate of pay. The reports obtain information from the employee and verification from the employer of the claimed rate of pay for use in determining whether an increase in the benefit rate is due.

(1) Collection title: Employer Service and Compensation.
(2) Form(s) submitted: UI-41, UI-41a.
(3) Type of request: Extension.
(4) Frequency of use: On occasion.
(5) Respondents: Railroad Employers.
(6) Annual responses: 25,000.
(7) Annual reporting hours: 1,833.
(8) Collection description: The reports obtain the employee's service and compensation for a period subsequent to those already on file and the employee's base year compensation. The information is used to determine entitlement to and the amount of benefits payable.

(1) Collection title: Claim For Credit For Military Service (RUI Act).
(2) Form(s) submitted: UI-44.
(3) Type of request: Extension.
(4) Frequency of use: On occasion.
(5) Respondents: Railroad Employers.
(6) Annual responses: 300.
(7) Annual reporting hours: 25.
(8) Collection description: Military service can be used under certain conditions for entitlement to an extended or accelerated unemployment benefit period provided for under section 2(c) of the Railroad Unemployment Insurance Act. The form will obtain information about the applicant's claimed military service.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the proposed forms and supporting documents may be obtained from Pauline Lohens, the agency clearance officer (312-751-4692). Comments regarding the information collection should be addressed to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Milo Sunderhauf (202-395-6880), Office of Management and Budget, Room 3201, New Executive Office Building, Washington, D.C. 20503.

William A. Oczkowski,

Director of Planning and Information Management.

[FR Doc. 83-4430 Filed 2-22-83; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

Executive Committee of the Government-Business Forum on Small Business Capital Formation; Meeting

The Small Business Investment Incentive Act of 1980 (Pub. L. No. 96-477, October 21, 1980) requires the Securities and Exchange Commission to conduct an annual Government-Business Forum to review the current status of problems and programs relating to small business capital formation. The Executive Committee, comprised of appointees from several federal agencies and private sector organizations, will meet on February 25, 1983, at 10:00 a.m. for the purpose of planning the Forum which is scheduled for the fall of 1983. The meeting is to be held at the Securities and Exchange Commission, Room 3059, 450 5th Street, NW., Washington, D.C. 20549, and will be open to the public.

FOR FURTHER INFORMATION CONTACT: H. Steven Holtzman at (202) 272-7617.

Shirley E. Hollis,

Assistant Secretary.

February 15, 1983.

[FR Doc. 83-4448 Filed 2-22-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19500; File No. SR-CBOE-82-20]

Self-Regulatory Organization; Proposed Rule Change by Chicago Board Options Exchange, Inc.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s (b)(1), notice is hereby given that on February 8, 1983, the Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Rule 24.11 Margins

(a) Unchanged.

(b) For each put or call index option contract carried in a short position in the account, margin must be deposited and maintained equal to at least 100% of the current market value of the contract plus 10% of the current index value times the index multiplier.

In each case, the amount shall be decreased by any excess of the aggregate exercise price of the option over the current index value as multiplied by the index multiplier in the case of a call, or any excess of the current index value as multiplied by the index multiplier over the aggregate exercise price of the option in the case of a put; provided, however, that the minimum margin required on each such option contract shall not be less than the option market value plus 2% of the current index value times the index multiplier.

(c) Unchanged.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organizations Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The purpose of the amendment is to conform the margin requirements for index options with the requirements for debt options. The proposal provides that the margin for a short put or short call may be reduced by the amount that the option is out-of-the-money, subject to a minimum of the option market value plus the product of 2% of the current index value times the index multiplier. On February 4, 1983 the CBOE 100 current index value was approximately 147 and the minimum required margin would have been the option market value plus $294. This is similar to the premium based regulatory margin scheme for treasury options, which provides for a reduction for short option positions by the out-of-the-money amount, subject to a premium plus a preset minimum per option.

An increase in margin for the in-the-money amount that is similar to the increase required for equity options was provided for in the initial proposal, SR-CBOE-82-20.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe the proposed amendment will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments on the proposed amendment were neither solicited nor received.

The statutory basis for the proposed rules change is Section 6(b)(5) under the Securities Exchange Act of 1934 in that the rules are designed to facilitate transactions in options on stock indices.

III. Date of Effectiveness of the Proposed Rule Change and Timing for the Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying the Commission's Public Reference Section.

Copies of such filing will also be available for inspection and copying at the Principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation pursuant to delegated authority.

Dated: February 10, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-4447 Filed 2-22-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19503; File No. SR-NSCC-83-2]

Filing and Immediate Effectiveness of Proposed Rule Change by National Securities Clearing Corporation

February 14, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 14 U.S.C. 78s(b)(1), notice is hereby given that on February 4, 1983, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would amend NSCC Rule 2, Section 3 to authorize NSCC to reconsider an application for membership subsequent to the approval of that application, but prior to the applicant commencing the use of NSCC's services. Under the proposal, NSCC would be permitted to stay the commencement of use of NSCC's services by an applicant pending reconsideration.

Specifically, NSCC could reconsider an application whenever NSCC becomes aware of a material change in the applicant's financial or operational capability that potentially could impair that applicant's ability to perform as a clearing member. If, as a result of such reconsideration, NSCC determines that the applicant no longer meets NSCC's application and membership guidelines, NSCC, under the proposal, would be able to withdraw its approval of membership or condition approval on the applicant's furnishing further assurances. *See* NSCC Rules 2, sections 3 and 15, section 3. NSCC stated in its filing that it believes that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act in that the proposed rule change will promote the safeguarding of funds and securities in NSCC 's control by ensuring the financial and operational capabilities of its participants.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Reference should be made to File No. SR-NSCC-83-2.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-4445 Filed 2-22-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19497; File No. SR-PSE-83-01]

Self-Regulatory Organizations; Proposed Rule Change by Pacific Stock Exchange Inc. Relating to an Increase in Fees for Exchange Services

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on January 21, 1983, the Pacific Stock Exchange Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Pacific Stock Exchange Incorporated is instituting rate increases in fees for Exchange services applicable to member organizations, members, specialists and market makers.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B),and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to offset, in part, the increased costs of supplying services provided by the Exchange. These costs include manpower, systems and utilities associated with providing marketplace services. The basis under the Act for the proposed rule change is Section 6(b)(4) permitting the rules of the Exchange to provide for the equitable allocation of reasonable dues, fees and other charges among its members.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change imposes no burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of the Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communication relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section.

Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned, self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: February 9, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-4448 Filed 2-22-83; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Preferred Lenders Pilot Program

AGENCY: Small Business Administration.

ACTION: Notice.

SUMMARY: The Small Business Administration announces the commencement of a pilot program to test the Preferred Lenders concept. This pilot program will allow the SBA to collect and analyze empirical data. Such information will further assist SBA as we proceed with the development of proposed Rules and Regulations for the Preferred Lenders Program. Lenders participating in this program will be able to guarantee a qualifying small business loan without sending the application package to SBA. They will also be expected to service and liquidate their SBA guaranteed loan portfolio on a unilateral basis to the fullest extent permitted by the Loan Guaranty Agreement. The purpose of this program is to permit small businesses to benefit from government assistance with a minimum of government involvement.

EFFECTIVE DATE: March 1, 1983.

FOR FURTHER INFORMATION CONTACT:

Dan Gibb, Chief, Financial Institutions Branch, (202) 653-6076,

or

Jim Hammersley, Financial Analyst, (202) 653-6268, Small Business Administration, 1441 L Street, NW., Room 720, Washington, D.C. 20416.

SUPPLEMENTARY INFORMATION: Section 114 of Pub. L. 96-302 (94 Stat. 838) amended Section 5(b)(7) of the Small Business Act to allow the Administrator to permit certain lenders to act on his behalf in the processing, servicing and liquidating of SBA guaranteed loans. The purpose of the program is to fully utilize the expertise of a selected group of participating lenders. By relying on the expertise of the private sector lending partners, SBA can improve its service to the small business community without increasing its staff.

Current operating procedures require lenders to submit all applications for guaranteed loans to the local District Office. The District Office reviews the work of the lenders and either approves or denies the request. In 1979, SBA began the Certified Lenders Program (CLP). In CLP, lenders are trained on the proper completion of the SBA loan package. SBA agrees that, if the application package is complete, the Agency will provide the CLP lender a decision and loan document package within three working days. SBA reviews the loan application, rather than thoroughly re-analyzing it. Under CLP, certified lenders are urged to fully utilize the unilateral authorities granted to lenders by the Guarantee Agreements (SBA Forms 750 and 1186).

The Preferred Lenders Program (PLP) is another step in the direction of increasing SBA's reliance upon the most proven of our participating lenders. PLP lenders will be able to guarantee a qualifying small business loan without sending the application package to SBA. These lenders will disburse the loan and then service it, utilizing the unilateral authorities in the loan guarantee agreement to the fullest extent possible. If the loan enters a default status, the lender normally will liquidate the business assets and collateral. Current SBA procedures permit a lender to request payment of the entire guaranteed amount if the loan is in default for 60 days. These procedures also will be applicable to PLP.

Lenders selected for PLP must have been participants in the Certified Lenders Program. They must have demonstrated a commitment to small business lending and must have an excellent relationship with the local SBA office. Formal, specific selection eligibility criteria for PLP status will be developed and implemented once the proposed, PLP "pilot" has been implemented and evaluated.

SBA is proposing a pilot program involving, at least initially, six lenders located in Region II. Four are located in New York, and two are in New Jersey. The participant banks are: Chase Manhattan Bank, Chemical Bank, Citibank, Peconic Bank (Long Island), National Community Bank of Rutherford (New Jersey), and the First National State Bank of New Jersey (Newark). These lenders will be able to issue guarantees on small business loans and will be encouraged to use the full range of PLP authorities in the loan guaranty agreement on their *entire* SBA portfolio (not for just those SBA loans approved under PLP procedures).

For this pilot program, the percentage of a PLP loan guaranteed by SBA shall not exceed seventy-five percent (75%) of the outstanding principal of the loan. In the absence of statutory authority for SBA to guaranty any loan of $100,000 or less at less than ninety percent (90%), the Preferred Lenders Program is restricted to loans of more than $100,000. The New York/New Jersey pilot will last until December 31, 1983, and then will be formally evaluated. It is possible that the PLP's pilot will be expanded to other of SBA's Regions during 1983, perhaps on a staged, quarterly basis.

A detailed, quarterly lender evaluation also will be part of the PLP pilot. Case files will be reviewed and the bank's activity rated by a team of local SBA employees. Deficiencies will be noted and recorded for review during subsequent evaluations. These evaluations will lead either to further possible refinements (and expansions) of the Preferred Lenders Program or to the termination of this effort.

(Catalog of Federal Domestic Assistance Program No. 59.012, Small Business Loans)

Dated: February 16, 1983.

James C. Sanders,

Administrator.

[FR Doc. 83-4522 Filed 2-22-83; 8:45 am]

BILLING CODE 8025-01-M

Region VI Advisory Council; Public Meeting

The U.S. Small Business Administration, Region VI Advisory Council, located in the geographical area of the Lower Rio Grande Valley of Texas, will hold a public meeting at 2:30 p.m., on Tuesday, March 29, 1983, at the SBA District Office conference room, Harlingen, Texas, to discuss such matters as may be presented by

members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Rodney W. Martin, District Director, U.S. Small Business Administration, 222 E. Van Buren, Suite 500, Harlingen, Texas—(512) 423–8933.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

February 16, 1983.

[FR Doc. 83–4521 Filed 2–22–83; 8:45 am]

BILLING CODE 8025–01–M

Region VIII Advisory Council; Public Meeting

The Small Business Administration Region VIII Advisory Council, located in the geographical area of Helena, Montana, will hold a public meeting at 9:30 a.m. on Friday, April 1, 1983, at the Federal Office Building, 301 South Park, Room 289, Helena, Montana, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call John R. Cronholm, District Director, U.S. Small Business Administration, Federal Office Building, 301 South Park, Drawer 10054, Helena, Montana 59626—(406) 449–5381.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

February 16, 1983.

[FR Doc. 83–4520 Filed 2–22–83; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement to Department Circular—Public Debt Series—No. 5–83]

Series R–1985 Notes; Interest Rate

The Secretary announced on February 16, 1983, that the interest rate on the notes designated Series R–1985, described in Department Circular—Public Debt Series—No. 5–83 dated February 10, 1983, will be 9⅝ percent. Interest on the notes will be payable at the rate of 9⅝ percent per annum.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

[FR Doc. 83–4481 Filed 2–22–83; 8:45 am]

BILLING CODE 4810–40–M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 37
Wednesday, February 23, 1983

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

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CIVIL AERONAUTICS BOARD

[M-374; Feb. 17, 1983]

TIME AND DATE: 9:30 a.m. (open), 2 p.m. (closed), February 24, 1983.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of Items Adopted by Notation.
2. Docket 40320, Fees for Indirect Air Carriers (Air Freight Forwarders). (Memo 1702, OGC)
3. Docket 40432, *Bergt-AIA-Western-Wien Acquisition and Control Case.* Air Line Pilots Association's petition that the Board issue an order making clear that any Board approval of continued common control of Western and AIA is subject to the stipulated LPP's. (OGC)
4. Docket 34591, Essential Air Service to Hot Springs, Virginia. (Memo 189-C, BDA, OCCCA, OC)
5. Docket 37236, Danville's essential air service definition and compensation for Mid-South's provision of essential air service. (Memo 448-C, BDA, OCCCA, OC)
6. Docket 34774, Rio Airways' petition for reconsideration of Order 82-5-31 selecting Metroflight, Inc. to provide essential air service at McAlester, Oklahoma, and Paris, Texas. (Memo 507-C, BDA, OCCCA)
7. Docket 41091, Certificate Application of Air Logistics of Alaska, Inc., for interstate and overseas scheduled authority. (Memo 1704, BDA)
8. Commuter carrier fitness determination of Nevada County Aviation, Inc. (Memo 1412-B, BDA)
9. Commuter carrier fitness determinations of Montauk Caribbean Airways, Inc. and Ocean Reef Airways, Inc. (BDA)
10. Commuter carrier fitness determination of Chesapeake Transport, Inc. (BDA)
11. Docket 41260, Application of Air International for an exemption from section 204.8 to enable it to retain its 401 authority through September 16, 1983 without the requirement that it file updated fitness data. (BDA)
12. Docket 41045, Application of Alaska Aeronautical Industries for certificate authority to conduct scheduled interstate transportation of persons, property and mail between certain points in Alaska. (Memo 1705, BDA)
13. Docket 40634, Application of United Air Carriers, Inc., d.b.a. Overseas National Airways for section 401 certificate. United Air Lines, Inc. Petition for Reconsideration of Order 82-9-98. (Memo 1402-B, BDA)
14. Employee Protection Program: Applications on behalf of employees of various carriers for determinations of qualifying dislocation: Docket 38885, Aeroamerica; Docket 38418, Airlift International; Docket 40201, Air New England; Docket 38570, American Airlines; Docket 38978, Braniff International Airways; Docket 38720, Continental Airlines; Docket 39700, Delta Air Lines; Docket 38586, Eastern Air Lines; Docket 39783, Mackey International Airlines; Docket 34562, Overseas National Airways; Docket 38883, Pan American World Airways; Docket 38184, Trans World Airlines; and Docket 38571, United Air Lines. (BDA, OGC, OEA)
15. Docket 40828, *Central Zone-Caracas/Maracaibo Venezuela Service Case.* Request for Instructions. (OGC)
16. Docket 40960, Intercarrier agreement on U.S.-Benelux fares covering the period April-October 1983. (BIA)
17. Docket 37294, *Priority and Nonpriority Domestic Service Mail Rates Investigation,* and Docket 37392, *Transatlantic, Transpacific and Latin American Service Mail Rates Investigation.* (BIA)
18. Dockets 38821 and 39879, Applications of TACA International Airlines, S.A., for amendment of its foreign air carrier permit to include authority to conduct scheduled service between San Salvador and Houston, Los Angeles and San Francisco. (BIA, OGC, BALJ)
19. Docket 39018, Application of Aerolineas El Salvador, S.A., (AESA) for an amendment to its foreign air carrier permit to conduct scheduled El Salvador-Miami, Florida, passenger service. (Memo 1700, BIA, OGC, BALJ)
20. Request of OCS America Inc. for registration to operate as a foreign freight forwarder in foreign and interstate air transportation. (Memo 1699, BIA, OGC)
21. Dockets 40994, 40995, Applications of Unicorn Air, Ltd. for a certificate of public convenience and necessity authorizing scheduled interstate, overseas and foreign air transportation. (BIA, OGC, BALJ)
22. Dockets 34136 and 40490, *Chicago/Texas/Southeast Western Mexico Route Proceeding.* (Memo 169-D, BIA, OGC, BALJ)
23. Dockets 41101, 41102, 41103, 41158, 41159, Applications of American and Continental for U.S.-Argentina, U.S.-Colombia, and DFW/San Antonio-Mexico City/Acapulco-beyond Mexico certificate authority; Docket 41157—Joint application of Continental and Texas International for Houston-Mexico City/Acapulco-beyond Mexico certificate authority. (Memo 1707, BIA, OGC, BALJ)
24. Docket 41027, Application of Transamerica Airlines, Inc. for a certificate of public convenience and necessity (Back-up authority U.S.-P.R.C.). (Memo 1696, 1696-A, BIA, OGC, BALJ)
25. Docket 40586, Investigation of Courier Baggage Weight and Free Baggage Allowance. (BIA)
26. Report on Germany. (BIA)
27. Report on ECAC/Scandinavia. (BIA)
28. Report on The Netherlands. (BIA)
29. Negotiations with Netherlands-Antilles. (BIA)
30. Report on Canadian Fuel Tax. (BIA)

STATUS: 1-25 open, 26-30 closed.

PERSON TO CONTACT FOR MORE INFORMATION: Phyllis T. Kaylor, the Secretary (202) 673-5068.

[S-232-83 Filed 2-18-83; 3:51 pm]

BILLING CODE 6320-01-M

2

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11 a.m., Friday, February 25, 1983.

PLACE: 2033 K Street NW., Washington, D.C., Eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Surveillance Briefing

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-249-83 Filed 2-18-83; 3:51 pm]

BILLING CODE 6351-01-M

3

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10 a.m., February 22, 1983.

PLACE: 2033 K Street, NW., Washington, D.C., Fifth floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Chicago Mercantile Exchange's Standard and Poor's Consumer Staple Index

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–8314.

[S-250-83 Filed 2-18-83; 3:51 pm]

BILLING CODE 6351-01-M

4

DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE

TIME AND DATE: 10 a.m., March 1, 1983.

PLACE: Cash Room, Department of the Treasury (use Pennsylvania Avenue Entrance), Pennsylvania Avenue between 15th Street and East Executive Avenue, Washington, D.C. 20220.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Election of Officers.
2. Money Market Deposit Accounts with unlimited transfers for those not eligible to maintain NOW accounts.
3. Accelerating the Deregulation of Rate Ceilings.
4. Simplification of Existing Time Deposit Interest Rate Regulations.

Note.—The meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the DIDC offices at the Department of the Treasury, and copies may be purchased for $5.00 a cassette by calling (202) 566–5152 or by writing to: Depository Institutions Deregulation Committee, Department of the Treasury, Room 1060 MT, Washington, D.C. 20220.

For further information about the DIDC and the March 1, 1983 meeting please call (202) 566–3734.

February 18, 1983.

Gordon Eastburn,

Acting Executive Secretary of the Committee.

[S-251-83 Filed 2-18-83; 3:51 pm]

BILLING CODE 6210-01-M

5

FEDERAL COMMUNICATIONS COMMISSION

Deletion of Agenda Item From February 17th Open Meeting

February 17, 1983.

The following item has been deleted from the list of agenda items scheduled for consideration at the February 17, 1983, Open Meeting and previously listed in the Commission's Notice of February 10, 1983.

Agenda, Item No., and Subject

Video—5—*Title:* License Renewal Application, as supplemented, of WHYY, Inc. for noncommercial educational television Station WHYY–TV, Wilmington, Delaware. *Summary:* The Commission considers a "complaint" filed against WHYY–TV by the Broadcast and Communications Committee of the City Council of Wilmington, Delaware.

Issued: February 17, 1983.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-248-83 Filed 2-18-83; 2:28 pm]

BILLING CODE 6712-01-M

6

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:10 p.m. on Wednesday, February 16, 1983, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider the following matter:

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,568—Western Saving Fund Society of Philadelphia, Haverford, Pennsylvania

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. H. Joe Selby, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matter on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting pursuant to subsections (c)(4), (c)(6), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(4), (c)(6), and (c)(9)(B)).

Dated: February 16, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-246-83 Filed 2-18-83; 2:26 pm]

BILLING CODE 6714-01-M

7

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 7347, Friday, February 18, 1983.

PLACE: Board room, sixth floor, 1700 G Street, NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Lockwood (202–377–6679).

CHANGES IN THE MEETING: The Bank Board meeting previously scheduled for Wednesday, February 23, 1983 at 10 a.m. has been cancelled.

[No. 15, February 18, 1983]

[S-243-83 Filed 2-18-83; 10:56 am]

BILLING CODE 6720-01-M

8

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

February 16, 1983.

TIME AND DATE: 10 a.m., Wednesday, February 23, 1983.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Allied Chemical Corporation, Docket No. WEST 79–165–M. (Issues include whether the judge properly concluded that the operator violated 30 CFR 57.9–2, dealing with correction of equipment defects affecting safety).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653–5632.

[S-247-83 Filed 2-18-83; 2:25 pm]

BILLING CODE 6735-01-M

9

[USITC SE–83–09]

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: 2:30 p.m., Thursday, March 3, 1983.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Petitions and complaints, if necessary:
   a. Certain cookware (Docket No. 911).
2. Investigation 701–TA–152 (Final) (Prestressed Concrete Steel Wire Strand from Brazil)—briefing and vote.
3. Investigation 731–TA–91 (Final) (Sodium Nitrate from Chile)—briefing and vote.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

[S-244-83 Filed 2-18-83; 2:22 pm]

BILLING CODE 7020-02-M

10

INTERNATIONAL TRADE COMMISSION

[USITC SE–83–08]

TIME AND DATE: 2:30 p.m., Monday, February 28, 1983.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary:
a. Personal computers (Docket No. 910).
5. Investigation 337–TA–118 (Certain Sneakers with Fabric Uppers and Rubber Soles)—briefing and vote.
6. Investigation 701–TA–87 (Final) (Hot-Rolled Carbon Steel Plate from Brazil)—briefing and vote.
7. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

[S-245-83 Filed 3-22-83; 2:22 pm]

BILLING CODE 7020-02-M

11

LEGAL SERVICES CORPORATION

Orientation Meeting of the Board of Directors

TIME AND DATE: 9 a.m.–3 p.m., Friday, February 25, 1983.

PLACE: GSA Central Office Auditorium, 18th and F Streets, NW., First floor, Washington, D.C.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

Briefings by staff.

CONTACT PERSON FOR MORE INFORMATION: LeaAnne Bernstein, Secretary of the Corporation (202) 272–4040.

Dated: February 17, 1983.

Donald P. Bogard,

President.

[S-242-83 Filed 2-18-83; 10:21 am]

BILLING CODE 6820-35-M

federal register

Wednesday
February 23, 1983

Part II

Department of Housing and Urban Development

Office of the Secretary

Intergovernmental Review of HUD Programs and Activities; Proposed Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Parts 50, 52, 570, 590, 720, 841, 870, 880, 881, 883, 885 and 891

[Docket No. R-83-1070]

Intergovernmental Review of the Department of Housing and Urban Development Programs and Activities

AGENCY: Department of Housing and Urban Development, Office of the Secretary.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would implement Executive Order 12372, "Intergovernmental Review of Federal Programs." It applies to Federal financial assistance and direct Federal development programs and activities of the Department of Housing and Urban Development. Executive Order 12372, and these proposed regulations, are intended to replace the intergovernmental consultation system developed under Office of Mangement and Budget (OMB) Circular A-95. Under the Order, State and local elected officials, not the Federal government, will determine what Federal programs and activities to review and the procedures by which the review will take place.

DATES: *Comment Closing Date:* Comments must be received on or before April 11, 1983.

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

FOR FURTHER INFORMATION CONTACT: Dr. June Koch, Deputy Under Secretary for Intergovernmental Relations, Room 10140, Department of Housing and Urban Development, Washington, D.C. 20410, telephone (202) 755-6480. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Background

For many years, consultation between State and local officials and Federal agencies concerning Federal programs and activities has taken place through an elaborate regulatory and organizational framework created under OMB Circular A-95. The system also resulted in review of Federal programs by State and local agencies without regard to the priorities of their elected leadership. The A-95 process became highly bureaucratic, burdensome, and costly. States and localities had too much paperwork, and, as a result, the impact of substantive comments was sometimes lost. A network of State and area clearinghouses was created to manage this paperwork. State and local elected officials found it difficult to exert significant influence on Federal decisions through this system, and federal agencies found the system a cumbersome method of obtaining information about, and responding appropriately to, State and local concerns.

On July 14, 1982, President Reagan signed Executive Order 12372 Intergovernmental Review of Federal Programs. The Executive Order is reproduced as Attachment A to the OMB notice published in today's **Federal Register**. The Order directs the revocation of Circular A-95, and provides for a new, more effective, intergovernmental consultation system that is consistent with the the President's policies concerning Federalism and regulatory relief. Under the Order, State and local elected officials will take the initiative for establishing review procedures and priorities. State and local elected officials, not the Federal Government, will determine within the scope of the Order, which Federal programs and activities to review and the procedures by which the review will take place. When State and local elected officials bring their concerns to a Federal agency's attention through this process, the agency will have to make efforts to accommodate the concerns, and if it does not accommodate them, explain why not. This "accommodate or explain" provision gives greater weight to State and local views than Circular A-95 did. In addition, States will have the opportunity to simplify, consolidate, or substitute Federally required State plans.

Across the whole range of Federal programs and activities, the Circular A-95 created a substantial administrative burden. The Executive Order's system of consultation will significantly reduce that burden, and will open opportunities for States to reduce administrative burdens in Federal programs requiring State plans. In contrast to the A-95 system, which relied heavily on clearinghouses, planning organizations, and other bodies which are not elected by the jurisdictions they serve, the Order, consistent with the President's Federalism policy, emphasizes the role of elected State and local officials.

OMB Guidance to States

In order to assist States as they begin their work in implementing the Order, OMB wrote on or before today to each State concerning the establishment of an official State process. This letter will be reproduced in the **Federal Register** in the next few days. This letter explains the role of the "single point of contact." A "single point of contact" is the one office or official in the State that transmits the result of the State review and coordination with recommendations that differ from the Federal proposal to the Department and other Federal agencies and to which the Department directs official communications (e.g., explanations of nonaccommodation) to the State under the Order. A State may have as few or as many official entities as it chooses to perform review and coordination and to conduct discussions with the Department. However, there should only be one point of contact to officially transmit recommendations for change to Federal agencies under the Order. It is up to the State whether the single point of contact plays a substantive role with respect to the State's views, or simply acts as a focal point for official communications.

It is also worth emphasizing that States are not required to adopt an official State process at all. However, after final rules implementing the Order become effective (they will be published on or about April 30, 1983), the existing A-95 consultation system will no longer be in effect. Other existing statutory requirements are not affected by the proposed rule. An inventory of these existing requirements will be available.

This Department and other Federal agencies have the basic responsibility of ensuring that their programs and activities are carried out in conformity with the Order's provisions. OMB will have general government-wide oversight responsibility for the implementation of the Order, but will not attempt to exercise any day-to-day, operational control of agency actions. Nor will OMB act as a forum for "appeals" of agency actions by non-government parties.

Development of Proposed Regulations

If the objectives of the Executive Order are to be met, this Department and other Federal agencies must ensure that they deal with state and local elected officials in a consistent and understandable way. To this end, this Department and other Federal agencies affected by the Order have worked with OMB to make common policy decisions

and, to the extent feasible, to draft common regulatory language. The agencies involved chose an approach that minimizes the imposition of regulatory requirements on non-Federal parties. For the most part, these proposed regulations will spell out the Department's obligations and procedures in response to the views expressed by State and local elected officials. A paper discussing the policy decisions made by the agencies and OMB was made available to the public in December (47 FR 57369, December 23, 1982). Following the close of the comment period, the agencies will again work together with the aim of promulgating final rules that are substantially consistent with one another. It is the Federal Government's intention that there will be no further rulemaking with respect to this Executive Order.

The Executive Order mandates the implementation of final regulations by April 30, 1983. It will not be possible to have an adequate comment period and meet this deadline if the normal 30-day delay between the publication date of a final rule and its effective date is observed. Consequently, the Department proposes to make the final rule effective immediately upon its publication on April 30.

As a matter of style, the proposed rule uses the present tense when describing the Department's obligations. For example, when § 52.7 proposed regulation says that the Secretary "provides the State with a timely explanation," the regulation means that the Secretary is obligated to do so.

Removal of Regulations Implementing OMB Circular A-95

In connection with this proposed rulemaking, the Department is proposing to remove its existing regulations implementing former OMB Circular A-95. The current Part 52 is the basic HUD regulation implementing OMB Circular A-95. Amendatory paragraphs 2 through 25 would remove references to OMB Circular A-95 contained in other HUD regulations. Executive Order 12372 directed OMB to revoke the Circular itself, and the OMB directive revoking the Circular told Federal agencies to leave their A-95 regulations in place only until new regulations implementing the Order were promulgated on April 30, 1983.

Section-by-Section Analysis

Section 52.1 What is the purpose of these regulations?

This section briefly states the purpose of the regulations, which is to implement Executive Order 12372 and foster an improved system of intergovernmental consultation. Paragraph (c) states the important point that the Order, and these regulations, are intended only to improve the Department's internal management of its consultation with State and local governments. Neither the Order nor these regulations are intended to create any right of judicial review of the Department's action. For example, it is not intended that a State or local government would have the right to sue the Department because the Department failed to explain a nonaccommodation of a State recommendation.

Section 52.2 What definitions apply to these regulations?

This section defines several terms used frequently in the proposed rule. "Department" means the Department of Housing and Urban Development. "Order" means Executive Order 12372. "Secretary" means the Secretary of Housing and Urban Development or an official or employee of the Department acting under a delegation of authority from the Secretary. This does not mean that there must be a new, specific, formal delegation pertaining to Executive Order 12372. An official who has existing authority to act concerning a program or activity under a delegation could act under the Order concerning that program or activity. "State" means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, Guam, American Samoa, or the trust territory of the Pacific Islands. The definition of "State" means that the District of Columbia, Puerto Rico, and the other jurisdictions mentioned may create an official consultation process and consult with Federal agencies on the same basis as the 50 States.

Several other terms appearing in the Order are not defined in this section, but are used in the regulation in a way that makes their operational meaning clear (e.g., accommodate and explain in § 52.7).

Section 52.3 What programs and activities of the Department are subject to these regulations?

The intent of the Order is that State and local elected officials should have the opportunity to consult with Federal agencies under the Order concerning as many Federal programs and activities as they wish. This section provides that the Department will publish a **Federal Register** notice, in conjunction with the publication of its final Executive Order 12372 rule, listing the programs and activities that are subject to the Order. Updated lists will be published when necessary in order to let States know which of the Department's programs and activities they may choose to cover.

The attachment to this preamble contains a list of those programs and activities that the Department proposes to exclude from coverage, and of those programs and activities that the Department intends to include, under the Order. The reason for each proposed exclusion is also listed. The Department seeks comments on the proposed exclusions. After promulgation of the final rule, if the Department wants to exclude new or additional program or activities from coverage under the Order, it will publish a **Federal Register** notice requesting comment on the proposed exclusions.

At this time, States should assume that all the Department's remaining Federal financial assistance programs will be subject to the Order. Of course, activities and programs that clearly are neither Federal financial assistance nor direct Federal development (e.g., procurement by the Department) are not subject to the Order. Also, the Order and these regulations do not apply to proposed regulations, legislation, budget formulation, or classified programs or activities where formal consultation would endanger national security.

Even if a program or activity is excluded from the consultation system established by the Order, State and local officials would still have an opportunity to have their views considered by the Department. Indeed, statutory requirements for consultation, such as section 401(b) of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231(b)), require Federal agencies to consider the views of State and local goverments. Many of the Department's program statutes have their own consultation requirements, and the Department will, of course, comply with all existing or future statutory requirements of this kind. However, the Department is not obligated to follow the provisions of the Order and these regulations with respect to excluded programs and activities.

If at any time a State believes that any official of the Department has not made appropriate use of the official State process, the State is invited to raise its concerns directly with the Secretary.

Section 52.4 What are the Secretary's general responsibilities under the Order?

This section incorporates the most important portions of Executive Order

12372 into the Department's regulation, emphasizing the Department's obligations under the Order. The mechanisms by which the Department will carry out many of these general obligations are developed further in other sections of the rule.

Paragraph (b)(2) means the Department is obligated to make efforts to ensure that information on proposed actions or decisions of the Department is available to the States in sufficient time to be able to exert meaningful influence on the Department's course of action. For example, the Department would make sure that the State learned of assistance announcements including decision criteria in time to make a meaningful response.

Section 52.5 How does a State choose programs to cover under the Order?

States may choose to consult with the Department through the Order concerning any of the Department's programs and activities that the Department's Federal Register notice on or about April 30, 1983 and subsequently lists as subject to the Order. However, these regulations do not require States to consult with the Department concerning any particular program or activity. This is an important distinction between the Order's consultation policy and the system established under Circular A-95, which gave States no discretion concerning program selection. Under the Order, each State may choose whether to use the consultation system with respect to any particular program or activity. This gives States increased flexibility to determine how best to allocate their resources. For example, many programs have existing statutory consultation systems. If a State decides that an existing consultation system is adequate, the State might choose not to cover the program under its E.O. 12372 process, thereby avoiding duplication and saving resources for use on other programs. A State also might want to decline to cover a program which has only minor effects on the State and its people.

The Department emphasizes that the choice of whether to cover a particular program or activity listed in the Department's Federal Register notice is entirely up to each State. While the Department will be happy to discuss with States the most effective ways of carrying our consultation concerning its programs and activities, the Department will not attempt to constrain the State's discretion with respect to program selection.

Paragraph (a) of this section sets out a purely administrative requirement pertaining to program selection. The State must notify the Secretary of the programs and activities it chooses to cover. When it first establishes its official process, the State can meet this requirement by sending to OMB, along with other information required to establish the process, a list of the Federal programs and activities it wishes to cover. OMB will inform the various Federal agencies of the programs and activities of each that the State has chosen to cover. Subsequently, the State should send all program coverage information (additions, deletions, other changes) directly to the Department. This information will enable the Department's personnel who work on a particular program or activity to know which States they must consult with under the provisions of the Order.

Paragraph (b) provides that, once a State has established a process and made its program selections known to the Department, the Department will use the State's process concerning the programs and activities selected by the State as soon as feasible. While the Department will make every effort to use the State's process, there may be situations, on individual programs or projects, where the Department may not be able to do so for a time. The Department will make determinations concerning when to begin using the State's official process on a case-by-case basis and will let the States know when it will start to use a State's official process.

Paragraph (c) provides that a State shall give the Department 45 days notice before the effective date of any changes in the programs the State chooses to cover under the Order. A State may add or delete a program or activity from those it wishes to cover under the Order at any time. However, in order for meaningful consultation to occur under the Order, the Department needs this "lead time" to adapt its procedures to the changed circumstances.

Section 52.6 How does the Secretary give States an opportunity to comment on proposed Federal financial assistance and direct Federal development?

Paragraph (a) points out that the Order would apply not only to comments prepared by the official State process itself, but also to comments formulated by local elected officials to whom the State's consultation role has been delegated in specific instances. Section 3(a) of the Order permits States to delegate, to local elected officials in specific instances, the review, coordination, and communication with Federal agencies that normally take place under the State process. This means that States may choose not only which programs and activities to cover but also who within the State has the opportunity to carry out the consultation. States have complete discretion concerning delegation of their consultation role.

For example, a State could delegate to a single mayor the State's consultation role with respect to a project occurring in his or her city. The State could delegate all consultation under a particular program to officials of the local governments whose jurisdictions are afected by projects under the program. The State could delegate its consultation role for a particular program to local elected officials in cities above 250,000 population but not to local officials in smaller jurisdictions, or vice versa. In any case of delegation, the local official to whom the State's consultation role is delegated functions as the official State process with respect to the program or activity. For example, the Department's efforts to accommodate the concerns expressed by the local official will be pursued directly with the official, not with the State itself.

The local official to whom the State's consultation role had been delegated would not send his or her comment directly to the Department. Rather, the official would send the comment to the Department through the State single point of contact. The Department would work with the local official in attempting to reach an accommodation, but, if efforts at accommodation were unsuccessful, the Department would explain the nonaccommodation to the single point of contact. Routing the delegated comment through the State single point of contact would alert the Department to the fact that the local official's comments should be dealt with under the provisions of the Order and would make unnecessary a separate communication from the State to the Department informing the Department that the comment was an official comment of the State.

Paragraph (b) states that, as a general rule, States choosing to cover a particular program or activity will have 30 days to comment on a proposed action or decision (45 days in the case of interstate situations) before the Department commits itself to a given course of action. The Department, on a case-by-case basis, may allow a shorter period for comment if unusual circumstances make the shorter period necessary. Among the kinds of circumstances that might necessitate a shorter comment period are an emergency, the necessity to make a

grant decision before the end of a fiscal year, or a statutory deadline.

In order to meet the Order's objective of ensuring States a meaningful opportunity to influence decisions by the Department, the Department has provided in paragraph (c) that it may establish requirements for applicants to submit copies of their applications to the State. The requirements may be set forth in nonregulatory program specific announcements.

Paragraph (d) makes an important point with respect to the way that communications between States and the Department would work. Under the Order, a State may organize the mechanics of its consultation process any way it chooses. However, in order to ensure that communications between the Department and the official State process flow efficiently, the Department strongly encourages States to establish a "single point of contact" for State communications with Federal agencies. Channeling communications from the States to Federal agencies and from agencies back to the States through a single point has obvious benefits from the point of view of administrative simplicity. In addition, it will enable the Department to know which communications to treat as official under the provisions of the Order. The Department needs a means of separating the letters from State and local elected officials to which it will respond through normal correspondence channels from those letters to which it must respond under the provisions of the Order. States' use of a single point of contact will permit the Department to make this necessary administrative distinction.

In the absence of a State process, or with respect to a program that a State has not selected for coverage, the Department will work with the State, consistent with existing legal requirements. The provisions of the Order and these regulations will not apply, however.

The proposed regulation would not impose any constraints on the content of comments that States send to the Department. However, the Department would strongly encourage commenters under the Order to follow three policies which are important for the efficient operation of the Order's consultation system.

First, comments should address statutes, regulations, and other requirements governing a specific program or decision. Ofter, the Department is required to make a decision based on certain statutorily established factors. In other cases, the Department, through regulation or guidance, has established decisionmaking criteria for various actions. It is unlikely that the Department would be able to accommodate concerns that do not address these requirements and standards, or which are not relevant to the decisionmaking process. In order to have meaningful influence on the Department's decisions, comments must be relevant to the factors on which the Department bases its decisions. For example, if a Department's standards call for a decision to be made at a certain stage only on the technical merits of financial assistance proposals, before consideration is given to costs, the Department could not accommodate a State comment addressing costs during the technical review.

Second, States can assist the Department's implementation of the Order by clearly specifying the magnitude of the State's concerns. Often, it may be difficult for the Department to tell whether a State is firmly recommending a given course of action, has a mild preference for, or reservation about, the action, or is simply seeking clarification of the Department's position. For example, if a State wants the Department to recognize the State's priorities, or deny a financial assistance application, it would be very helpful if the State identified its position as clearly as possible. The Order directs Federal agencies to make efforts to accommodate State concerns. The Department's ability to do so successfully is dependent, to a significant degree, on the clear articulation of concerns by the States.

Third, the Department may not be in a good positions to accommodate State and local concerns unless the State speaks with one voice in its comments. The Department recognizes that different State and local officials and agencies may not always agree among themselves concerning the course of action the Department should follow. To avoid the Department's having to seek clarification concerning which sets of views the State wants the Department to accommodate. The process will work much better if the Department receives a single set of comments.

Section 52.7 How does the Secretary make efforts to accommodate State and local concerns?

Paragraph (a) provides that when a State comments to the Department under the Order, the Department has three choices. The Department can accept the State's comments (i.e., do as the State recommends). Second, it can reach a mutually agreeable solution with the State. This solution can differ from the original State position on the matter. Third, if the Department cannot accept the State's comments or reach a mutually agreeable solution, the Department is obligated to give the State a timely, simple explanation of the Department's reasons for not doing so. While the Department is not required to accept the State's comments or to begin discussions toward another solution, the Department does have an obligation to provide a simple explanation of its decision.

Normally, the nonaccommodation explanation could take any form which adequately communicates the Department's reasons for its decision to the State. A telephone call, a meeting, or a letter would perform this function. The Department had the discretion to choose the most appropriate mode of communicating the nonaccommodation explanation in each case. The nonaccommodation explanation is made by a designee of the Secretary.

There is one exception to the Department's discretion to choose the mode of communicating the nonaccommodation explanation. As paragraph (a)(3)(ii) provided, the Governor of the State may request, either in advance of the time the nonaccommodation explanation is made or after it is communicated to the single point of contact, that a nonaccommodation explanation be made in writing. When it receives such a request from a Governor, the Department's nonaccommodation explanation will be made in a letter.

Paragraph (a)(3)(iii) explains the role of the single point of contact in receiving nonaccommodation explanations from the Department. The Department will direct all nonaccommodation explanations to the single point of contact in each State that has a single point of contact. This is true even when accommodation discussions have occurred between the Department and another party in the State.

Paragraph (b) concerns safeguards to ensure that the interests of States are protected in nonaccommodation situations. Paragraph (b)(1) provides that a nonaccommodation explanation will state that the Department will not implement its decision until ten days after the single point of contact receives the explanation, except as provided in paragraph (b)(2). This waiting period is intended to permit States to respond to the Department in cases of nonaccommodation before the Department has irrevocably carried out the decision. In a case in which the Department has provided a verbal explanation of a decison to the single point of contact, and the Governor

subsequently has requested a written nonaccommodation explanation, the ten-day period will start to run from the date of the original explanation to the single point of contact.

Paragraph (b)(2) recognizes that there will be some situations in which the Department cannot observe the ten-day waiting period. These unusual circumstances could include, for example, a statutory deadline, emergency, or end of a fiscal year situation that may make it infeasible for the Department to wait ten days before implementing its decision. If the Department cannot observe the waiting period, the Secretary or a designee of the Secretary at a higher level than the official responsible for making the original decision will review the decision before the nonaccommodation explanation is made and before the Department implements the decision. The nonaccommodation explanation will include the Department's reasons for determining that the ten-day waiting period is not feasible.

Section 52.8 What are the Secretary's obligations in interstate situations?

In some cases, action taken by the Department in Federal financial assistance programs may have an impact on interstate areas. In these situations, the Department has certain additional obligations. First, the Department must identify its Federal financial assistance actions or decisions that have an impact on interstate areas. Having done so, the Department must, as provided in paragraph (b), notify the potentially affected States, whether or not they have established an official State process under the Order. Except in unusual circumstances (e.g., emergencies, financial assistance awards at the end of the fiscal year), the Department must provide the affected States an opportunity for comment of at least 45 days before the Department commits itself to a course of action. The increase in the minimum comment period from 30 to 45 days in interstate situations allows extra time for States to coordinate among themselves before providing views to the Department.

The Department, obviously, cannot require States to coordinate with each other or proposed Federal assistance having an impact on an interstate area. However, the Department strongly encourages each effected State to share its comments with, and obtain the views of, other affected States, using the other State's single point of contact, if there is one, or an appropriate State official if their is not a single point of contact. The Department encourages States to reconcile differences when they exit, so that the States can present the Department with a unified position. If the affected States provide the Department with conflicting recommendations, the Department will, with respect to States that have established a process under the Order, accommodate recommendations to the extent possible and explain its nonaccommodations of other points of view as provided in § 52.7.

Section 52.9 How may a State simplify, consolidate, or substitute State plans?

The Department has reserved this section because it currently has no programs that require the submission of State plans.

Section 52.10 May the Secretary waive any provisions of these regulations?

The section allows the Secretary to waive any provision in these regulations for good cause such as an emergency. The Department expects to use this provision sparingly.

National Environmental Policy Act

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement Section 102(2)(C) of the National Environmental Policy Act of 1969. The finding is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Room 10278, 451 Seventh Street, SW., Washington, D.C. 20410.

Executive Order 12291

This proposed rule would not constitute a "major rule" as that term is defined in Section 1(b) of the Executive Order on Federal Regulation issued by the President on February 17, 1981. Analysis of the rule indicates that it would not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect 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.

Semiannual Agenda

This rule was listed at 47 FR 48435 as Item H–124–82 in the Department's Semiannual Agenda of Regulations published on October 28, 1982, pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b) (Regulatory Flexibility Act), the undersigned certifies that this rule would not have a significant economic impact on a substantial number of small entities, since the greater flexibility afforded to States and localities to develop their own review procedures and the greater responsiveness to the concerns of State and local officials, under the Order should enure alike to the benefit of both large and small governmental jurisdictions.

Paperwork Reduction Act

This proposed rule is not subject to section 3504(h) of the Paperwork Reduction Act, since it would not require the collection or retention of information.

Catalog of Federal Domestic Assistance Program Numbers

The Catalog of Federal Domestic Assistance program numbers are: 14.146, 14.156, 14.207, 14.218, 14.221 and 14.229.

List of Subjects

24 CFR Part 50

Environmental impact statements.

24 CFR Part 52

Intergovernmental relations.

24 CFR Part 570

Community development block grants, Grant programs: housing and community development, Loan programs: housing and community development, Low and moderate income housing, New communities, Pockets of poverty, Small cities.

24 CFR Part 590

Government property, Homesteading, Housing, Intergovernmental relations, Loan programs: housing and community development.

24 CFR Part 720

Grant programs: housing and community development, Loan programs: housing and community development, New communities, Technical assistance, Securities, Community development, Housing.

24 CFR Part 841

Loan programs: housing and community development, Public housing, Prototype costs, Cooperative agreements, Turnkey.

24 CFR Part 870

Public housing.

24 CFR Part 880

Grant programs: housing and community development, Rent subsidies, Low and moderate income housing.

24 CFR Part 881

Grant programs: housing and community development, Rent subsidies, Low and moderate income housing.

24 CFR Part 883

Grant programs: housing and community development, Rent subsidies, New construction and substantial rehabilitation.

24 CFR Part 885

Aged, Grant programs: housing and community development, Handicapped, Loan programs: housing and community development, Low and moderate income housing.

24 CFR Part 891

Grant programs: housing and community development, Intergovernmental relations, Housing.

Accordingly, the Department proposes to amend Title 24 of the Code of Federal Regulations as follows:

1. By revising Part 52 to read as follows:

PART 52—INTERGOVERNMENTAL REVIEW OF DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT PROGRAMS AND ACTIVITIES

Sec.

Authority: Executive Order 12372 (July 14, 1982; 47 FR 30959); sec. 401(b), Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231(b)); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

§ 52.1 What is the purpose of these regulations?

(a) The regulations in this part implement Executive Order 12372, issued July 14, 1982, and titled "Intergovernmental Review of Federal Programs."

(b) Executive Order 12372 is intended to foster an intergovernmental partnership and a strengthened Federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance and direct Federal development.

(c) The Order and these regulations are intended only to improve the internal management of the Department. Neither the Order nor these regulations are intended to create any right or benefit enforceable at law by a party against the Department or its officers.

§ 52.2 What definitions apply to these regulations?

"Department" means the U.S. Department of Housing and Urban Development.

"Order" means Executive Order 12372, issued July 14, 1982, and titled "Intergovernmental Review of Federal Programs."

"Secretary" means the Secretary of the U.S. Department of Housing and Urban Development or an official or employee of the Department acting for the Secretary under a delegation of authority.

"State" means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, the U.S. Virgin Islands, or the Trust Territory of the Pacific Islands.

§ 52.3 What programs and activities of the Department are subject to these regulations?

The Secretary publishes in the Federal Register a list of the Department's programs and activities that are subject to the Order and these regulations.

§ 52.4 What are the Secretary's general responsibilities under the Order?

(a) The Secretary provides opportunities for consultation by elected officials of those State and local governments that would provide the non-Federal funds for, or that would be directly affected by, proposed Federal financial assistance from the Department.

(b) If a State adopts a process under the Order to review and coordinate proposed Federal financial assistance and direct Federal development, the Secretary, to the extent permitted by law:

(1) Uses the State process to determine official views of State and local elected officals;

(2) Communicates with State and local elected officials as early in a program planning cycle as is reasonably feasible to explain specific plans and actions;

(3) Makes efforts to accommodate State and local elected officials' concerns with proposed Federal financial assistance and direct Federal development that are communicated through the State process;

(4) Seeks the coordination of views of affected State and local elected officials in one State with those of another State when proposed Federal financial assistance or direct Federal development has an impact on interstate metropolitan urban centers or other interstate areas; and

(5) Supports State and local governments by discouraging the reauthorization or creation of any planning organization which is Federally-funded, which has a limited purpose, and which is not adequately representative of, or accountable to, State or local elected officials.

§ 52.5 What procedures apply to a State's choice of programs under the Order?

(a) Each State that adopts a process under the Order notifies the Secretary of those Departmental programs identified through the provisions of § 52.3 that the State chooses to cover under the Order.

(b) The Secretary uses a State's process under the Order as soon as feasible, depending on individual programs and projects, after the State notifies the Secretary of its program choices.

(c) A State gives the Secretary 45 days notice of any changes in the programs the State chooses to cover under the Order.

§ 52.6 How does the Secretary give States an opportunity to comment on proposed Federal financial assistance and direct Federal development?

(a) This section applies to all comments received from a State pursuant to an official process it has established under the Order, including comments where the State has delegated to local elected officials the review, coordination and communication with the Department.

(b) Except in unusual circumstances, the Secretary gives States 30 days to comment on any proposed Federal financial assistance (see § 52.8 for comment periods pertaining to interstate situations).

(c) Subject to paragraph (b) of this section, the Secretary may establish

requirements for applicants to submit copies of their application to the States.

(d) The Secretary responds as provided in the Order to all comments from a State that are provided through a State office or official that acts as a single point of contact under the Order between the State and all Federal agencies.

§ 52.7 How does the Secretary make efforts to accommodate State and local concerns?

(a) If a State provides comments to the Department in accordance with § 52.6(d), the Secretary—

(1) Accepts the State's comments;

(2) Reaches a mutually agreeable solution with the State; or

(3)(i) Provides the State with a timely explanation of the basis for the Department's decision.

(ii) If requested by the Governor, the Secretary provides the explanation in writing.

(iii) The Secretary provides any explanation under this paragraph to the office or official that acts as a single point of contact.

(b) In any explanation under paragraph (a)(3) of this section, the Secretary informs the State that:

(1) The Department will not implement its decision for ten days after the State receives the explanation; or

(2) The Secretary has reviewed the decision and determined that, because of unusual circumstances, the ten-day waiting period is not feasible.

§ 52.8 What are the Secretary's obligations in interstate situations?

The Secretary is responsible for:

(a) Identifying proposed Federal financial assistance that has an impact on interstate areas;

(b) Notifying the affected States, including States that have not adopted a process under the Order; and

(c) Except in unusual circumstances, providing the affected States an opportunity of at least 45 days to comment.

§ 52.9 [Reserved]

§ 52.10 May the Secretary waive any provision of these regulations?

Upon determination of good cause, the Secretary may waive any provision of this part. Every waiver is in writing and sets forth the facts and reasons upon which the Secretary relies in waiving the provision.

PART 50—PROCEDURES FOR PROTECTION AND ENHANCEMENT OF ENVIRONMENTAL QUALITY

§ 50.21 [Amended]

2. In § 50.21, by removing and reserving paragraph (l).

3. In § 50.31, by revising paragraph (g)(1) and (2) to read as follows:

§ 50.31 Environmental impact statement.

* * * * *

(g) * * *

(1) *Draft EIS.* Stage one involves the preparation of a Draft EIS and the summary sheet. The Draft is sent to the EPA (5) copies, circulated to federal agencies whose areas of jurisdiction by law or special expertise are involved, any single point of contact designated by a State participating in intergovernmental review of the particular program involved under Executive Order 12372 and Part 52 of this title, the chief executive and planning agency of the appropriate state and local (county, city or town) government, appropriate local agencies, groups/individuals with special interest in the proposed action, the applicant and made available to the public. Two (2) copies of the Draft Statement and the distribution list shall also be sent to HUD Headquarters Library, Washington, D.C. 20410.

(2) *Final EIS.* The second stage is the Final EIS, which takes into account the response to the comments received as a result of circulating the Draft, and the revised summary sheet. The Final Statement which must include the comments received and HUD's response, is filed with the EPA (5 copies) sent to Federal Agencies and organizations which commented on the Draft, any single point of contact designated by a State participating in intergovernmental review of the particular program involved under Executive Order 12372 and Part 52 of this title, the chief executive and planning agency of the appropriate State and local government, appropriate local agencies, the applicant, and made available to the public. Two (2) copies of the Final Statement shall also be sent to the Assistant Secretary for CPD and one (1) copy shall be sent to HUD Headquarters Library, Washington, D.C. 20410. The Final Statement or summary shall accompany the recommendation of or report on the proposed action through HUD's review and decisionmaking process.

* * * * *

4. In § 50.35, by revising paragraph (b)(2) to read as follows:

§ 50.35 Public participation.

* * * * *

(b) * * *

(2) *Publication and dissemination.* Copies of these Notices shall be sent to the local news media, individuals and groups known to be interested in the proposed project, any single point of contact designated by a State participating in intergovernmental review of the particular program involved under Executive Order 12372 and Part 52 of this title, local, State, and Federal agencies, the appropriate Regional Office of EPA, and others believed appropriate. Actions which result in a Finding of No Significant Impact normally require only notification to the appropriate single point of contact, if any, and to an appropriate State or local agency. All other Notices shall be published at least once in a newspaper of general circulation in the affected community. If such newspaper is of a type specializing in the publication of legal, real estate, commercial or other notices, listings and advertisements and is not of a type subscribed to and read by the general public as a source of news of general public interest, then such notice shall also be published at least once in a newspaper which is a source of news of general public interest or shall be in such other manner deemed most likely to inform residents of the affected community.

* * * * *

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

§§ 570.310, 570.312, 570.400, 570.403 [Amended]

5. In Part 570, by removing and reserving the following: §§ 570.310, 570.312(g), 570.400(d), and 570.403(c)(5).

PART 590—URBAN HOMESTEADING

§ 590.11 [Amended]

6. In § 590.11, by removing and reserving paragraph (c).

PART 720—FINANCING PUBLIC AND PRIVATE NEW COMMUNITY DEVELOPMENT

§ 720.43 [Reserved]

7. In Part 720, by removing and reserving § 720.43.

PART 841—PUBLIC HOUSING DEVELOPMENT

8. In § 841.405, by revising paragraph (b) to read as follows:

§ 841.405 Technical processing and approval.

* * * * *

(b) *Technical Processing.* Upon determining that a proposal is acceptable for technical processing, the field office shall:

(1) Send a notification to the chief executive officer (or designee) of the unit of general local government pursuant to Section 213 of the Housing and Community Development Act of 1974 (42 U.S.C. 1439), inviting a response within thirty (30) calendar days from the date of the field office transmittal letter;

(2) Evaluate the proposal to determine compliance with all program requirements and, if applicable, the comments received from the unit of general local government;

(3) Complete an environmental review in accordance with the requirements of the National Environmental Policy Act of 1969; and

(4) Determine the appraised value of the site or property.

* * * * *

PART 870—PHA-OWNED PUBLIC HOUSING PROJECTS—DEMOLITION OF BUILDINGS OR DISPOSITION OF REAL PROPERTY

§ 870.9 [Reserved]

9. In Part 870, removing and reserving § 870.9.

PART 880—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM FOR NEW CONSTRUCTION

10. In § 880.302, by revising paragraph (c) to read as follows:

§ 880.302 Procedures for resumption of processing of proposals and preapproved site requests.

* * * * *

(c) *Section 213 Clearance.* Upon receipt of notification from an owner that he/she wishes processing of a proposal to be resumed, the unit of general local government will be notified under Part 891 of the resumption of processing and asked for comments (1) if the proposal is more than 6 months old or (2) if there has been a substantive change in the local Housing Assistance Plan.

* * * * *

11. In § 880.304 by revising paragraph (e) to read as follows:

§ 880.304 Publication of NOFA and receipt of proposals.

* * * * *

(e) Proposals will be accepted by the field office beginning on the published opening date for submission and may be opened for review immediately. The contents will remain confidential until sent by the field office to the local government for review or, in the case of projects for elderly families, until the deadline date has passed, whichever is earlier.

* * * * *

12. In § 880.306, by revising paragraph (c) to read as follows:

§ 880.306 Preliminary evaluation and technical processing

* * * * *

(c) *Technical Processing.* (1) In accordance with the procedures in 24 CFR Part 891, a description of each proposal placed in technical processing will be sent to the unit of general local government for review and comment.

(2) Technical processing in the field office will include a review of the rents (see paragraph (c)(3) of this section), site, design, experience of the owner and other participants, local government comments, extent of displacement and feasibility of relocation, feasibility of the project as a whole (including financing and marketability) and compliance with all applicable standards and requirements, including a HUD review of consistency with the Housing Assistnace Plan, or for determination of need in areas without a Housing Assistance Plan, pursuant to 24 CFR Part 891. Any deficiencies found will be treated in the same manner as deficiencies found during preliminary evaluation (see paragraph (a)(4) of this section).

* * * * *

13. In § 880.307, by revising paragraphs (b) and (d) to read as follow:

§ 880.307 Selection of proposals and use of remaining or additional contract authority.

* * * * *

(b) If the available contract authority is insufficient to select all proposals found approvable in technical processing, all approvable proposals will be ranked by household type (elderly and non-elderly). If the NOFA indicated that a specific portion of the contract authority may be utilized only for small projects, any proposals for such projects shall be ranked separately and not in competition with other nonelderly proposals. The ranking factors are: rent; site (including minority concentration consideration); design; suitability and potential of property for rehabilitation and adequacy of rehabilitation proposed; previous experience of the owner and other participants in development, marketing and management (particularly of non-elderly family housing); comments from the local government and responsiveness to preferences and priorities of any applicable Housing Assistance Plan and/or Areawide Housing Opportunities Plan; extent of displacement and feasibility of relocation; and feasibility of the project as a whole (including likelihood of financing and marketability). Within the ranking for non-elderly family proposals, preference points will be given to small projects (where no specific amount of contract authority is made available in the NOFA) and partially-assisted projects. Any deviation in the ranking procedures as set forth in this paragraph and the program handbook must be approved by the Assistant Secretary for Housing and included in the developer's packet.

* * * * *

(d) Units of general local government notified under § 880.306(c) will be notified of the field office's decision regarding the proposals within their jurisdiction.

* * * * *

PART 881—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM FOR SUBSTANTIAL REHABILITATION

14. In § 881.302, by revising paragraph (c) to read as follows.

§ 881.302 Procedures for resumption of processing of proposals and preapproved site requests.

* * * * *

(c) *Section 213 clearance.* Upon receipt of notification from an owner that he/she wishes processing of a proposal to be resumed, the unit of general local government will be notified under Part 891 of the resumption of processing and asked for comments (1) if the proposal is more than 6 months old or (2) if there has been a substantive change in the local Housing Assistance Plan.

* * * * *

15. In § 881.304, by revising paragraph (f) to read as follows:

§ 881.304 Publication of NOFA and receipt of proposals.

* * * * *

(f) Proposals will be accepted by the field office beginning on the published opening date for submission and may be opened for review immediately. The contents will remain confidential until sent by the field office to the local government for review or, in the case of projects for elderly families, until the deadline date has passed, whichever is earlier.

16. In § 881.306, by revising paragraph (c) to read as follows:

§ 881.306 Preliminary evaluation and technical processing.

* * * * *

(c) *Technical processing.* (1) In accordance with the procedures in 24 CFR, Part 891, a description of each proposal placed in technical processing will be sent to the unit of general local government for review and comment.

(2) Technical processing in the field office will include a review of the rents (see paragraph (c)(3) of this section), site, physical condition of the property, its suitability for rehabilitation and whether or not the work proposed is adequate and can be feasibly accomplished; overall design; experience of the owner and other participation, and local government comments, extent of displacement feasibility of relocation, feasibility of the project as a whole (including financing and marketability) and compliance with all applicable standards and requirements, including a HUD review for consistency with the Housing Assistance Plan, or for determination of need in areas without a Housing Assistance Plan, pursuant to 24 CFR, Part 891. Any deficiencies found will be treated in the same manner as deficiencies found during preliminary evaluation (see paragraph (a)(4) of this section).

* * * * *

17. In § 881.307, by revising paragraphs (b) and (d) to read as follows:

§ 881.307 Selection of proposals and use of remaining or additional contract authority.

* * * * *

(b) If the available contract authority is insufficient to select all proposals found approvable in technical processing, all approvable proposals will be ranked by household type (elderly and non-elderly). If the NOFA indicated that a specific portion of the contract authority may be utilized only for small projects, any proposals for such projects shall be ranked separately and not in competition with other nonelderly proposals. the ranking factors are: rent; site (including minority concentration consideration); design; suitability and potential of property for rehabilitation and adequacy of rehabilitation proposed; previous experience of the owner and other participants in development, marketing and management (particularly of non-elderly family housing); comments from the local government and responsiveness to preferences and priorities of any applicable Housing Assistance Plan and/or Areawide Housing Opportunities Plan; extent of displacement and feasibility or relocation; and feasibility of the project as a whole (including likelihood of financing and marketability). Within the ranking for non-elderly family proposals, preference points will be given to small projects (where no specific amount of contract authority is made available in the NOFA) and partially-assisted projects. Any deviation in the ranking procedures as set forth in this paragraph and the program handbook must be approved by the Assistant Secretary for Housing and included in the developer's packet.

* * * * *

(d) Units of general local government notified under § 881.306(c) will be notified of the field office's decision regarding the proposals within their jurisdiction.

* * * * *

§§ 881.704, 881.707 [Amended]

18. In part 881, by removing and reserving the following paragraphs 881.704(b), 881.707 (f) and (j).

PART 883—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—STATE HOUSING AGENCIES

19. In § 883.403, by revising paragraph (b) to read as follows:

§ 883.403 HFA submission of proposals.

* * * * *

(b) *Previous Participation; Review and Comment by Local Government.* (1) The HFA and the HUD field office may, where feasible, develop procedures by which the previous participation review, and the local government review and comment under Part 891 are initiated prior to Proposal submission. The Proposal may not be approved until the HUD field office has received a copy of the response form the Chief Executive Officer of the unit of general local government where appropriate, pursuant to 24 CFR Part 891.

(2) If special procedures as described in paragraph (b)(1) of this section are not adopted, the HUD field office will conduct its previous participation review or initiate Part 891 review and comment procedures after the Proposal has been submitted.

* * * * *

20. In § 883.405, by revising paragraph (b) to read as follows:

§ 883.405 Notification of acceptability of proposal.

* * * * *

(b) *Notification.* The unit of general local government must be notified by HUD of its final action at the time the HFA is notified.

PART 885—LOANS FOR HOUSING FOR THE ELDERLY OR HANDICAPPED

21. In § 885.220, by removing paragraph (d)(1), by redesignating paragraphs (d) (2), (3), (4), (5) and (6) as (d) (1), (2), (3), (4) and (5) and by revising paragraphs (d) (2) and (e) to read as follows:

§ 885.220 Review of application for fund reservation.

(d) * * *

(2) The Application will be evaluated by the field office on the basis of those factors which may be necessary to determine the eligibility and acceptability of the Sponsor and Borrower, acceptability of the location (site), acceptability of the design concept, compliance with the Fair Market Rent Limits, and the comments, if any, received during the response period from the appropriate unit of general local government.

* * * * *

(e) For each allocation area, the field office shall rank in order each Application on the basis of its assessment of the Borrower's qualifications, the proposed site, the design concept, and the comments, if any received from the unit of general local government. The field office shall identify for selection the highest ranking Applications in descending order which most reasonably approximate the estimated maximum number of units which can be funded in any allocation area under the allocation of fund authority: *Provided, however,* That in accordance with 24 CFR 891.404(d) priority will be given to acceptable Applications from localities which did not previously receive assistance.

PART 891—REVIEW OF APPLICATIONS FOR HOUSING ASSISTANCE AND ALLOCATIONS OF HOUSING ASSISTANCE FUNDS

22. In § 891.202, by removing and reserving paragraph (b)(7) and by revising the introductory text to paragraph (a) as follows:

§ 981.202 Notification of local government.

(a) The field office shall notify the chief executive officer of the local government having a HAP, no later than ten working days after receipt (or completion of any preliminary review and determination that the application is acceptable for further processing), that an application for housing assistance to be provided in that jurisdiction has been received and is under consideration.

* * * * *

23. In § 891.205, by revising paragraph (b) to read as follows:

§ 891.205 HUD review of application for housing assistance.

* * * * *

(b) *Review process.* The field office finding of consistency or inconsistency shall be based on the information provided in the HAP, the application for housing assistance, and an analysis of the comments of the local government, including comments submitted by the chief executive officer on behalf of the local government.

* * * * *

24. In § 891.303, by removing and reserving paragraph (b)(3) and by revising the introductory text to paragraph (a) as follows:

§ 891.303 Notification of local government.

(a) The field office shall notify the chief executive officer no later than 10 working days after receipt (or completion of any preliminary review and determination that the application is acceptable for further processing) that an application for housing assistance to be provided in that jurisdiction has been received and is under consideration.

* * * * *

25. In § 891.305, by revising paragraph (b) to read as follows:

§ 891.305 HUD review of applications for housing assistance.

* * * * *

(b) In determining whether an application will be approved, the field

LIST OF PROPOSED EXCLUSIONS FROM SCOPE

CFDA No.	Program name	24 CFR Part	Reason(s) for exclusion
14.103	Interest Reduction Payments—Rental and Cooperative Housing for Lower Income Families	236	1
14.105	Interest Reduction—Homes for Lower Income Families	235	1
14.108	Rehabilitation Mortgage Insurance	203	1
14.110	Manufactured (Mobile) Home Insurance—Financing Purchase of Mobile Homes as Principal Residences of Borrowers	201	1
14.112	Mortgage Insurance—Construction or Substantial Rehabilitation of Condominium Projects	234	1
14.115	Mortgage Insurance—Development of Sales Type Cooperative Projects	213	1
14.116	Mortgage Insurance—Group Practice Facilities	244	1
14.117	Mortgage Insurance—Homes	203	1
14.118	Mortgage Insurance—Homes for Certified Veterans	203	1
14.119	Mortgage Insurance—Homes for Disaster Victims	203	1
14.120	Mortgage Insurance—Homes for Low and Moderate Income Families	221	1
14.121	Mortgage Insurance—Homes in Outlying Areas	203	1
14.122	Mortgage Insurance—Homes in Urban Renewal Areas	220	1
14.123	Mortgage Insurance—Housing in Older, Declining Areas	203	1
14.124	Mortgage Insurance—Investor Sponsored Cooperative Housing	213	1
14.125	Mortgage Insurance—Land Development and New Communities	205	1
14.126	Mortgage Insurance—Management Type Cooperative Projects	213	1
14.127	Mortgage Insurance—Manufactured (Mobile) Home Parks	207	1
14.128	Mortgage Insurance—Hospitals	242	1
14.129	Mortgage Insurance—Nursing Homes and Intermediate Care Facilities	232	1
14.130	Mortgage Insurance—Purchase by Homeowners of Fee Simple Title From Lessors	240	1
14.132	Mortgage Insurance—Purchase of Sales-Type Cooperative Housing Units	213	1
14.133	Mortgage Insurance—Purchase of Units in Condominiums	234	1
14.134	Mortgage Insurance—Rental Housing	207	1
14.135	Mortgage Insurance—Rental Housing for Moderate Income Families	221	1
14.137	Mortgage Insurance—Rental and Cooperative Housing for Low and Moderate Income Families, Market Interest Rate	221	1
14.138	Mortgage Insurance—Rental Housing for the Elderly	231	1
14.139	Mortgage Insurance—Rental Housing in Urban Renewal Areas	220	1
14.140	Mortgage Insurance—Special Credit Risks	237	
14.141	Nonprofit Sponsor Assistance Program	271	2
14.142	Property Improvement Loan Insurance for Improving All Existing Structures and Building of New Nonresidential Structures	201	1
14.149	Rent Supplements—Rental Housing for Lower Income Families	215	2
14.151	Supplemental Loan Insurance—Multifamily Rental Housing	241	1
14.152	Mortgage Insurance—Experimental Housing	233	1
14.153	Mortgage Insurance—Experimental Projects Other Than Housing	233	1
14.154	Mortgage Insurance—Experimental Rental Housing	233	1
14.155	Mortgage Insurance for the Purchase or Refinancing of Existing Multifamily Housing Projects	207	1
14.156	Lower Income Housing Assistance Program	882	3
14.157	Housing for the Elderly or Handicapped	885	2
14.159	Section 245 Graduated Payment Mortgage Program	203	1
14.161	Single-Family Home Mortgage Coinsurance	204	1
14.162	Mortgage Insurance—Combination and Mobile Home Lot Loans	201	1
14.163	Mortgage Insurance—Cooperative Financing	203	1
14.164	Operating Assistance for Troubled Multifamily Housing Projects	219	2
14.165	Mortgage Insurance—Homes—Military Impacted Areas	203	1
14.166	Mortgage Insurance—Homes for Members of the Armed Services	222	1
14.167	Mortgage Insurance—Two Year Operating Loss Loans, Section 223(d)	207, 221 et al	1
14.168	Land Sales—Parcels of Subdivided Land	1700–1730	7
14.171	Manufactured Housing—Mobile Home Construction	3280	7
14.207	New Communities—Loan Guarantees	710, 720	1
14.218	Community Development Block Grants/Entitlement Grants	570	4
14.220	Section 312 Rehabilitation Loans	510	4
14.222	Urban Homesteading	590	4
14.226	Community Development Block Grants/State's Program	570	4

office shall consider the comments provided by the local government including comments submitted by the chief executive officer on behalf of the local government. The field office shall make an independent determination as to whether there is a need for housing assistance and whether facilities and services are adequate before approving the application.

* * * * *

Dated: January 17, 1983.

Samuel R. Pierce, Jr.,

Secretary, Housing and Urban Development.

Attachment—List of Proposed Exclusions from Scope and List of Proposed Inclusions.

Attachment

LIST OF PROPOSED EXCLUSIONS FROM SCOPE—Continued

CFDA No.	Program name	24 CFR Part	Reason(s) for exclusion
14.229	Community Development Block Grants/Secretary's Discretionary Fund	570	5
14.400	Equal Opportunity in Housing	105–107	7
14.402	Nondiscrimination in Federally-Assisted Programs (On the Basis of Age)	1	7
14.403	Community Housing Resource Board Program	120	2
14.506	General Research and Technology Activity	..	6

Explanation of Exclusions

No. 1—The multifamily and single family mortgage insurance programs involve essentially private transactions between private mortgagees and mortgagors. HUD merely encourages the development of this housing by reducing the risk of mortgage default to the lender through insurance. Housing developed under these programs are subject to the same local regulation through zoning ordinance and building codes as is conventionally financed housing. With the exception of CFDA No. 14.105 the Section 235 Interest Reduction—Homes for Lower Income Families Program none of these programs by itself is an active production program that provides Federal financial assistance for the benefit or mortgagors or tenants. CFDA No. 14.207 New Communities-Loan Guarantees has the same characteristics as the mortgage insurance programs and is not an active production program.

No. 2—These programs are excluded because they involve the payment of financial assistance to non-governmental entities.

No. 3—The Section 8 Existing Housing Assistance Payments Program—component of CFDA No. 14.156 is excluded because HUD has no authority to approve specific sites and assistance payments are made directly to private owners.

No. 4—These programs are excluded because they involve financial transfers for which HUD has no funding discretion or direct authority to approve specific sites or projects.

No. 5—Over half of the $56 million in FY 1982 funds for CFDA No. 14.229 Community Development Block Grants/Secretary's Discretionary Fund was used for Indian assistance. Nine percent was for Territories and 38 percent was for Technical Assistance which normally is not site specific.

No. 6—HUD has no research projects which have a unique geographic focus. Rather, the objective of HUD research activity is to improve the operations of the Department's programs. The Department obtains research services through a competitive procurement process; it does not provide financial assistance grants.

No. 7—These programs although listed in the Catalogue of Federal Domestic Assistance are not within the scope of E.O. 12372 because they are not Federal financial assistance programs.

General Exclusion

Any program, even if not otherwise excluded for the reasons stated above, is excluded to the extent that it involves a federally recognized Indian tribe.

LIST OF PROPOSED INCLUSIONS

CFDA No.	Program Name	24 CFR Part	Comments
14.146	Low Income Housing—Assistance Program	841	2
14.147	Low Income Housing—Homeownership Opportunities for Low Income Families	804	2
14.156	Lower Income Housing Assistance Program	880, 881, 883, 884 and 886	1, 2
14.158	Public Housing—Comprehensive Improvement Assistance Program	868	
14.169	Housing Counseling Program		
14.170	Manufactured Housing—Mobile Home Construction	3280	
14.211	Surplus Land for Low and Moderate Income Housing		
14.219	Community Development Block Grants/Small Cities Program	570	
14.221	Urban Development Action Grants	570	
14.401	Fair Housing Assistance Program	111	

Comments on Inclusions

No. 1—All programs included under CFDA No 14.156 Lower Income Housing Assistance Program with the exception of the Section 8 Existing Housing Assistance Payments Programs are to be included under the scope of these regulations.

No. 2—These programs are subject to the local review requirements of Section 213 of the Housing and Community Development Act of 1974 (42 U.S.C. 5301) as implemented by 24 CFR Part 891, Subparts B and C. States may wish to consider these procedures in determining whether to include or exclude these programs from their process and in developing their process.

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Part III

Department of Health and Human Services

Office of Human Development Services

Developmental Disabilities Program

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

45 CFR Parts 1385, 1386, 1387

Developmental Disabilities Program

AGENCY: Department of Health and Human Services (HHS), Office of Human Development Services (HDS), Administration on Developmental Disabilities (ADD).

ACTION: Second notice of proposed rulemaking.

SUMMARY: The Administration on Developmental Disabilities in the Office of Human Development Services rescinds the Notice of Proposed Rulemaking (NPRM) published May 9, 1980 (45 FR 31006) and proposes new regulations. This second NPRM implements the Developmental Disabilities Assistance and Bill of Rights Act of 1978, as amended.

These proposed rules do not include requirements for the University Affiliated Facilities (UAF) except for the proposal of an assurance regarding the rights of persons with developmental disabilities. The regulations for the UAF program are found at 45 CFR Part 1388.

DATE: Consideration will be given to written comments received by April 25, 1983.

ADDRESS: Address comments to Jean K. Elder, Ph.D., Commissioner, Administration on Developmental Disabilities, Room 336-E, Hubert H. Humphrey Building, Washington, D.C. 20201. Agencies or organizations are requested to submit their comments in duplicate. Comments will be available for public inspection in Room 349-F, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. 20201, Monday through Friday, 8:30 a.m. to 5:00 p.m., telephone (202) 245-1961.

FOR FURTHER INFORMATION CONTACT: Mrs. Madelyn C. Schultz, Administration on Developmental Disabilities, Washington, D.C. 20201; (202) 245-1961.

SUPPLEMENTARY INFORMATION:

Description of Program

The Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001 et seq.), "the Act," has traditionally served a target population who, by virtue of their severe handicapping conditions, have been underserved or not served at all through existing programs.

Legislation originally enacted in 1963 as the Mental Retardation Facilities and Construction Act (Pub. L. 88-164) authorized planning activities and construction of facilities in which services were to be provided to the mentally retarded. Public Law 88-164 was subsequently amended by the Developmental Disabilities and Facilities Construction Act of 1970 (Pub. L. 91-517) which further expanded the target population to include individuals with cerebral palsy, epilepsy and other neurological disorders. It also created State Planning Councils to advocate for, plan, monitor and evaluate services for the developmentally disabled.

Public Law 91-517 and successive amendments to the Act emphasized that the purpose of the Developmental Disabilities Program was to strengthen, rather than supplant existing services, and to fill gaps in the human service delivery system. Section 101(a)(5) of the Findings and Purpose Section in the Act (42 U.S.C. 6000(a)(5)) explicitly states that "it is in the national interest to strengthen specific programs, especially programs that reduce or eliminate the need for institutional care * * *."

Public Law 94-103, the 1975 Amendments, deleted the construction authority, emphasized advocacy, and added a new requirement for States to establish a Protection and Advocacy system (42 U.S.C. 6012). It also introduced Section 111, "Rights of the Developmentally Disabled," (42 U.S.C. 6010) which stated findings with respect to the rights of persons with developmental disabilities.

The 1978 amendments (Pub. L. 95-602) introduced the provision of priority services to assist States in focusing their energies on specific areas needing remediation (42 U.S.C. 6001(8)).

In addition, these amendments added a new definition of developmental disabilities (42 U.S.C. 6001(7)). The term "developmental disability" in the 1978 amendments was defined as "* * * a severe chronic disability of a person which:

(A) Is attributable to a mental or physical impairment or combination of mental and physical impairments;

(B) Is manifested before the person attains age twenty-two;

(C) Is likely to continue indefinitely;

(D) Results in substantial functional limitations in three or more of the following areas of major life activity: (i) Self-care, (ii) receptive and expressive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living; and (vii) economic self-sufficiency; and

(E) Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated."

This definitional change was arrived at following an extensive study and emphasizes functional deficits rather than clinical conditions. It is estimated that 10 million people in the United States now meet the functional definition of developmental disability.

The Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35) extends the Developmental Disabilities Program through September 30, 1984. It authorizes appropriations for the programs in the Act which include: (1) The basic State grant program (42 U.S.C. 6061-6068); (2) a system for protection and advocacy of individual rights (42 U.S.C. 6012); (3) the university affiliated facilities programs for administration and operation of interdisciplinary training, research and service programs (42 U.S.C. 6031-6033); and (4) special project grants for projects of national significance (42 U.S.C. 6081).

In addition, Section 912 of Pub. L. 97-35 repealed the requirement formerly contained in Section 110 of the Act (42 U.S.C. 6009) for a specific evaluation system for services furnished to persons assisted under the Developmental Disabilities Program.

First Notice of Proposed Rulemaking

The first Notice of Proposed Rulemaking (NPRM), published May 9, 1980 (45 FR 31006), was subject to extensive review. Approximately 150 letters were received during the sixty (60) day comment period resulting in over 800 comments. Commenters included State, public and private agencies, consumers and other interested individuals. In addition, four public meetings were held in various parts of the country. These meetings included representatives of the following: State Developmental Disabilities Councils and Agencies and staff of these entities; protection and advocacy groups; consumer groups such as Associations for Retarded Citizens, United Cerebral Palsy, Epilepsy Foundation, etc; Congressional staff; staff of other Federal agencies; and providers of services to persons with developmental disabilities.

Four major issues were identified in the analyses of comments.

(a) *The implementation of Section 111, "Rights of Persons with Developmental Disabilities" (42 U.S.C. 6010).*

Section 111 contains a list of "Congressional findings" regarding the treatment, services and habilitation for persons with developmental disabilities.

The first NPRM proposed that Section 111 apply only to programs funded under the Act.

Some commentors approved of this policy position while, others objected. (See additional discussion in Section 1385.4 of the preamble).

(b) *Protection of Employees Interests and Benefits (42 U.S.C. 6063 (b)(7)(B)).*

The first NPRM proposed that appropriate State authorities make arrangements to protect the interests and benefits of employees affected by State selection of alternative community living arrangements as a priority service area.

A majority of commenters objected to this provision noting that: (1) The scope and extent of the requirements were too far reaching and too nonflexible to allow States to respond based on their unique situations; and (2) the requirements were not specific enough to protect employees rights in the variety of circumstances across the country.

We are proposing in § 1386.33 of this NPRM certain minimum requirements based on the statute.

(c) *Proposed Definition of Institution.*

The first NPRM defined "institution" broadly as any residential facility in which a developmentally disabled person is housed with non-related persons.

All comments on this issue contained objections to this overly broad definition. In this NPRM we have not defined the term "institution" since it is rarely used in the proposed regulation.

(d) *Protection and Advocacy System* (42 U.S.C. 6012).

The first NPRM required that State Protection and Advocacy systems have access to records of institutionalized developmentally disabled persons declared legally incompetent after giving reasonable notice to guardians of such persons. If the client had not been declared incompetent, the consent of the client was needed.

There were many objections to this proposed requirement based on the belief that the Protection and Advocacy staff would go on a "fishing expedition" by merely notifying a guardian but would not be required to explain their need to see the record.

We have not addressed the issue of access to records in this NPRM but we would welcome comments from the public on this matter.

In addition to the previously described issues, some concerns were expressed regarding the revised definition of "developmental disability" (42 U.S.C. 6001 (7)). These were primarily requests from States for guidance and assistance with the new functional definition, particulary regarding how States could develop State eligibility criteria. Only two States at that time had developed eligibility criteria utilizing the new definition. The Administration on Developmental Disabilities now has available, on request, a document which describes a model approach for implementing the functional definition.

Approach To Writing These Regulations

Based on Executive Order 12291 and the President's commitment to regulatory relief, the Department has established principles to be applied in the development of new regulations. These are to:

- Insure that all regulations are clearly within the authority delegated by law and consistent with Congressional intent.
- Provide maximum flexibility to State and local governments.
- Minimize Federal, State, local and private costs.
- Eliminate regulations not serving a compelling Federal interest or reform those not implemented in the least intrusive means available.

In this second Notice of Proposed Rulemaking (NPRM), we are rescinding the previous proposed rule, dated May 9, 1980, and are proposing a new rule more consistent with the President's Executive Order and the Department's rulemaking principles.

This NPRM references sections of the law where it is appropriate but does not repeat the language of the Act. We have introduced requirements in the regulations only in those areas where we believe clarification or further specificity is needed in order to carry out the intent of the law.

In proposing these rules, we have also made every effort to be sensitive to State practice and to consider all comments received in response to the first NPRM. However, our overall purpose has been to prepare a regulation designed to assist States in the implementation of the statute. Since the proposed rules are intended to supplement rather than repeat the Act, it is recommended that they be reviewed in conjunction with the appropriate sections of the Act. Through the comment process, we hope to identify any additional statutory provisions that should be addressed either in final regulations or in nonbinding program guidance.

Overview of the Regulations

A section-by-section discussion of major provisions follows:

Part 1385

Section 1385.1—General. The provisions contained in this Part are applicable to all programs funded under the Act with one exception discussed in § 1385.4 below. In addition we are directing State attention to deletion of the requirement for certain fiscal control and accounting procedures applicable to all programs. We believe these requirements are adequately covered in 45 CFR Part 74, Subpart H—"Standards for Grantee and Subgrantee Financial Management Systems and Audits", § 74.61 Financial management standards.

Section 1385.3—Definitions. We have proposed to define "Governor" as the Chief Executive Officer of a State or Territory to assure that, whether or not the title of Governor is used, the Chief Executive Officer will function in the same manner regarding this program.

Section 1385.4—Rights of Persons with Developmental Disabilities (Section 111). Section 201 of the 1975 amendments enacted Section 111 of the Act (42 U.S.C. 6010) which contains a series of "findings" with respect to the rights of developmentally disabled persons. At that time authority was not explicitly included in the Act to allow the Department to withhold funds from States on the basis of failure to comply with these findings.

However, the 1978 amendments (Pub. L. 95–602), added a requirement to the basic State grant program in which the State must assure the Secretary that the rights of persons with developmental disabilities will be protected consistent with Section 111 (see Section 133(b)(5)(C) of the Act (42 U.S.C. 6063(b)(5)(C)). Failure to comply with this State plan requirement may result in loss of Federal funds. The Supreme Court opinion in *Pennhurst State School and Hospital, et al.* v. *Halderman, et al.*, 451 U.S. 1, 101 S. Ct. 1531 (1981), found that Section 111 established Federal policy on behalf of the developmentally disabled served under this Act but did not establish enforceable substantive rights for persons served in programs supported with other funds. The Court stated (page 1545) that since Pennhurst received no funds authorized under the Developmental Disabilities Act, it was arguably not subject to the requirements of the Act. "Thus, there may be no obligation on the State under * * * (42 U.S.C. 6011 (Section 111)) to assure the Secretary that each resident of Pennhurst have an habilitation plan, or assure the Secretary under (42 U.S.C. 6063)(b)(5)(C) that Pennhurst residents

are being provided services consistent with (42 U.S.C. 6010)."

In this NPRM, we have proposed to make Section 111 applicable to the University Affiliated Facilities program and to Projects of National Significance. We believe that these rights can be applied to the discretionary grant program and the university affiliated facility program, as well as to the formula grant program, based on the Secretary's broad authority to condition such discretionary grants.

Section 1385.6—Employment of Handicapped Individuals. This section implements Section 106 of the Act (42 U.S.C. 6005) and requires all grantees receiving Federal funds under the Act to provide an assurance that they will meet the requirements of Section 106 regarding affirmative action for the employment of handicapped individuals.

Section 1385.7—Waiver. Section 107 of the Act (42 U.S.C. 6006) addresses the right of financial recovery by the United States when a facility constructed with Federal funds for the express purpose of serving the developmentally disabled ceases to serve its original purpose. A State may not arbitrarily change the use of a building or allow it to be sold unless the Secretary grants a waiver and concludes that the State has just cause. In its application for a waiver, we propose to require that States address criteria described in this rule and Section 107 of the Act.

Part 1386

Formula Grant Programs

Subpart A—Basic Requirements

Section 1386.1—General. Subpart A contains the requirements applicable to both the Protection and Advocacy System and the State Basic Support Program, with the exception of § 1386.2(c) which addresses costs incurred only by the Protection and Advocacy System. Persons who meet requirements of § 1386.4(b) are also eligible for protection and advocacy services.

The 1978 and 1981 amendments to the Act did not continue the requirement for conformity with the standards for a merit system, Title 5 of the Code of Federal Regulations, Part 900, Subpart F Standards for a Merit System of Personnel Administration. Therefore, we have removed this requirement to provide States with maximum flexibility.

Section 1386.2—Obligation of Funds. In this section we propose to continue to require States to obligate funds within the fiscal year they are received. This section clarifies what constitutes a legal obligation. It permits Protection and Advocacy offices to obligate funds for litigation and administrative proceedings based on an estimate in the year in which the litigation or proceeding began. Prior policies severely curtailed capacity of Protection and Advocacy systems to use funds available in one fiscal year for litigative activities carried over into the next fiscal year unless there were obligating documents such as contracts for witnesses, etc. In order to provide relief in view of Protection and Advocacy budget limitations, we have decided (subject to the provisions of appropriations acts) to permit obligated funds to be carried over to a subsequent year on the basis of an estimate, but only if the Protection and Advocacy system establishes good cause. Good cause is to be demonstrated by showing that consideration has been given to the amount a particular case might cost. Salary expenses of Protection and Advocacy staff are excluded from this exception because they are considered day-to-day expenses to be expended within the applicable fiscal year.

Section 1386.3—Liquidation of Obligations. This section proposes that all obligations made under a grant for a specific Federal fiscal year must be liquidated within one year following the close of the Federal fiscal year in which the grant was awarded. A liquidation requirement is included in this NPRM because unliquidated obligations have remained outstanding in many instances for excessive periods of time.

We believe that good management practice allows not more than one additional year for liquidation of costs resulting from obligations. However, if there are extenuating circumstances as described in this section, the Commissioner of the Administration on Developmental Disabilities may waive the requirement and extend the time period.

Section 1386.4—Eligibility for Services. The 1978 definition of developmental disability contained in 42 U.S.C. 6001(7) can potentially expand the target population since its focus is on functional deficits in major life activities instead of, as in the previous definition, the existence of a discreet disability. An amplification of the definition which provides the framework for a model to determine client eligibility has been prepared for the Administration on Developmental Disabilities (ADD) and is available upon request.

The Administration on Developmental Disabilities undertook a study for Congress to determine if those clients who received services under the previous categorical definition between 1968 and 1978 were still eligible. The study found that those individuals who were mildly handicapped were no longer considered developmentally disabled unless they met the functional definition. We have proposed that in order to continue services for these individuals, their Individual Habilitation Plan (IHPs) must identify a continuing need for the services.

Subpart B—Protection and Advocacy

The basic requirements for the Protection and Advocacy System are found in Section 113 of the Act. We propose the following clarifying or additional requirements in this Subpart.

Section 1386.20—Designated State Protection and Advocacy System. In this Section we propose to require that the Governor designate a State official or State or other agency to be accountable for the conduct of a Protection and Advocacy system. In the event that an entity outside of the State government carries out the program, the Governor must designate a responsible official to receive, on behalf of the State, notices of disallowance and compliance actions, as the State is accountable for the proper and appropriate expenditure of Federal funds.

Some States have proposed to place the Protection and Advocacy office in an agency which also provides guardianship. The Department considers guardianship a service. Since Section 113 (a)(2)(C) (42 U.S.C. 6012(a)(2)(C)) requires that the Protection and Advocacy system be independent of any agency which provides services to persons with developmental disabilities, we believe guardianship and protection and advocacy may not be combined. There is a potential conflict in guardianship cases because guardianship arrangements, especially involving adults, impose limitations on the ward's rights. Our policy will be to assume that a conflict exists any time a reasonable question is raised. This policy is necessary in order to best protect the interests of the individuals and assure the independence of the system from service providers who might have a conflict of interest.

We believe that Protection and Advocacy systems often represent clients in guardianship proceedings in which they seek either to resist the guardianship totally, or to limit the guardianship more than the persons or authority seeking it would like. A conflict arises since guardianship inherently limits an individual's freedom and Protection and Advocacy systems are charged with advocating for expansion of that freedom.

Section 1386.21—Requirements of the Protection and Advocacy System. In order to insure that a client's privacy will be protected we are proposing in Section 1386.21(b) that the Protection and Advocacy System protect the confidentiality of client records. The requirements we have proposed are based on 42 CFR 442.502, the confidentiality requirements in Standards for Intermediate Care Facility Services. However, these requirements do not restrict the Department's access to those records for monitoring purposes.

Section 1386.22—Triennial Report on the State Protection and Advocacy System. In this section, we propose to require the submission of a triennial report from the State P&A System which complies with requirements of Section 113(a)(3) of the Act (42 U.S.C. 6012(a)(3)) and these regulations. The report may be in the format of the State's choice but must address those items of information contained in the outline which the Department plans to issue.

ADD will approve a report or revision which meets these requirements. ADD will not terminate or deny funding for a State P&A System because a report or revision is not in compliance with Federal requirements until the State has received reasonable notice and opportunity for a hearing.

We want to clarify that this report is intended to describe the operation of the P&A System and, as such, it will not include planning documents which are outlines of proposed activities.

Section 1386.23—Periodic Reports. Also based on Section 113 of the Act, this section of the NPRM proposes to require submission of an annual report and quarterly financial status reports. The annual report may be submitted in any format the State selects.

Section 1386.24—Federal Financial Participation: Allowable and Non-Allowable Costs. This Section identifies circumstances under which Federal funds can and cannot be used in relationship to the Protection and Advocacy system. It is important to note that only funds expended on activities related to inappropriate provision of and/or denial of services to the developmentally disabled are allowable costs matchable by Federal funds.

Activities that are common to the general populace, such as drawing up wills, are not allowable costs. The basis for this policy is to avoid funding Protection and Advocacy systems in competition with the private bar where the legal service being sought is not necessarily related to the person's disability. A divorce suit, a personal injury suit, or the preparation of a will are matters that are common to the population as a whole and are not associated with the disability per se. We are proposing to conserve Protection and Advocacy resources so that they will be available for those actions directly related to developmentally disabling conditions.

Subpart C—State Plan for Provision of Services for Persons With Developmental Disabilities

Section1386.30—State Plan Requirements. Based on Section 133 of the Act (42 U.S.C. 6063), States are required to submit a Triennial State Plan. The State plan is the document which describes the particular way in which each State implements the program. In Section 1386.30, we propose to require that the State submit a plan which meets the requirements of Sections 133 and 137(b) (42 U.S.C. 6067(b)) and which contains an assurance regarding the development of individual habilitation plans required by Section 112 (42 U.S.C. 6011).

Section 133(b) of the Act specifies the content of the State plan and includes indentification of the State Planning Council, necessary assurances, etc. We have not repeated all of these requirements in the NPRM; however, two major State plan requirements in section 133, employee protection and provision of priority services, are addressed separately in § 1386.33 and 1386.34 respectively to highlight their significance.

Due to the importance of the requirement for development of an Individual Habilitation Plan (IHP) to address the multiple needs of the developmentally disabled client, § 1386.30(e)(3) proposes to require that the State plan contain an assurance regarding compliance with IHP requirements in Section 112 of the Act. The IHP is the basic tool which identifies the array of services and treatment needed by the client who is developmentally disabled. It is also used as the basis for evaluating client progress and the effectiveness and efficiency of services.

In § 1386.30(e) we have listed specific assurance requirements which must be in the State plan.

We propose in § 1386.30(c) that the plan must also identify the program unit(s) within the designated State agency or agencies responsible for the administration of the State plan; identify the service priority areas; identify members of the State Planning Council; and identify staff assigned to the Council. We are not addressing policies and procedures for the proper and efficient administration of the plan because we feel the topic is adequately addressed in the cost principles made applicable by 45 CFR 74.171 (OMB Circular A-87, Attachment A, paragraph C.1.a).

In § 1386.30(c)(4) we have proposed that States must assign a Director and such support staff as they deem necessary. We believe the requirement we have proposed is consistent with the scope of the Secretary's responsibility, under the Act, for prescribing minimum staffing requirements (Section 133(b)(1)(A)).

In § 1386.30(d) we have proposed that the State plan must be reviewed every three years. An approved State plan is a prerequisite to Federal funding.

The Department is not specifying a particular format for State plans and has decided to accept whatever format a State chooses as long as all the information and assurances are contained in the plan.

During the development of these regulations, the Department considered whether States should be required to establish a program of public information, i.e., to inform the public of the kinds of services and the location of facilities available. We have chosen not to propose a new requirement in this area. We believe that the State Developmental Disabilities Council typically includes such activities as a part of its advocacy role and encourages councils to inform the public about available services.

A question was raised regarding continued applicability of Section 133(b)(7)(A), (42 U.S.C. 6063(b)(7)(A)), of the statute which requires the State Plan to provide for maximum utilization of all community resources including VISTA and other volunteer programs. If the VISTA program is not operational in a State, the State plan must still provide for maximum utilization of all available community resources. In the event VISTA is a viable State program, those resources should be tapped and described in the plan as mandated by the Act.

Section 1386.31—Plan Submittal and Approval. In this Section, a timeframe is established for State plan submission to allow proper and timely Federal review prior to the beginning of a fiscal year. It also continues the requirement for submission of States' plans to Governors or the Governor's designee for their review.

In § 1386.31(d) we have proposed that amendents must be submitted when there are substantive changes in plan content.

Section 1386.33—Protection of Employees' Interests. This section is proposed to implement Section

133(b)(7(B) of the Act (42 U.S.C. 6063(b)(7)(B)) to protect the interests of employees who work in institutions when the State has selected the priority service area of alternative community living arrangements causing the return of clients from institutions to the community. We feel that the proposals in this section are consistent with the statute and additionally provide maximum flexibility to the States to carry out their responsibilities to both the employees and the developmentally disabled clients.

We now believe that the performance standards cited in the first NPRM were restrictive and have not proposed them in this NPRM.

Section 1386.34—Provision of Priority Services. Section 133(b)(4), (42 U.S.C. 6063(b)(4)), of the Act requires that priority service areas be identified as the focus of financial and programmatic effort for the time period covered by the State Plan. We believe that the requirement for identifying priority areas in the State plan was included in the Act in order to assist the States to concentrate their efforts and reduce fragmentation. The use of 65% of the State allotment in selected priority areas (as required by Section 133(b)(4)(B) of the Act) should therefore be perceived as a mechanism to assist the State developmental disabilities program in concentrating on planning, coordinating, and capacity building, rather than on purchasing services in a more or less fragmented fashion.

The States must identify in their State plans at least one, but not more than two, priority areas defined in the Act (42 U.S.C. 6063(b)(4)(B)). However, at the State's discretion, the second selection may be in an area not identified in the Act but uniquely important to the individual State. This permits greater State flexibility while retaining concentration of effort. The rationale for allowing selection of a unique State priority is discussed in the Conferees' Report on the 1978 amendment in H.R. Rep. No. 95–1780, 95th Cong., 2nd Sess. 105 f (1978). (This report is also included in the Congressional Record dated October 12, 1978).

States may wish to take advantage of the waiver provision in the Act pertaining to the selection of an additional priority area (42 U.S.C. 6063(b)(4)(C)). The Secretary may permit selection of an additional priority area, upon the application of a State, if he determines that the need for services in initially selected priority areas has reasonably been met.

Section 1386.35—Federal Participation: Allowable and Non-Allowable Costs. This section proposes the conditions under which Federal financial participation in expenditures is allowable. The specified conditions are in addition to the Department's regulations on the administration of grants in 45 CFR Part 74.

Section 1386.36—Final Disapproval of the State Plan. This section proposes steps that must be taken before any State plan is finally disapproved. Its purpose is to ensure that the State's interests are protected while ensuring adherence by the State to the Act and regulations. This section implements Section 135 of the Act (42 U.S.C. 6065).

Subpart D—Practice and Procedure for Hearings Pertaining to States' Conformity and Compliance With Developmental Disabilities Plans, Reports and Federal Requirements

Subpart D contains the requirements regarding the practice and procedure for hearings for States when questions of compliance arise. It also makes these provisions applicable to the Protection and Advocacy system.

The proposed changes in Part 1386, Subpart D, from current regulations, are made to ensure that an appeal of a ruling unfavorable to a State would be to an official that was not involved in the decision at a lower level. In addition, changes proposed in Section 1386.92 relate to use of various locations for hearings so that travel costs for all parties will be minimized.

Part 1387—Special Projects—Projects of National Significance

Section 1387.1—General requirements. Prior to the enactment of Section 913 of Pub. L. 97–35, Section 145 of the Act (42 U.S.C. 6081) provided that at least 25% of awards for special projects were to be used for projects of national significance. However, it is our opinion that Section 913 requires that all special projects funded be projects of national significance.

We propose to delete current Part 1387 and have revised this Part and § 1387.1 to incorporate the changes made by Section 913 of Pub. L. 97–35. We are also proposing to publish all information regarding funding requirements, procedures and priority areas concerning projects of national significance in the **Federal Register.** We believe this information should not be published in regulations but should be issued as a program announcement in the **Federal Register.**

Impact Analysis

These proposed regulations have little economic impact since they closely follow the statute. Further, the regulations primarily affect State agencies, which are not considered small entities under the Regulatory Flexibility Act. Therefore, the Secretary certifies, pursuant to 5 U.S.C. 605(b), enacted by the Regulatory Flexibility Act, that this regulation will not have a significant impact on a substantial number of small entities.

For the same reasons, this proposed rule does not meet the threshold requirements contained in Executive Order 12291 and, therefore, does not constitute a major rule.

Recordkeeping and Reporting Requirements

Sections 1386.22 (Triennial Report), 1386.23(a) (Annual Report) and 1386.30–1386.31 and 1386.33–1386.34 (State Plan) of this proposed rule contain information collection requirements. As required by section 3504(h) of the Paperwork Reduction Act of 1980, we have submitted a copy of this proposed rule to the Office of Management and Budget (OMB) for its review of these information collection requirements. Other organizations and individuals desiring to submit comments on the information collection requirements should direct them to the agency official designated for this purpose whose name appears in this preamble, and to the Office of Information and Regulatory Affairs, OMB, New Executive Office Building (Room 3208), Washington, D.C. 20503, ATTN: Desk Officer for HHS.

There will be no specified format for the submittal of the State plan requirements established in §§ 1386.30–1386.31 and 1386.33–1386.34. States may select any format they wish as long as they comply with the requirements in the Act and in these regulations. These regulations reflect the aims of Executive Order 12372 to allow for State Plan simplification.

List of Subjects

45 CFR Part 1385

Grant programs/education, Grant programs/social programs, Handicapped, Reporting and recordkeeping requirements.

45 CFR Part 1386

Administrative practice and procedure, Grant programs/education, Handicapped, Reporting and recordkeeping requirements.

45 CFR Part 1387

Colleges and Universities, Grant programs/education, Grant programs/social programs, Handicapped, Research.

(Catalog of Federal Domestic Assistance Program, Nos. 13.630 Developmental Disabilities Basic Support; and 13.631 Developmental Disabilities Disabilities—Special Projects)

Dated: December 21, 1982.

Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

Approved: January 24, 1983.

Richard S. Schweiker,

Secretary.

For the reasons set forth in the Preamble, Chapter XIII of Title 45 of the Code of Federal Regulations is amended as follows:

1. In Title 45, Chapter XIII, the Subchapter heading for Subchapter I is revised to read as follows:

SUBCHAPTER I—THE ADMINISTRATION ON DEVELOPMENTAL DISABILITIES, DEVELOPMENTAL DISABILITIES PROGRAM

2. Parts 1385, 1386, and 1387 of Chapter XIII of the Code of Federal Regulations are revised as follows:

PART 1385—REQUIREMENTS APPLICABLE TO PARTS 1386, 1387 AND 1388

Sec.

Authority: Pub. L. 88–164, 77 Stat. 282, as amended by Pub. L. 90–170, 81 Stat. 527; Pub. L. 91–517, 84 Stat. 1316; Pub. L. 94–103, 89 Stat. 486; Pub. L. 95–602, 92 Stat. 2955; Pub. L. 97–35, 95 Stat. 563, (42 U.S.C. 6001 et seq.)

§ 1385.1 General.

Except as specified in § 1385.4, the requirements in this Part are applicable to programs and projects carried out under Parts 1386, 1387, and 1388:

(a) State Systems for Protection and Advocacy of Individual Rights of Persons with Development Disabilities;

(b) State Basic Program for Planning, Administration and Services on Behalf of Persons with Developmental Disabilities;

(c) Special Projects—Projects of National Significance; and

(d) University Affiliated Programs.

§ 1385.2 Purpose of the regulations.

These regulations implement the Developmental Disabilities Assistance and Bill of Rights Act as amended (42 U.S.C. 6000, et seq.).

§ 1385.3 Definitions.

In addition to the definitions in Section 102 of the Act (42 U.S.C. 6001), the following definitions apply:

Act means the statutory authority for the developmental disabilities programs as enacted in Pub. L. 88–164 and amended by Pub. L. 90–170, Pub. L. 91–517, Pub. L. 94–103, Pub. L. 95–602 and Pub. L. 97–35. It may be cited as the Developmental Disabilities Assistance and Bill of Rights Act.

Commissioner means the Commissioner of the Administration on Development Disabilities, Office of Human Development Services, Department of Health and Human Services or his or her designee.

Department means the U.S. Department of Health and Human Services (HHS).

Fiscal year means the Federal fiscal year unless otherwise specified.

Governor means the chief executive officer of the State or Territory, or his or her designee who has been formally designated to act for the Governor in carrying out the requirements of the Act and these regulations.

Secretary means the Secretary of the Department of Health and Human Services.

§ 1385.4 Rights of persons with developmental disabilities.

(a) Section 111 of the Act, *Rights of Persons with Developmental Disabilities* (42 U.S.C. 6010), is applicable to the programs authorized under the Act, except for the Protection and Advocacy system.

(b) In order to comply with Section 133(b)(5)(C) of the Act (42 U.S.C. 6063(b)(5)(C)), regarding the rights of developmentally disabled persons, the State shall meet the requirements of § 1386.30(e)(4) of these regulations.

(c) Applications from university affiliated facilities or for special project grants must also contain an assurance that the human rights of persons assisted by these programs will be protected consistent with Section 111.

§ 1385.6 Employment of handicapped individuals.

Each grantee who receives Federal funding under this Act shall meet the requirements of Section 106 of the Act (42 U.S.C. 6005) regarding affirmative action. Failure to comply with Section 106 may result in loss of Federal funds under the Act. If a compliance action is taken, the State will be given reasonable notice and an opportunity for a hearing as provided in Subpart D of Part 1386.

§ 1385.7 Waivers.

Applications for a waiver of the provisions of Section 107 of the Act (42 U.S.C. 6006) with respect to alternative use of facilities constructed with funds under the Act may be granted by the Commissioner if the following criteria are met:

(a) The waiver request provides a basis for alternative use or sale of a facility constructed with funds appropriated under the Act.

(b) The clients served in the facility are or will be served in a facility of equal or higher quality.

(c) If the waiver request is for an alternate use, that use must serve some other public purpose.

§ 1385.8 Formula for determining allotments.

The Commissioner will allocate funds appropriated under the Act for the purpose of the basic State program (see Subpart C—State Plan for Provision of Services for Persons with Developmental Disabilities) and the protection and advocacy system (see Subpart B—State System for Protection and Advocacy of Individual Rights) on the following basis:

(a) Two-thirds of the amount appropriated are allotted to each State according to the ratio the population of each State bears to the population of the United States. This ratio is weighted by the relative per capita income for each State. The data used to compute allotments are supplied by the U.S. Department of Commerce, for the three most recent consecutive years for which satisfactory data are available.

(b) One-third of the amount appropriated is allotted to each State on the basis of the relative need for services of persons with developmental disabilities. The relative need is determined by the number of persons receiving benefits under the Childhood Disabilities Beneficiary Program (Section 202(d)(1)(B)(ii) of the Social Security Act), (42 U.S.C. 402(d)(1)(B)(ii)).

§ 1385.9 Grants administration requirements.

(a) The following parts of Title 45 CFR apply to grants funded under Parts 1386, 1387, and 1388 of this chapter.

45 CFR Part 16—Procedures of the Departmental Grant Appeals Board.
45 CFR Part 46—Protection of Human Subjects.
45 CFR Part 74—Administration of Grants.
45 CFR Part 75—Informal Grant Appeals Procedures.
45 CFR Part 80—Nondiscrimination under Programs Receiving Federal Assistance Through the Department of Health and Human Services—Effectuation of Title VI of the Civil Rights Act of 1964.
45 CFR Part 81—Practice and Procedure for Hearings Act under Part 80 of this title.

45 CFR Part 84—Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance.
45 CFR 90—Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance.

(b) The Departmental Grant Appeals Board also has jurisdiction over appeals by grantees who have received grants under the University Affiliated program or for a Special Project

The scope of the Board's jurisdiction concerning these appeals is described in 45 CFR Part 16.

(c) The Departmental Grant Appeals also has jurisdiction to decide appeals brought by the States concerning any disallowances taken by the Commissioner with respect to specific expenditures incurred by States or by contractors or subgrantees of States. This jurisdiction relates to funds provided under the two formula grant programs—the Basic State Grant program and the State Protection and Advocacy system. Appeals filed by States shall be decided in accordance with 45 CFR Part 16.

(d) In making audits, examinations, excerpts and transcripts of records of grantees and subgrantees, including the protection and advocacy system, as provided for in 45 CFR Part 74, the Department will keep information about individual clients confidential to the extent permitted by law and regulations.

PART 1386—FORMULA GRANT PROGRAMS

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Authority: Pub. L. 88-164, 77 Stat. 282, as amended by Pub. L. 90-170, 81 Stat. 527; Pub. L. 91-517, 84 Stat. 1316; Pub. L. 94-103, 89 Stat. 486; Pub. L. 95-602, 92 Stat. 2955; Pub. L. 97-35, 95 Stat. 563 (42 U.S.C. 6000 et seq.).

Subpart A—Basic Requirements

§ 1386.1 General.

All rules under this subpart are applicable to both the Protection and Advocacy System and State Basic Support Program.

§ 1386.2 Obligation of funds.

(a) Funds which the Federal Government allots under this Part during a Federal fiscal year are available for obligation by States only within the same Federal fiscal year.

(b)(1) A State incurs an obligation for acquisition of personal property or for the performance of work on the date it makes a binding, legally enforceable, written commitment.

(2) A State incurs an obligation for personal services, for services performed by public utilities, for travel or for rental of real or personal property on the date it receives the services, its personnel takes the travel, or it uses the rented property.

(c)(1) Protection and Advocacy offices may elect to treat entry of an appearance in judicial and administrative proceedings on behalf of a person with developmental disabilities as a basis for obligating funds for the litigation costs. The amount of the funds obligated must not exceed a reasonable estimate of the costs, and the way the estimate was calculated must be documented.

(2) For the purpose of this paragraph, litigation costs mean expenses for court costs, depositions, expert witness fees, travel in connection with a case and similar costs, but not for salaries of employees of the Protection and Advocacy system. Funds obligated under this paragraph are subject to the requirement of paragraph (a) of this section. These funds, if deobligated, may be reobligated only within the same fiscal year in which the funds were originally obligated.

§ 1386.3 Liquidation of obligations.

(a) All obligations incurred pursuant to a grant made under the Act for a specific Federal fiscal year, must be liquidated within one year of the close of the Federal fiscal year in which the grant was awarded.

(b) The Commissioner may waive the requirements in paragraph (a) of this section when State law impedes implementation or the amount of obligated funds to be liquidated is in dispute.

(c) Funds attributable to obligations which are not liquidated in accordance with the provisions of this section revert to the Federal Government.

§ 1386.4 Eligibility for services.

(a) All persons who meet all of the criteria of the definition of developmental disability set forth in Section 102 of the Act (42 U.S.C. 6001) are eligible for available and appropriate services.

(b) In addition, a person who met the definition of developmental disability as provided in Pub. L. 94-103 and who was actually receiving one or more services under the Act during the period October 1, 1968 through November 30, 1978, is eligible to continue to receive those same services, provided that person's Individual Habilitation Plan (IHP) indicates a continuing need for those same services.

Subpart B—State System for Protection and Advocacy of Individual Rights

§ 1386.20 Designated State Protecton and Advocacy Office.

(a) The Governor must designate the State official or public or private agency to be accountable for the proper use of

funds and conduct of the State Protection and Advocacy system.

(b) An agency of the State providing guardianship services may not be designated as a Protection and Advocacy agency.

(c) In the event that an entity outside of the State government is designated to carry out the program, the Governor must designate a responsible State official to receive, on behalf of the State, notices of disallowances and compliance actions as the State is accountable for the proper and appropriate expenditure of Federal funds.

§ 1386.21 Requirements of the Protection and Advocacy System.

(a) In order for a State to receive Federal financial participation for Protection and Advocacy activities under this subpart, as well as the Basic Support Program (subpart C), the Protection and Advocacy system must meet the requirements of Section 113(a) of the Act (42 U.S.C. 6012(a)) and that system must be operational.

(b) The client's record is the property of the Protection and Advocacy system which must protect it from loss, damage, tampering, or use by unauthorized individuals. The Protection and Advocacy system must:

(1) Keep confidential all information contained in a client's records including information contained in an automated data bank; this requirement in no way limits or restricts access by the Department or other authorized Federal officials to the clients records or other records of the protection and advocacy system. It also does not limit access by parents or legal guardians of minors unless prohibited by State law.

(2) Have written policies governing access to duplication of, and release of information from the client's record; and

(3) Obtain written consent from the client, if competent, or his or her guardian, before it releases information to individuals not otherwise authorized to receive it.

§ 1386.22 Triennial report on the State protection and advocacy system.

In order to receive Federal financial assistance for a State's Protection and Advocacy system:

(a) At least once evey three years the Protection and Advocacy office shall submit through the Governor or the Governor's designee to the appropriate Regional Office a report describing the system. The report may be in the format of the State's choice. Unless State law provides differently, the report must be signed by the Governor or the Governor's designee.

(b) The triennial report on the State Protection and Advocacy system must state how requirements of Section 113(a) (1) and (2) of the Act are being met and address those items contained in the request for information outline which the Department plans to issue.

(c) The Department will not terminate or deny funding of the Protection and Advocacy system until it has given the State reasonable notice and opportunity for a hearing in accordance with Subpart D of this Part.

§ 1386.23 Periodic reports.

In addition to the triennial report, States must submit:

(a) An annual report describing the activities carried out under the system and any changes made in the system during the previous year and addressing those items contained in the request for information submitted for approval to OMB. The report may be in the format of the State's choice.

(b) Quarterly financial status reports from either the Governor or the appropriate State financial official, which are due 30 days after the close of each quarter of the Federal fiscal year, except for the final report which is due 90 days following the close of the fiscal year.

§ 1386.24 Federal financial participation: Allowable and nonallowable costs for Protection and Advocacy System.

(a) Federal financial participation is allowable for costs incurred, in accordance with the Act and regulations:

(1) For carrying out activities described in the State's triennial report on the State Protection and Advocacy system (see § 1386.22); and

(2) For providing information and referral services to persons who contact the system for aid whether or not those persons are developmentally disabled.

(b) Federal financial participation is not allowable for:

(1) Costs incurred for activities not included in the triennial report;

(2) Costs incurred for activities on behalf of persons with developmental disabilities to solve problems not directly related to their disabilities and which are faced by the general populace, e.g., drawing wills and initiating or defending divorce actions; and

(3) Costs not allowed under other applicable statutes, Departmental regulations and issuances of the Office of Management and Budget.

Subpart C—State Plan for Provision of Services for Persons with Developmental Disabilities

§ 1386.30 State plan requirements.

(a) In order to receive Federal financial assistance under this Subpart, States must prepare, submit and have in effect a State plan which meets the requirements of Section 133(b) and Section 137(b) of the Act (42 U.S.C. 6063(b) and 6067(b)) and these regulations.

(b) Failure to comply with State plan requirements may result in loss of Federal funds as described in Section 135 of the Act (42 U.S.C. 6065).

(c) The State plan may be submitted in any format the State selects as long as the items contained in the Act are addressed. The plan must:

(1) Identify the program unit(s) responsible for administration of the plan within the designated State agency or agencies;

(2) Identify the priority areas selected by the State in which 65% of Federal allotment will be expended;

(3) Identify the members of the officially appointed State Planning Council; and

(4) Identify the Staff assigned to assist the Council in carrying out its functions and responsibilities identified in the Act. The size of the staff will vary among States; however, each council must have at least a director and such support staff as the State deems necessary.

(d) The State plan must be reviewed at least once every three years.

(e) The State plan must contain assurances that:

(1) The State will comply with all applicable Federal statutes and regulations in effect during the time that the State is receiving formula grant funding;

(2) the State meets the requirements regarding individual habilitation plans as set forth in Section 112 of the Act (42 U.S.C. 6011); and

(3) the human rights of developmentally disabled persons will be protected consistent with Section 111.

§ 1386.31 Plan submittal and approval.

(a) The State plan must be submitted to the appropriate Regional Office 45 days prior to the fiscal year for which it is applicable. Unless State law provides differently, the State plan and amendments or related documents must be approved by the Governor or the Governor's designee as may be required by any applicable Federal issuances.

(b) Failure to submit an approvable State plan or amendment prior to the Federal fiscal years for which it is

applicable may result in the loss of Federal financial participation. Costs resulting from obligations incurred during the period of the fiscal year for which an approved plan is not in effect are not eligible for Federal financial participation.

(c) The Commissioner must approve any State plan or plan amendment provided it meets the requirements of the Act and these regulations.

(d) Amendments to the State plan are required when substantive changes are contemplated in plan content.

§ 1386.32 Financial reports.

The State shall submit quarterly financial status reports on the programs funded under this part and must be submitted by either the Governor or the appropriate State financial official. These reports are due 30 days following the close of each quarter except for the final report which is due 90 days following the close of the Federal fiscal year.

§ 1386.33 Protection of employee's interests.

(a) Based on Section 133(b)(7) of the Act (42 U.S.C. 6063(b)(7)), the State plan must provide for fair and equitable arrangements to protect the interests of all employees affected by actions under the plan to provide alternative community living arrangements. Specific arrangements for the protection of affected employees must be developed through negotiations between the appropriate State authorities and employees or their representatives. Fair and equitable arrangements must include procedures that provide for the impartial resolution of disputes between the State and an employee concerning the interpretation, application, and enforcement of protection arrangements. The State must inform employees of the State's decision to provide alternative community living arrangements.

(b) To the maximum extent practicable, fair and equitable arrangements must include provisions for:

(1) The preservation of rights and benefits;

(2) Guaranteeing employment to employees affected by action under the plan to provide alternative community living arrangements; and

(3) Employee training and retraining programs.

§ 1386.34 Provision of priority services.

(a) As part of the State plan requirements in Section 133(b)(4)(A) of the Act (42 U.S.C. 6063(b)(4)(A)), a State must identify its selection of at least one, but not more than two priority areas defined in Section 102(8)(B) of the Act (42 U.S.C. 6001(8)(B)), although the second selection may be in an area not identified in the Act but which is of special significance to the individual State.

(b) In order to select more than two priority areas when the appropriation level does not exceed $90,000,000 (See Section 133(b)(4)(B)(ii)(II) of the Act (42 U.S.C. 6063(b)(4)(ii)(II)), the Commissioner, upon written application from the State, may approve a waiver of the priority service limitations described in paragraph (a) of this section and allow for an additional priority area to be designated. (See Section 133(b)(4)(C) of the Act (42 U.S.C. 6063(b)(4)(C)).

§ 1386.35 Allowable and non-allowable costs for basic State grants.

(a) Under this Subpart, Federal financial participation is available in costs resulting from obligations incurred under the approved State plan for the necessary expenses of the approved State plan for the necessary expenses of the State Council, the administration and operation of the State plan, and training of personnel.

(b) Expenditures which are not allowable for Federal financial participation are:

(1) Costs incurred by institutions or other residential or non-residential programs which do not comply with the Congressional findings with respect to the developmentally disabled in Section 111 of the Act (42 U.S.C. 6010);

(2) Costs incurred for activities not provided for in the approved State plan; and

(3) Costs not allowed under other applicable statutes, Departmental regulations or issuances of the Office of Management and Budget.

§ 1386.36 Final disapproval of the State plan amendments or plan amendments.

The Department will disapprove any State plan or plan amendment only after the following procedures have been complied with:

(a) The State plan has been submitted to the appropriate HHS Regional Office, and the Regional Office and State have been unable to resolve their differences.

(b) The Regional Office has prepared a detailed written analysis of its reasons for recommending disapproval and has transmitted its analyses and all other relevant material to the Commissioner, and has provided the State Council and State agency with copies of the material.

(c) The Commissioner, after review of the records and the recommendation of the Regional Office, has determined whether the State plan, in whole or in part, is not approvable. Notice of this determination has been sent to the State and contains appropriate references to the records, provisions of the statute and regulations, and all relevant interpretations of applicable laws and regulations. The notification of the decision must inform the State of its right to appeal in accordance with 45 CFR Part 1386, Subpart D.

(d) The Commissioner's decision has been forwarded to the state council and agency by registered mail with a return receipt requested.

(e) A State has filed its request for a hearing with the Assistant Secretary for Human Development Services (ASHDS) within 21 days of the receipt of the decision. The request for a hearing must be sent by registered mail to the ASHDS. The date of mailing the request is considered the date of filing if it is supported by independent evidence of mailing, otherwise the date of receipt shall be considered the date of filing.

Subpart D—Practice and Procedure for Hearings Pertaining to States' Conformity and Compliance With Developmental Disabilities Plans, Reports, and Federal Requirements

General

§ 1386.80 Definitions.

For purposes of this Subpart:

"Assistant Secretary" means the Assistant Secretary for Human Development Services (HDS) or a presiding officer.

ADD means Administration on Developmental Disabilities, Office of Human Development Services.

Presiding officer means any one appointment by the Assistant Secretarty to conduct any hearing held under this Subpart. The term includes the Assistant Secretary if the Assistant Secretary presides over the hearing.

§ 1386.81 Scope of rules.

(a) The rules of procedure in this Subpart govern the practice for hearings afforded by the Department to States pursuant to Sections 113, 133, and 135 of the Act. (42 USC 6012, 6063 and 6065.)

(b) Nothing in this Part is intended to preclude or limit negotiations between the Department and the State, whether before, during, or after the hearing to resolve the issues which are, or otherwise would be, considered at the hearing. Negotiations and resolution of issues are not part of the hearing, and are not governed by the rules in this Subpart, except as otherwise provided in this Subpart.

§ 1386.82 Records to be public.

All Pleadings, correspondence, exhibits, transcripts of testimony, exceptions, briefs, decisions, and other documents filed in the docket in any proceeding are subject to public inspection.

§ 1386.83 Use of gender and number.

As used in this Subpart, words importing the singular number may extend and be applied to several persons or things, and vice versa. Words importing either gender may be applied to the other gender or to organizations.

§ 1386.84 Suspension of rules.

Upon notice to all parties, the Assistant Secretary may modify or waive any rule in this Subpart, unless otherwise expressly provided, upon determination that no party will be unduly prejudiced and justice will be served.

§ 1386.85 Filing and service of papers.

(a) All papers in the proceedings must be filed with the HDS Hearing Clerk in an original and two copies. Only the originals of exhibits and transcripts of testimony need be filed.

(b) Copies of papers in the proceedings must be served on all parties by personal delivery or by mail. Service on the party's designated representative is deemed service upon the party.

Preliminary Matters—Notice and Parties

§ 1386.90 Notice of hearing or opportunity for hearing.

Proceedings are commenced by mailing a notice of hearing or opportunity for hearing from the Assistant Secretary to the State council and the designated State agency, or to the State protection and advocacy office or official. The notice must state the time and place for the hearing, and the issues which will be considered. The notice must be published in the **Federal Register.**

§ 1386.91 Time of hearing.

The hearing must be scheduled not less than 30 days nor more than 60 days after the date notice of the hearing is mailed to the State.

§ 1386.92 Place.

The hearing must be held at a date, time, and place determined by the Assistant Secretary with due regard for the convenience and necessity of the parties or their representatives.

§ 1386.93 Issues at hearing.

(a) Prior to a hearing, the Assistant Secretary may notify, the State in writing of additional issues which will be considered at the hearing. That notice must be published in the **Federal Register.** If that notice is mailed to the State less than 20 days before the date of the hearing, the State or any other party, at its request, must be granted a postponement of the hearing to a date 20 days after the notice was mailed, or such later date as may be agreed to by the Assistant Secretary.

(b) If any issue is resolved in whole or in part, but new or modified issues are presented, the hearing must proceed on the new or modified issues.

(c)(1) If at any time, whether prior to, during, or after the hearing, the Assistant Secretary finds that the State has come into compliance with Federal requirements on any issue in whole or in part, he or she must remove the issue from the proceedings in whole or in part as may be appropriate. If all issues are

removed the Assistant Secretary must terminate the hearing.

(2)(i) Prior to the removal of an issue, in whole or in part, from a hearing involving issues relating to the conformity with Federal requirements of State plan or report on the description of the protection and advocacy system with Federal requirements, the Assistant Secretary must provide all parties other than the Department and the State (see § 1386.94(b)) with the Statement of his or her intention to remove an issue from the hearings and the reasons for that decision. A copy of the proposed State plan provision or report on the description of the protection and advocacy system on which the State and the Assistant Secretary have settled must be sent to the parties. The parties must have an opportunity to submit in writing within 15 days their views as to, or any information bearing upon, the merits of the proposed provision and the merits of the reasons for removing the issue from the hearing.

(d) In hearings involving questions of noncompliance of a State's operation of its program with the State plan or system description, or with Federal requirements, the same procedure set forth in paragraph (c) (2) of this Subsection must be followed with respect to any report or evidence resulting in a conclusion by the Assistant Secretary that a State has achieved compliance.

(e) The issues considered at the hearing must be limited to those issues of which the State is notified as provided in § 1386.90 and paragraph (a) of this Section, and new or modified issues described in paragraph (b) of this Section, and may not include issues or parts of issues removed from the proceedings pursuant to paragraph (c) of this Section.

§ 1386.94 Request to participate in hearing.

(a) The Department, the State council, the designated State agency, and the State protection and advocacy office, as appropriate, are parties to the hearing without making a specific request to participate.

(b)(1) Other individuals or groups may be recognized as parties if the issues to be considered at the hearing have caused them injury and their interests are relevant to the issues in the hearing.

(2) Any individual or group wishing to participate as a party must file a petition with the HDS Hearing Clerk within 15 days after notice of the hearing has been published in the **Federal Register**, and must serve a copy on each party of record at that time in accordance with § 1386.85(b). The petition must concisely state (i) petitioner's interest in the proceeding, (ii) who will appear for petitioner, (iii) the issues petitioner wishes to address and (iv) whether petitioner intends to present witnesses.

(3) Any party may file comments within 5 days of receipt of such petition.

(4) The presiding officer must promptly determine whether each petitioner has the requisite interest in the proceedings and shall permit or deny participation accordingly. Where petitions to participate as parties are made by individuals or groups with common interest, the presiding officer may request all of the petitioners to designate a single representative, or he or she may recognize one or more of the petitioners to represent all of them. The presiding officer must give each petitioner written notice of the decision on its petition. If any petition is denied, the presiding officer must briefly state the grounds for denial.

(c)(1) Any interested person or organization wishing to participate as amicus curiae must file a petition with the HDS Hearing Clerk before the commencement of the hearing. The petition must concisely state (i) the petitioner's interest in the hearing (ii) who will represent the petitioner, and (iii) the issues on which petitioner intends to present argument. The presiding officer may grant the petition if he or she finds that the petitioner has a legitimate interest in the proceedings, that such participation will not unduly delay the outcome and may contribute materially to the proper disposition of the issues.

(2) An amicus curiae may present a brief oral statement at the hearing at the point in the proceedings specified by the presiding officer. It may submit a written statement of position to the presiding officer prior to the beginning of a hearing, and must serve a copy on each party. It may also submit a brief or written statement at such time as the parties submit briefs and must serve a copy on each party.

Hearing Procedures

§ 1386.100 Who presides.

(a) The presiding officer at a hearing must be the Assistant Secretary or someone designated by the Assistant Secretary.

(b) The designation of a presiding officer must be in writing. A copy of the designation must be served on all parties and amici curiae.

§ 1386.101 Authority of presiding officer.

(a) The presiding officer has the duty to conduct a fair hearing, avoid delay, maintain order, and make a record of the proceedings. The presiding officer has all powers necessary to accomplish these ends, including, but not limited to, the power to:

(1) Change the date, time, and place of the hearing, upon notice to the parties. This includes the power to continue the hearing in whole or in part;

(2) Hold conferences to settle or simplify the issues in a proceeding, or to consider other matters that may aid in the expeditious disposition of the proceedings;

(3) Regulate participation of parties and amici curiae and require parties and amici curiae to state their positions with respect to the issues in the proceeding;

(4) Administer oaths and affirmations;

(5) Rule on motions and other procedural items on matters pending before him or her, including issuance of protective orders or other relief to a party against whom discovery is sought;

(6) Regulate the course of the hearing and conduct of counsel therein;

(7) Examine witnesses;

(8) Receive, rule on, exclude, or limit evidence or discovery;

(9) Fix for the time for filing motions, petitions, briefs, or other items in matters pending before him or her;

(10) If the presiding officer is the Assistant Secretary, make a final decision;

(11) If the presiding officer is a person designated by the Assistant Secretary, examiner, certify the entire record, including recommended findings and proposed decision, to the Assistant Secretary;

(12) Take any action authorized by the rules in the Subpart or 5 U.S.C. 551–559; and

(b) The presiding officer does not have authority to compel the production of witnesses, papers, or other evidence by subpoena.

(c) If the presiding officer is a person designated by the Assistant Secretary, examiner, his or her authority is to render a recommended decision with respect to program requirements which are to be considered at the hearing. In case of any noncompliance, he or she shall recommend whether Federal financial participation should be withheld with respect to the entire State plan or the report of the system description, or whether Federal financial participation should be withheld only with respect to those parts of the program affected by such noncompliance.

§ 1386.102 Rights of parties.

All parties may:

(a) Appear by counsel, or other authorized representative, in all hearing proceedings;

(b) Participate in any prehearing conference held by the presiding officer;

(c) Agree to stipulations of facts which will be made a part of the record;

(d) Make opening statements at the hearing;

(e) Present relevant evidence on the issues at the hearing;

(f) Present witnesses who then must be available for cross-examination by all other parties;

(g) Present oral arguments at the hearing;

(h) Submit written briefs, proposed findings of fact, and proposed conclusions of law, after the hearing.

§ 1386.103 Discovery.

The Department and any party named in the Notice issued pursuant to § 1386.90 has the right to conduct discovery (including depositions) against opposing parties as provided by the Federal Rules of Civil Procedure. There is no fixed rule on priority of discovery. Upon written motion, the presiding officer must promptly rule upon any objection to discovery action. The presiding officer also has the power to grant a protective order or relief to any party against whom discovery is sought and to restrict or control discovery so as to prevent undue delay in the conduct of the hearing. Upon the failure of any party to make discovery, the presiding officer may issue any order and impose any sanction other than contempt orders authorized by Rule 37 of the Federal Rules of Civil Procedure.

§ 1386.104 Evidentiary purpose.

The hearing is directed to receiving factual evidence and expert opinion testimony related to the issues in the proceeding. Argument will not be received in evidence; rather, it must be presented in statements, memoranda, or briefs, as directed by the presiding officer. Brief opening statements, which shall be limited to a statement of the party's position and what it intends to prove, may be made at hearings.

§ 1386.105 Evidence.

(a) *Testimony.* Testimony by witnesses at the hearing is given orally under oath or affirmation. Witnesses must be available at the hearing for cross-examination by all parties.

(b) *Stipulations and exhibits.* Two or more parties may agree to stipulations of fact. Such stipulations, or any exhibit proposed by any party, must be exchanged at the prehearing conference or at a different time prior to the hearing if the presiding officer requires it.

(c) *Rules of evidence.* Technical rules of evidence do not apply to hearings conducted pursuant to this subpart, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination are applied where reasonably necessary by the presiding officer. A witness may be cross-examined on any matter material to the proceeding without regard to the scope of his or her direct examination. The presiding officer may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record is open to examination by the parties and opportunity must be given to refute facts and arguments advance on either side of the issues.

§ 1386.106 Exclusion from hearing for misconduct.

Disrespectful, disorderly, or contumacious language or contemptuous conduct, refusal to comply with directions, or continued use of dilatory tactics by any person at the hearing before a presiding officer shall constitute grounds for immediate exclusion of such person from the hearing by the presiding officer.

§ 1386.107 Unsponsored written material.

Letters expressing views or urging action and other unsponsored written material regarding matters in issue in a hearing is placed in the correspondence section of the docket of the proceeding. This material is not deemed part of the evidence or record in the hearing.

§ 1386.108 Official transcript.

The Department will designate the official reporter for all hearings. Te official transcript of testimony taken, together with any stipulations, exhibits, briefs, or memoranda of law filed with them is filed with the Department. Transcripts of testimony in hearings may be obtained from the official reporter by the parties and the public at rates not to exceed the maximum rates fixed by the contract between the Department and the reporter. Upon notice to all parties, the presiding officer may authorize corrections to the transcript which involve matters of substance. Transcripts must be taken by stenotype machine and not by voice recording devices, unless otherwise agreed by all of the parties and the presiding officer.

§ 1386.109 Record for decision.

The transcript of testimony, exhibits, and all papers and requests filed in the proceedings, except the correspondence section of the docket, including rulings and any recommended or initial decision, constitute the exclusive record for decision.

Posthearing Procedures, Decisions

§ 1386.110 Posthearing briefs.

The presiding officer must fix the time for filing posthearing briefs. This time may not exceed 30 days after termination of the hearing and receipt of the transcript. Briefs may contain proposed findings of fact and conclusions of law. If permitted, reply briefs may be filed no later than 15 days after filing of the posthearing briefs.

§ 1386.111 Decisions following hearing.

(a) If the Assistant Secretary is the presiding officer, he or she must issue a decision within 60 days after the time for submission of posthearing briefs has expired.

(b)(1) If the presiding officer is a person designated by the Assistant Secretary If a hearing examiner is the presiding officer, he or she must, within 30 days after the time for submission of posthearing briefs has expired, certify the entire record to the Assistant Secretary including recommended findings and proposed decision. The Assistant Secretary must serve a copy of the recommended findings and proposed decision upon all parties and amici.

(2) Any party may, within 20 days, file exceptions to the recommended findings and proposed decision and supporting brief or statement with the Assistant Secretary.

(3) The Assistant Secretary must review the recommended decision and, within 60 days of its issuance, issue his or her own decision.

(c) If the Assistant Secretary concludes:

(1) In the case of a hearing under Sections 113, 133 and 135 of the Act that a State plan or report on the State's protection and advocacy system does not comply with Federal requirements, he or she shall also specify whether the State's total allotment for the fiscal year will not be authorized for the State or whether, in the exercise of his or her discretion, the allotment will be limited to parts of the State plan or the report not affected by the noncompliance.

(2) In the case of a hearing pursuant to Section 135 of the Act that the State is not complying with requirements of the State plan or the report on the description of the State's protection and advocacy system, he or she must also specify whether Federal financial participation will not be made available to the State or whether, in the exercise of his or her discretion, Federal financial participation will be limited to

categories under the State plan or the report on the description of the State's protection and advocacy system not affected by such noncompliance. The Assistant Secretary may ask the parties for recommendations or briefs or may hold conferences of the parties on these questions.

(d) The decision of the Assistant Secretary under this Section is the final decision of the Secretary and constitutes "final agency action" within the meaning of 5 U.S.C. 704 and the "Secretary's action" within the meaning of Section 138 of the Act. The Assistant Secretary's decision must be promptly served on all parties and amici.

§ 1386.112 Effective date of decision by the Assistant Secretary.

(a) If, in the case of a hearing pursuant to Section 135 of the Act, the Assistant Secretary concludes that a State plan or the report on the description of the State's protection and advocacy system does not comply with Federal requirements, and the decision provides that the allotment will be authorized but limited to parts of the State plan or the report on the description of the State's protection and advocacy system not affected by such noncompliance, the decision must specify the effective date for the authorization of the allotment.

(b) In the case of a hearing pursuant to Section 113, 133 if the Assistant Secretary concludes that the State is not complying with requirements of the State plan or the report on the description of the State's protection and advocacy system, the decision that further payments will not be made to the State, or that payments will be limited to parts of the State plan or the report on the description of the State's protection and advocacy system not affected, must specify the effective date for the withholding of Federal funds.

(c) The effective date may not be earlier than the date of the decision of the Assistant Secretary and may not be later than the first day of the next calendar quarter.

(d) The provisions of this section may not be waived pursuant to § 1386.84.

PART 1387—SPECIAL PROJECTS—PROJECTS OF NATIONAL SIGNIFICANCE

Sec.

1387.1 General requirements.

Authority: Pub. L. 88–164, 77 Stat. 282, as amended by Pub. L. 91–517, 84 Stat. 1316, Pub. L. 94–103, 89 Stat. 486, Pub. L. 95–602, 92 Stat. 2955; Pub. L. 97–35, 95 Stat. 563 (42 U.S.C. 6000 et seq.).

§ 1387.1 General requirements.

(a) All projects funded under this Part must be of national significance to comply with Section 145 of the Act.

(b) The requirements concerning format and content of the application, submittal procedures, eligible applicants and priority areas of services will be published in program announcements in the **Federal Register**.

(c) Projects of national significance must be exemplary models and hold potential for replication.

[FR Doc. 83-4441 Filed 2-22-83; 8:45 am]

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federal register

Wednesday
February 23, 1983

Part IV

Environmental Protection Agency

Hazardous Waste Management System; Identification and Listing of Hazardous Waste

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SWH-FRL 2249-8]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Proposed amendment to rule with request for comments.

SUMMARY: The Environmental Protection Agency (EPA) is today proposing to amend its regulations under the Resource Conservation and Recovery Act to change the hazard class under which commercial chemical products containing low concentrations of warfarin and zinc phosphide are listed. Products containing warfarin at concentrations of 0.3% or less will be listed under 40 CFR 261.33(f). Products containing zinc phosphide at concentrations of 10% or less will henceforth be listed under 40 CFR 261.33(f). This change specifically delineates the categorization of waste warfarin and zinc phosphide.

DATES: EPA will accept public comments on this proposed rule until April 25, 1983. Any person may request a hearing on this amendment by filing a request with John P. Lehman, whose address appears below, by March 25, 1983. This change is being made because these lower concentration formulations of warfarin and zinc phosphides do not meet the criteria for actively hazardous waste.

ADDRESSES: Comments should be sent to the Docket Clerk, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C., 20460. Comments should identify the regulatory docket number "Section 3001, 40 CFR 261.33." Requests for hearing should be addressed to John P. Lehman, Director, Hazardous and Industrial Waste Division, Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C., 20460.

The public docket for this proposed rule is located in Room S-269C, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C., 20460, and is available for viewing from 9:00 a.m. to 4:00 p.m. Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: The RCRA Hotline at (800) 424-9346 or at (202) 382-3000. For technical information contact Wanda LeBleu-Biswas, Office of Solid Waste (WH-565B), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C., 20460, (202) 382-4798.

SUPPLEMENTARY INFORMATION:

I. Background

Under the authority of section 3001 of the Resource Conservation and Recovery Act of 1976, as amended (RCRA), the Agency promulgated as 40 CFR 261.33 of the regulations a list of commercial chemical products or manufacturing chemical intermediates which are hazardous wastes if they are discarded or intended to be discarded. The phrase "commercial chemical product of manufacturing chemical intermediate" refers to a chemical substance which is manufactured or foumulated for commercial or manufacturing use, and which consists of the commercially pure grade of the chemical, any technical grades of the chemical that are produced or marketed, and all formulations in which the chemical is the sole active ingredient. This does not pertain to dilutions or other adulterations of the commercial product. 40 CFR 261.33 also lists as hazardous wastes off-specification variants and the residues and debris from the clean-up of spills of these chemicals, if discarded or intended to be discarded (§ 261.33 (b) and (d)). Finally, § 261.33 lists as hazardous wastes the containers that have held those chemicals listed in § 261.33(e), if they are discarded or intended to be discarded, unless the containers have been decontaminated in an equivalent manner.

A chemical substance is listed in 40 CFR 261.33(e), and is subject to a small quantity generator exclusion limit of 1 kilogram per month, if it meets the criteria of § 261.11(a)(2); that is, it acutely hazardous because it has been shown in animal studies to have an oral LD_{50} (rat) toxicity value of less than 50 milligrams per kilogram, a dermal LD_{50} (rabbit) toxicity value of less than 200 milligrams per kilogram, an inhalation LC_{50} (rat) toxicity value of less than 2 mg/l, or is otherwise capable of causing or otherwise significantly contributing to serious illness.

Chemical substances are listed in § 261.33(f), and are subject to the small quantity generator exclusion limit of 1,000 kilograms per month,[1] if they satisfy § 261.11(a)(1), exhibiting identified characteristics of EP toxicity, reactivity, corrosivity, or ignitability; or § 261.11(a)(3), satisfying the criteria for listing as toxic, *i.e.*, they have been shown in scientific studies to be toxic, mutagenic, teratogenic, or carcinogenic to humans, other mammals or aquatic animals, or to be phytotoxic.

In listing wastes in either § 261.33(e) or (f), the Agency intended to encompass those hazardous chemical products which for various reasons are sometimes thrown away in pure or diluted form. The regulation was intended to dedsignate chemicals themselves as hazardous wastes, if discarded. The reasons for discarding these materials might be that the materials did not meet required specifications, that inventories were being changed or that the product line had changed.

The National Pest Control Association (NPCA), Vienna, VA has petitioned the Agency, pursuant to the provisions in § 260.22,[2] to exclude warfarin and zinc phosphide containing commercial chemical products used for pest control from the list of acute hazardous waste (those chemicals listed in § 261.33(e)). Petitions have also been received from Sterling Drug Company, New York, NY and the Ralston Purina Company, St. Louis, MO, requesting that certain warfarin containing products be excluded.

II. Basis for Original Listing

A. *Warfarin.* The Agency listed warfarin in 40 CFR 261.33(e) based on its oral LD_{50} (rat) toxicity value of 3 mg/kg for the technical grade form (99 percent pure). The Agency includes in the acute hazardous waste category any wastes that have been shown to have an oral LD_{50} (rat) value of less than 50 mg/kg.

B. *Zinc Phosphide.* The agency listed zinc phosphide in 40 CFR 261.33(e) based on its published oral LD_{50} (rat) toxicity value of 27 mg/kg for the technical grade form (94 percent pure). As previously stated, the Agency includes in the acute hazardous waste category any wastes that have been shown to have an oral LD_{50} (rat) value of less than 50 mg/kg.

[1] EPA publicly committed to reexamine the small quantity generator exclusion limit, and these products may be subject to a revised small quantity generator exclusion limit at a later date. In fact, there is an act in the Congress at this time (H.R. 6307) which, if passed, will decrease the small quantity generator exclusion limit to 100 kilograms per month.

[2] Section 260.22 only allows an individual facility to delist their waste if they can show that the waste is fundamentally different from the waste the Agency has listed. Since NPCA requests that zinc phosphide be removed from the acute hazardous waste category and thus seeks relief on a generally applicable basis, their petition is being processed under § 260.20 of the hazardous waste regulations.

III. Reason and Basis for Today's Amendment

A. *Warfarin.* The National Pest Control Association (NPCA), Vienna, VA has petitioned the Agency, pursuant to the provisions in § 260.22, to exclude warfarin from the list of acute hazardous wastes. The NPCA stated in its petition that technical grade warfarin is not readily available to pest control formulators and operators. They further stated that the most commonly used formulations for grain-based rodenticidal baits contain warfarin in concentrations of 0.025–0.05%. They also stated that the low solubility of warfarin precludes the potential for migration through solids to groundwater. The NPCA expressed concern that pest control operators who must discard baits are subject to increased economic burdens and reporting requirements as a result of RCRA regulation. In addition, the Agency has received comments from several pest control operators who requested that warfarin be removed from the acute hazardous waste listing in § 261.33(e), citing the NPCA petition as a basis for their request.

Sterling Drug, Incorporated, New York, NY and the Ralston Purina Company, St. Louis, MO have also petitioned to exclude specific rodenticidal baits containing 0.025%, 0.054% and 0.3% warfarin as the sole active ingredient. Sterling Drug, Inc. submitted oral LD_{50} (rat) toxicity data showing that formulations containing 0.025%, 0.054%, and 0.3% warfarin exhibit acute oral LD_{50} (rat) values of >5000 mg/kg, 2,100 mg/kg, and 2,140 mg/kg respectively.

Ralston Purina, based on calculations, but not actual laboratory data, claimed an acute oral LD_{50} (rat) value of 360,000 mg/kg for their rat and mouse control products. Ralston Purina cited Chemical Week, April 26, 1969 as stating that the acute oral LD_{50} (rat) value for 100 percent warfarin is 90 mg/kg. Ralston used this value to extrapolate acute LD_{50} toxicity for its products. Although there is no scientific basis for the values used in their claim, their products contain concentrations of warfarin within the range of the products described in Sterling Drug's petition, and so can be evaluated on the basis of Sterling's data.

The toxicological data submitted by Sterling indicates that products, manufacturing chemical intermediates, and off-specification chemical products containing warfarin at concentrations of 0.3% or less exhibit acute oral LD_{50} (rat) values of >50 mg/kg, and consequently do not meet the criteria for acute hazardous wastes. In fact, as shown by Sterling's data, the acute toxicity of such formulations is well in excess of 50 mg/kg. However, the Agency has no information to conclude that commercial formulations containing warfarin in concentrations greater than 0.3% are not acutely toxic and, because both the 0.054% formulation and the 0.3% formulation have oral (rat) LD_{50} values of about 2100 mg/kg, the Agency does not believe that linear extrapolations can be used to conclude that such formulations are not acutely toxic.

Based on the foregoing, EPA has concluded that warfarin formulations containing concentrations of 0.3% or less are not acutely hazardous and should not be listed in § 261.33(e). However, the Agency cannot conclude that these formulations present no toxicity potential and should be removed completely from listing under § 261.33. Rather, the Agency believes that these formulations should be listed under § 261.33(f) because of their chronic toxicity.

Warfarin poses a toxicity hazard upon chronic low level exposure and it appears to be a weak teratogen. Warfarin exhibits toxic effects in humans and animals by inhibition of prothrombin (a clotting factor) formation and dilation or engorgement of blood vessels with subsequent fatal internal hemorrhaging. In addition to its anticoagulant action, direct capillary damage has also been attributed to warfarin (Lisella *et al.*, 1971, cited in Doull *et al., Casarett and Doull's Toxicology*, 2nd ed., Macmillan Publishing Co., Inc., New York, 1980). These effects which are the basis of warfarin's effectiveness as a rodenticide, do not contribute to acute toxicity because multiple doses of warfarin are required to maintain prothrombin inhibition until all of the body's prothrombin reseves are depleted. However, they do indicate a potential threat from chronic exposure.

Additionally, an excerpt from the *Warfarin and its Sodium Salt Pesticide Registration Standard* (U.S. EPA, Office of Pesticides and Toxic Substances, Washington, D.C., 1981) indicates that warfarin poses a chronic hazard as well:

> Data also indicate that warfarin is a weak teratogen (1. Sherman, S. and B. D. Hall. Warfarin and fetal abnormality. Lancet. 1:692. 2. Shaul, W. L., H. Emery and J. G. Hall. 1975. Chondrodysplasia punctata and maternal warfarin use during pregnancy. Am. J. Dis. Child. 129:360–362. 3. Holzgreve, W., J. C. Carey and B. D. Hall. 1976. Warfarin induced fetal abnormalities. Lancet. 2:914. 4. Warkany, J. 1976. Warfarin embryopathy. Teratology. 14:205.), and the FDA, therefore, requires the following label warning on products used during pregnancy:
>
> "Pregnancy—COUMADIN passes through the placental barrier, and the danger of hemorrhage to the fetus exists even to the point of fatal hemorrhage in utero even in the accepted therapeutic range of maternal prothrombin level. Close observation and laboratory control are essential. The newborn may be particularly sensitive to sodium warfarin. There have been reports of birth malformations in children born to mothers who have been treated with warfarin during the first trimester of pregnancy. Whether warfarin was in fact the responsible agent has not been established. Therefore, women of childbearing potential who are candidates for anticoagulant therapy should be carefully evaluated and the indications critically reviewed. If COUMADIN must be used during pregnancy, or if the patient becomes pregnant while taking this drug, the patient should be apprised of the potential risks to the fetus, and the possibility of termination of the pregancy should be discussed in light of those risks."
>
> The Agency finds this statement to be a reasonable summary of the scientific data on warfarin's teratogenic potential in humans.

In view of this information, and the Agency's lack of comprehensive toxicity data for the commercial products containing warfarin, EPA cannot at the present time justify removing such materials from regulation under § 261.33. Therefore, the Agency is proposing to amend § 261.33(e) to revise the listing for warfarin to include only those products which contain more than 0.3% warfarin, and is also proposing to amend § 261.33(f) to add warfarin when present at concentrations of 0.3% or less (as EPA Hazardous Waste No. U248).

B. *Zinc Phosphide.* The NPCA states in its petition that technical grade zinc phosphide is not readily available to pest control formulators and operators. They state further that zinc phosphide used by pest control operators in vector control is most commonly formulated as a bait of 2% or a tracking powder of 10% zinc phosphide (high value), and it is this product which is disposed of by pest control operators. The NPCA submitted the following toxicity values in their petition and in subsequent data:

acute oral LD_{50} (rat)=27 mg/kg (94% active Zn_3P_2),
acute oral LD_{50} (rat)=180–300 mg/kg (10% Zn_3P_2),
acute dermal LD_{50} (rabbit)=2000–5000 mg/kg (94% Zn_3P_2) and
acute inhalation LC_{50} (rat)<19.6 mg/1 (10% Zn_3P_2).

The NPCA expressed concern that pest control operators who must dispose of spoiled baits and tracking powders are subject to increased economic burdens and reporting requirements as a result of RCRA regulation.

In the presence of moisture, zinc phosphide evolves phosphine gas (PH_3) which, when inhaled in sufficient quantities, can cause fatal pulmonary

edema, the probable mode of action of Zn_3P_2. In addition, severe gastrointestinal irritation results from the reaction of Zn_3P_2 with water and HCl in the stomach producing phosphine gas (Lisella *et al.*, 1971, cited in Doull *et al., Casarett and Doull's Toxicology*, 2nd ed., MacMillan Publishing Co., Inc., New York, 1980). It has been reported by Lisella *et al.* (1971) and Marshall (1981) that Zn_3P_2 causes vomiting in dogs and cats, thus reducing the extent of toxic effects through a shorter retention time in the animals' stomachs. However, the emetic qualities of Zn_3P_2 are not sufficient to prevent the possibility of significant harm.

In light of the data submitted by the National Pest Control Association, EPA has concluded that commercial chemical products or manufacturing chemical intermediates or any off-specification chemical product containing zinc phosphide at concentrations of 10% or less are not acutely hazardous since the acute oral LD_{50} (rat) value exceeds 50 mg/kg, and therefore should not be listed in § 261.33(e). However, the same data show that formulations containing concentrations over 10% are quite toxic, and should not be completely removed from regulation under § 261.33. Rather, the Agency believes that formulations containing zinc phosphide at concentrations of 10% or less should be listed under § 261.33(f) because of their toxicity. Therefore, the Agency is proposing to amend § 261.33(e) to revise the listing for zinc phosphide to include only those products which contain more than 10% of the active substance and is also proposing to amend § 261.33(f) to add commercial chemical products, manufacturing chemical intermediates or spill residues containing zinc phosphide at concentrations of 10% or less (as EPA Hazardous Waste No. U240).

IV. Request for Comments

The Agency invites comments on all aspects of this proposed rule and on the issues. In particular, we request information concerning the toxicity of warfarin and zinc phosphide, as well as of formulations where these compounds are the sole active ingredient. Comments will be accepted until April 25, 1983.

V. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This proposed regulation is not major because it will not result in an effect on the economy of $100 million or more, nor will it result in an increase in costs or prices to industry. In fact, this regulation will reduce the overall costs and economic impact of EPA's hazardous waste management regulations. There will be no adverse impact on the ability of U.S. based-enterprises to compete with the foreign-based enterprises in domestic or exports markets. Because this amendment is not a major regulation no Regulatory Impact Analysis is being conducted.

This amendment was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments form OMB to EPA and any EPA response to those comments are available for public inspection in Room S-269C at EPA.

VI. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (i.e., small business, small organizations, and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a signficant economic impact on a substantial number of small entities.

This amendment will generally have no adverse economic impact on small entities. Rather, since many small pesticide applicators will not have to dispose of small quantities of certain waste zinc phosphide or warfarin pesticides as hazardous wastes, today's action will result in a savings to small business. Accordingly, I hereby certify that this proposed regulation will not have a significant economic impact on a substantial number of small entities. This regulation therefore does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 261

Hazardous materials, Waste treatment and disposal, Recycling.

Dated: February 9, 1983.

Anne M. Gorsuch,

Administrator.

For the reasons set out in the preamble, it is proposed to amend Title 40 of the Code of Federal Regulations as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for Part 261 reads as follows:

Authority: Secs. 1006, 2002(a), 3001, and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6921 and 6922).

§ 261.33 [Amended]

2. It is proposed to amend § 261.33(e) by revising the listings for warfarin, 3-(alpha-acetonylbenzyl)-4-hydroxycoumarin and zinc phosphide to read as follows:

Hazardous waste No.	Substance
P001	Warfarin, when present at concentrations greater than 0.3%.
P001	3-(alpha-Acetonylbenzyl)-4-hydroxycoumarin, when present at concentrations greater than 0.3%.
P122	Zinc phosphide, when present at concentrations greater than 10%.

3. It is proposed to amend § 261.33(f) by adding the following waste streams:

Hazardous waste No.	Substance
U248	Warfarin, when present at concentrations of 0.3% or less.
U248	3(alpha-Acetonylbenzyl)-4-hydroxycoumarin, when present at concentrations of 0.3% or less.
U249	Zinc phosphide, when present at concentrations of 10% or less.

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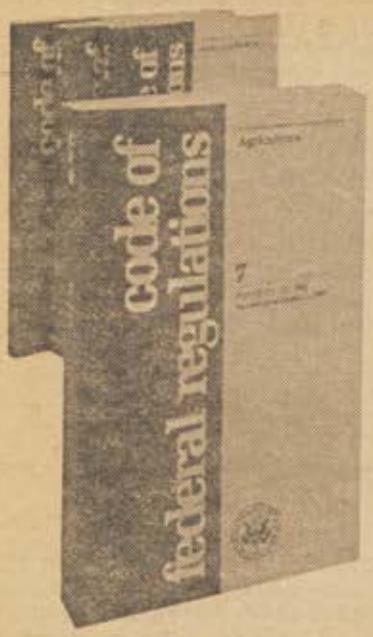

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