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# federal register

Monday
January 23, 1984

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Animal and Plant Health Inspection Service

**Aviation Safety**
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**Banks, Banking**
Federal Deposit Insurance Corporation
Federal Home Loan Bank Board

**Chemicals**
Environmental Protection Agency

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Education Department

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Economic Regulatory Administration

**Television Broadcasting**
Federal Communications Commission

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# Selected Subjects

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# Rules and Regulations

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## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 553

### Deductions From Civilian Pay for Increases in Uniformed Service Retired or Retainer Pay

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** The Office of Personnel Management is issuing final regulations on the deduction from civilian pay of increases in uniformed service retired or retainer pay. These regulations are necessary to implement section 301(d) of the Omnibus Budget Reconciliation Act of 1982, as amended by section 3(h) of Public Law 97–346.

**EFFECTIVE DATE:** February 22, 1984.

**FOR FURTHER INFORMATION CONTACT:** Bobby Williams, (202) 632–4634.

**SUPPLEMENTARY INFORMATION:** Interim regulations were published in the Federal Register on April 1, 1983 (48 FR 13952), with a 60 day comment period.

OPM received the following substantive comments on the regulations:

(1) Section 552.104(a)(2) requires that the Secretary of Commerce, the Secretary of Defense, the Secretary of Health and Human Services, or the Secretary of Transportation, as appropriate, shall furnish each agency with the amount of each increase received by each individual to whom the deduction applies in fiscal years 1983, 1984, and 1985. A Federal agency recommended in its comments that these agencies furnish cumulative COLA amounts to employing agencies, since the deductions are cumulative. We have conveyed this suggestion to the agencies which maintain the uniformed service retirement records.

(2) An employee commenter questioned how reductions in retired pay due to waiver of uniformed service retired pay to qualify for receipt of Veterans compensation affect the COLA deduction. The deduction from civilian pay required under section 301(d) of the act must still be made unless an employee waives all retired or retainer pay, or an amount which is so large that it includes some portion of the COLA. If an employee has such a waiver in effect, the agency should follow instructions in paragraph 4 of FPM Letter 553–1, dated April 7, 1983.

(3) One employee commented that rounding the hourly COLA deductions to the nearest cent will cause some employee's total deductions during a year to exceed the amount of COLA received.

We have reexamined this issue and concluded that it is more appropriate to round all hourly deductions down to the next cent so that the total deduction in a year does not exceed the total COLA increase in a year. Section 553.105(a)(2)(ii) is amended accordingly. No retroactive adjustment of amounts already withheld is necessary since the total of the amount deducted to date and that to be deducted for the remainder of the year will not exceed the amount of the COLA received.

(4) Another employee commented that the deduction required by section 301(d) should not apply to personnel who work in power production at the Tennessee Valley Authority, since T.V.A. power production is a self-sufficient, nonappropriated business. Since the employees covered by this provision are defined in statute, we cannot adopt this suggestion.

### E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under Section 1(b) of E.O. 12291, Federal Regulation.

### Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it applies only to deductions from civilian pay for increases in uniformed service retired or retainer pay of Federal employees in civilian positions.

### List of Subjects in 5 CFR Part 553

Administrative practice and procedure, Government employees, Wages.

U.S. Office of Personnel Management.

**Donald J. Devine.**

*Director.*

Accordingly, OPM is amending Title 5 of the Code of Federal Regulations by revising Part 553 to read as follows:

## PART 553—DEDUCTIONS FROM CIVILIAN PAY FOR INCREASES IN UNIFORMED SERVICE RETIRED OR RETAINER PAY

Sec.



**Authority:** Sec. 301(d), Pub. L. 97–253, as amended by sec. 3(h), Pub. L. 97–346.

### § 553.101 Applicability.

This part contains regulations of the Office of Personnel Management to implement section 301(d) of Pub. L. 97–253, as amended by section 3(h) of Pub. L. 97–346, which authorizes the Office to prescribe regulations concerning deductions from the civilian pay of a member or former member of a uniformed service equal to the amount of each increase in the individual's uniformed service retired or retainer pay received in fiscal years 1983, 1984, and 1985. This part should be read together with these sections of law.

### § 553.102 Coverage.

(a) Except as otherwise provided in this section, the deduction applies to any member or former member of a uniformed service who is employed in a position, as defined in section 5531(2) of title 5, United States Code, and receives an increase in uniformed service retired or retainer pay in fiscal year 1983, 1984, or 1985.

(b) The deduction does not apply to a member or former member of a uniformed service whose retired or retainer pay is computed, in whole or in part, based on disability—

(1) Resulting from injury or disease received in line of duty as a direct result of armed conflict; or

(2) Caused by an instrumentality of war and incurred in line of duty during a period of war, as defined in section 101 and 301 of title 38, United States Code.

(c) The deduction does not apply to any individual whose compensation, may not, under section 1 of article III of the Constitution of the United States, be diminished during the individual's continuance in office.

(d) With respect to any increase in uniformed service retired or retainer pay that becomes effective in fiscal year 1983, 1984, or 1985, the deduction does not apply to a member or former member of a uniformed service who was not employed in a position during the fiscal year in which the increase became effective.

**§ 553.103 Definitions.**

In this part:

"Agency" means an entity in the legislative, executive, or judicial branch of the Federal Government, including a Government Corporation, as defined in section 103 of title 5, United States Code, and a non-appropriate fund instrumentality under the jurisdiction of the armed forces, that employs an individual to whom the deduction applies.

"Deduction" means the deduction from civilian pay required by section 301(d) of Pub. L. 97–253, as amended by section 3(h) of Pub. L. 97–346.

"Position" has the meaning given that term in section 5531(2) of title 5, United States Code.

"Rate of basic pay" means the rate of pay fixed by law or administrative action for an individual or position in any branch of the Federal Government, including a Government corporation, as defined in section 103 of title 5, United States Code, and a non-appropriated fund instrumentality under the jurisdiction of the armed forces, before any deductions and exclusive of additional pay of any kind.

**§ 553.104 Computation of increases in uniformed service retired or retainer pay.**

(a) The Secretary of Commerce, the Secretary of Defense, the Secretary of Health and Human Services, or the Secretary of Transportation, as appropriate, shall—

(1) Compute the amount of each increase in uniformed service retired or retainer pay pursuant to section 140(a)(b) of title 10, United States Code, received by each individual to whom the deduction applies in fiscal years 1983, 1984, and 1985; and

(2) Furnish each agency with the amount of each increase received by each individual to whom the deduction applies in fiscal years 1983, 1984, and 1985.

(b) The amount of each increase in uniformed service retired or retainer pay received by each individual to whom the deduction applies in fiscal years 1983, 1984, and 1985 shall be determined on the basis of the additional amount the individual receives after the application of section 301(a), (b), and (c) of Pub. L. 97–253 and section 5532(b) and (c) of title 5, United States Code.

**§ 553.105 Computation of deduction.**

(a) Except as provided in paragraph (b) of this section, each agency shall compute the deduction as follows for each individual to whom the deduction applies:

(1)(i) For pay periods beginning in fiscal year 1983 divide the amount of any increase in uniformed service retired or retainer pay (expressed as an annual rate) received in fiscal year 1983 by 2,080 and round to the next lowest cent to determine the hourly deduction from the individual's civilian pay.

(ii) For pay periods beginning on the effective date of section 310(b)(1) of Pub. L. 97–253, divide the total amount of any increase or increases in uniformed service retired or retainer pay (expressed as an annual rate) received in fiscal years 1983, 1984, and 1985 in which the individual was employed in a position by 2,087 and round to the next lowest cent to determine the hourly deduction from the individual's civilian pay.

(2) For each pay period after March 31, 1983 (including the pay period in which April 1, 1983, falls), multiply the hourly deduction from the individual's civilian pay by the number of hours the individual was in a pay status during that pay period, up to a maximum of 40 hours per week or, for an individual under an alternative work schedule established under Part 620 of this chapter with a variable weekly tour of duty, 80 hours per pay period.

(b) For an individual with an uncommon tour of duty to whom the deduction applies, each agency shall compute the deduction as follows:

(1) Divide the total amount of any increase or increases in uniformed service retired or retainer pay (expressed as an annual rate) received in any of fiscal years 1983, 1984, and 1985 in which the individual was employed in a position by the actual number of hours in the individual's tour of duty during the applicable fiscal year and round to the nearest lower cent to determine hourly deduction from the individual's civilian pay.

(2) For each pay period after March 31, 1983 (including the pay period in which April 1, 1983 falls), multiply the hourly deduction from the individual's civilian pay by the number of hours the individual was in a pay status during that pay period, up to the actual number of hours in the individual's tour of duty per pay period.

**§ 553.106 Effective date of deduction.**

Each deduction and each increase in the amount of a deduction shall become effective on the first day of the calendar month in which an increase in uniformed service retired or retainer pay becomes effective in fiscal year 1983, 1984, or 1985.

**§ 553.107 Entitlements and computations based on rates of basic pay.**

All entitlements and computations based on the rate of basic pay for an individual or position under any law, regulation, or Executive order shall be based on the rate of basic pay before the deduction.

[FR Doc. 84–1761 Filed 1–20–84; 8:45 am]
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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

### 9 CFR Part 81

**[Docket No. 84–001]**

### Highly Pathogenic Avian Influenza

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

**ACTION:** Interim rule.

**SUMMARY:** This document amends the extraordinary emergency provisions of the "Highly Pathogenic Avian Influenza" interim rule to specifically provide that certain inspectors are authorized to enter any premises in New Jersey and Pennsylvania with the consent of the owner, or his agent, of the premises or with a warrant. The purpose of such entries shall be to collect blood samples and cloacal and tracheal swabs from live poultry and to collect tissue samples and cloacal and tracheal swabs from dead poultry on premises in States for which an extraordinary emergency has been declared. This is necessary to help detect the presence of highly pathogenic avian influenza on premises in these States so that action can be taken under the provisions of the interim rule to prevent the spread of this highly

contagious and pathogenic viral disease of poultry.

**DATES:** Effective date is January 19, 1984. Written comments must be received on or before March 23, 1984.

**ADDRESS:** Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays.

**FOR FURTHER INFORMATION CONTACT:** Dr. William W. Buisch, Chief, National Emergency Field Operations Staff, VS, APHIS, USDA, Room 747, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8973.

**SUPPLEMENTARY INFORMATION:**

Background

The "Highly Pathogenic Avian Influenza" interim rule which is set forth in 9 CFR Part 81 was established to help prevent the spread of highly pathogenic avian influenza (48 FR 51422–51423, 52420–52427, 52885–52887, 53678–53679, 53679–53681, 53997, 54574–54575, 55402–55405, 55722, 57474–57475, 49 FR 368–369). The interim rule, among other things, established extraordinary emergency provisions specifically authorized under the Act of July 2, 1962 (21 U.S.C. 134–134h). These provisions are applicable to New Jersey and Pennsylvania since an extraordinary emergency has been declared for these States. This document amends these regulations.

The regulations provide for inspections and seizures upon premises; disposal of poultry and other items; cleaning of pens, coops, containers, troughs, other accessories, and means of conveyance; and appraisal and payment for destruction of poultry and other items.

Prior to the effective date of this document, § 81.11 of the regulations provided that:

> State inspectors (appointed as employees of the U.S. Department of Agriculture) and Federal inspectors, designated by the Deputy Administrator and identified by an official identification card, shall have authority to enter, with a warrant obtained under section 5 of the Act of July 2, 1962 (21 U.S.C. 134d), upon any premises in New Jersey or Pennsylvania, for the purpose of making inspections and seizures necessary under the Act of July 2, 1962, or the regulations in this Part. Such inspectors may enter upon any premises without a warrant if the person in possession of the premises voluntarily consents to their entry

This document amends these provisions to specifically provide that such inspectors are authorized to collect blood samples and cloacal and tracheal swabs from live poultry and to collect tissue samples and cloacal and tracheal swabs from dead poultry on premises in New Jersey or Pennsylvania. This is necessary in order to have an effective program for determining whether highly pathogenic avian influenza occurs in poultry on premises in New Jersey and Pennsylvania.

Poultry in some flocks may appear to be healthy and not manifest any clinical signs of highly pathogenic avian influenza when, in fact, such poultry may be carrying and shedding highly pathogenic avian influenza virus. The collection of blood samples, tissue samples, and cloacal and tracheal swabs is essential so that it can be determined by laboratory analysis whether the disease producing agent is present in the flock.

Emergency Action

Dr. John K. Atwell, Deputy Administrator of the Animal and Plant Health Inspection Service for Veterinary Services, has determined that an emergency stituation exists which warrants publication of this interim rule without prior opportunity for public comment. Immediate action is necessary to help detect the presence of highly pathogenic avian influenza on premises in New Jersey and Pennsylvania so that action under the provisions of the interim rule can be taken to prevent the spread of the disease.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest; and good cause is found for making this interim rule effective upon signature. Comments are solicited for 60 days after publication of this document. A final document discussing comments received and any amendments required will be published in the **Federal Register.**

Executive Order and Regulatory Flexibility Act

The emergency nature of this action makes it impracticable for the Agency to follow the procedures of Executive Order 12291 and Secretary's Memorandum 1512–1 with respect to this interim rule. Immediate action is necessary to help detect the presence of highly pathogenic avian influenza on premises in New Jersey and Pennsylvania so that action can be taken under the provisions of the interim rule to prevent the spread of the disease.

This emergency situation also makes compliance with section 603 and timely compliance with section 604 of the Regulatory Flexibility Act impracticable. Since this action may have a significant economic impact on a substantial number of small entities, the Final Regulatory Impact Analysis, if required will address the issues required in section 604 of the Regulatory Flexibility Act.

List of Subjects in 9 CFR Part 81

Animal diseases, Poultry and poultry products, Transportation.

## PART 81—HIGHLY PATHOGENIC AVIAN INFLUENZA

Under the circumstances referred to above, § 81.11 of 9 CFR Part 81 is revised to read as follows:

Section 81.11 of 9 CFR Part 81 is revised to read as follows:

### § 81.11 Inspections and seizures.

State inspectors (appointed as employees of the U.S. Department of Agriculture) and Federal inspectors, designated by the Deputy Administrator and identified by an official identification card, shall have authority to enter, with a warrant obtained under section 5 of the Act of July 2, 1962 (21 U.S.C. 134d), upon any premises in New Jersey or Pennsylvania, for the purpose of making inspections and seizures necessary under the laws and regulations administered by the Secretary for the prevention of the introduction or dissemination of highly pathogenic avian influenza. This shall include authority for such inspectors to collect blood samples and cloacal and tracheal swabs from live poultry on such premises and to collect tissue samples and cloacal and tracheal swabs from dead poultry on such premises. Such inspectors may enter upon any premises without a warrant if the owner of the premises or his agent voluntarily consents to their entry.

**Authority:** Sec. 2, 23 Stat. 31, as amended; secs. 4–8, 23 Stat. 31–33, as amended; secs. 1–3, 32 Stat. 791, 792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; 41 Stat. 699; sec. 2, 65 Stat. 693; secs. 2–3, 5–6, and 11, 76 Stat. 129–132; 76 Stat. 663, 7 U.S.C. 450, 21 U.S.C. 111–113, 114a–1, 115–117, 119–126, 130, 134a, 134b, 134d, 134e, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

Done at Washington, D.C., this 19th day of January, 1984.

J. K. Atwell,

*Deputy Administrator, Veterinary Services.*

[FR Doc. 84-1923 Filed 1-20-84; 8:45 am]

BILLING CODE 3410-34-M

## DEPARTMENT OF ENERGY

### Economic Regulatory Administration

### 10 CFR Parts 205 and 213

### Revocation of Petroleum Import Licensing Regulations and Related Administrative Provisions

**AGENCY:** Economic Regulatory Administration, Department of Energy.

**ACTION:** Final rule.

**SUMMARY:** The Economic Regulatory Administration (ERA) of the Department of Energy is revoking, effective immediately, its petroleum import licensing regulations (10 CFR Part 213) and the related procedural regulations governing the revocation or suspension of petroleum import licenses (10 CFR Part 205, Subpart T). These regulations have been made unnecessary by Presidential Proclamation 5141, signed on December 22, 1983 (48 FR 56929, December 27, 1983), which revoked Presidential Proclamation 3279, as amended. Proclamation 3279, issued in 1959 pursuant to section 2(b) of the Trade Agreements Extension Act of 1954, as amended (succeeded by section 232 of the Trade Expansion Act of 1962), was the basis until 1973 for quotas on imports of petroleum and petroleum products into the United States. From 1973 until 1979, the Proclamation imposed fees on petroleum imports. Although import license fees were suspended temporarily in 1979, and suspended indefinitely in 1980, the licensing requirement for petroleum imports was continued. Proclamation 3279, as amended by President Reagan in 1982, also prohibited imports of Libyan crude oil into the United States, its territories and possessions. The President's December 22, 1983, Proclamation continues the ban on Libyan crude oil imports, which is enforced by the Treasury Department's Customs Service. In addition, the new Proclamation continues the Secretary of Energy's responsibility to monitor imports of petroleum and petroleum products with respect to the national security and to recommend to the President appropriate actions; authorizes the Secretary of Energy to consider requests for refunds of import fees already filed with the Department of Energy; and preserves the Federal Government's authority to institute and conduct appropriate proceedings based on any violation of Proclamation 3279 or its implementing regulations. Finally, Proclamation 5141 makes it clear that the revocation of Proclamation 3279, as amended, does not affect the presently applicable tariff rates for imports of petroleum and petroleum products, as reflected in the Tariff Schedules of the United States, Schedule 4, part 10, 19 U.S.C. 1202.

The revocation of Proclamation 3279, as amended, in no way affects the ability of the Government promptly to adopt any measures which may be needed in an emergency, including appropriate action under the Trade Expansion Act.

**DATE:** Effective January 23, 1984.

**FOR FURTHER INFORMATION CONTACT:**

David Welsh, Economic Regulatory Administration, Department of Energy, Room 2E-034, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-9271

Samuel M. Bradley, Deputy Assistant General Counsel, International Trade and Emergency Preparedness, Department of Energy, Room 6A-141, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252-2900

**SUPPLEMENTARY INFORMATION:** .



## I. Background

Presidential Proclamation 3279 was issued in 1959, pursuant to section 2(b) of the Trade Agreements Extension Act of 1954, as amended (succeeded by section 232 of the Trade Expansion Act of 1962, 19 U.S.C. 1862), after a finding by the Secretary of Treasury pursuant to that statute that imports of petroleum and petroleum products threatened the national security. Until 1973, Proclamation 3279 controlled petroleum imports by means of import quotas. From 1973 until 1979, imports were controlled by a system of licenses which were subject to the payment of fees. In 1979, Proclamation 3279 was further amended to suspend temporarily the imposition of license fees, in light of the uncertainty in the international petroleum market and the substantial increase in the world petroleum prices following the Iranian revolution. In 1980, Proclamation 3279 was amended again to suspend indefinitely the imposition of license fees because of the continuing instability in the world petroleum market and continuing increases in world petroleum prices. Although the imposition of license fees was suspended indefinitely, the requirement to obtain a license for petroleum imports was continued. The regulations implementing the licensing requirement are set forth at 10 CFR Part 213. Regulations governing the revocation and suspension of licenses issued pursuant to Part 213 are set forth at 10 CFR Part 205, Subpart T.

On March 10, 1982, President Reagan issued Proclamation 4907 (47 FR 10507, March 11, 1982), which further amended Proclamation 3279, to prohibit imports of Libyan crude oil into the United States, its territories and possessions. The Customs Service of the Department of Treasury is responsible for enforcing the ban on Libyan imports.

The Secretary of Energy was responsible, under Proclamation 3279, as amended, for maintaining a surveillance of petroleum imports with respect to the national security. Based on his review of those imports, the Secretary recently advised the President that no purpose was served by the continued licensing of petroleum imports and recommended that Proclamation 3279, as amended, be revoked. The Secretary also recommended that the President retain the prohibition on imports of Libyan crude oil through a new Presidential Proclamation. The Secretary noted that the President's January 1981 action decontrolling crude oil and petroleum products within the United States had contributed to a reduced threat to the national security, as the United States' dependence on petroleum imports has substantially diminished and the domestic energy industry has become more efficient.

## II. Proclamation 5141

On December 22, 1983, the President, by Proclamation 5141, revoked Proclamation 3279, as amended. In addition, the new Proclamation continues the prohibition on imports of Libyan crude oil and authorizes the Secretary of the Treasury to issue necessary implementing regulations; continues the Secretary of Energy's responsibility to monitor imports of petroleum and petroleum products with respect to the national security and to recommend to the President appropriate actions; authorizes the Secretary of Energy to consider requests for refund of import fees already filed with the Department of Energy; and preserves the authority of the Federal Government to

institute and conduct appropriate proceedings based on any violation of Proclamation 3279, as amended. Finally, Proclamation 5141 makes it clear that the revocation of Proclamation 3279, as amended, does not affect the presently applicable tariff rates for imports of petroleum and petroleum products, as reflected in the Tariff Schedules of the United States, Schedule 4, part 10, 19 U.S.C. 1202.

To implement Proclamation 5141 we are revoking, effective immediately, the Oil Import Regulations (10 CFR Part 213) and the related regulations for Revocation and Suspension of Allocations and Licenses Issued Pursuant to Part 213 (10 CFR Part 205, Subpart T).

The revocation of Proclamation 3279, as amended, in no way affects the ability of the Government to promptly adopt measures which may be needed during an interruption of petroleum imports, including appropriate action under the Trade Expansion Act of 1962. The Department of Energy will continue its petroleum import information and monitoring system using data collected by the Department and the Customs Service.

**III. Procedural Requirements**

*A. Section 404(a) of the DOE Act*

Pursuant to the requirements of Section 404(a) of the Department of Energy Organization Act (DOE Act, 42 U.S.C. 7101 *et seq.*, Pub. L. 95–91, as amended), we have referred this rule to the Federal Energy Regulatory Commission for a determination as to whether the proposed rule would significantly affect any matter within the Commission's jurisidiction. We were notified by the Commission that it has declined to exercise its jurisdiction in this matter.

*B. Section 7 of the FEA Act*

Under section 7(a) of the Federal Energy Administration Act of 1974 (15 U.S.C. 787 *et seq.*, Pub. L. 93–275, as amended), a copy of this rule was submitted to the Administrator of the Environmental Protection Agency for comment concerning the impact of this rule on the quality of the environment. The Administrator made no comments.

*C. NEPA Review*

We have determined that this rule, which removes regulations made inoperative by Proclamation 5141, is not a major federal action significantly affecting the quality of the human environment. Consequently, the proposed amendment does not require preparation of an Environmental Assessment or Environmental Impact Statement under the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 *et seq.*

*D. Section 501 of the DOE Act*

Under section 501(c) of the DOE Act, we are not bound by the prior notice and hearing requirements of subsections (b), (c) and (d) with respect to a rule upon our determination that no substantial issue of fact or law exists and that the rule is unlikely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses. Where it is determined that no substantial issue or impact exists, the rule may be promulgated in accordance with section 553 of Title 5, United States Code.

The revocation of the petroleum import licensing regulations and related procedural regulations pursuant to Proclamation 5141 raises no substantial issues of fact or law. This rule is not likely to have a substantial impact on the Nation's economy or on large numbers of individuals or businesses because it will merely remove from the Code of Federal Regulations those provisions which have been made unnecessary by Proclamation 5141. Therefore, the amendment shall be promulgated in accordance with section 553 of Title 5, United States Code.

*E. The Administrative Procedure Act*

Paragraph (b) of 5 U.S.C. section 553 requires that general notice of a proposed rulemaking be published in the **Federal Register**, except when the agency for good cause finds that notice and public procedure thereon is impracticable, unnecessary, or contrary to the public interest. We find that the notice and public procedures of section 553(b) are unnecessary, since the purpose and effect of this rule is to implement Proclamation 5141 by revoking regulations that no longer have any effect.

Paragraph (d) of section 553 provides that the required publication of a rule be made at least 30 days before the effective date of the rule. One of the exceptions to this requirement is for substantive rules that grant or recognize an exception or relieve a restriction. The revocation of the oil import licensing regulations and related procedural regulations fits within this exception and may be made effective less than 30 days following its publication.

*F. Executive Order 12291*

Section 3 of Executive Order (E.O.) 12291 (46 FR 13193, February 19, 1981) requires that the Department determine whether a rule is a "major rule", as defined by section 1(b) of E.O. 12291, and prepare a regulatory impact analysis for each major rule. Since the purpose and effect of this rule is to revoke regulations that no longer have any effect, we have determined that the rule does not meet the E.O. 12291 definition of a major rule as one likely to result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Accordingly, a regulatory flexibility impact analysis is not required.

Pursuant to Section 3(c)(3) of E.O. 12291, this rule was submitted to the Director of the Office of Management and Budget for a 10-day review. The Director has concluded his review under E.O. 12291.

*G. Regulatory Flexibility Act*

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601(a) *et seq.*, Pub. L. 96–354) requires, in part, that an Agency prepare an initial regulatory flexibility analysis for any rule, unless it is determined that the rule will not have a "significant economic impact" on a substantial number of small entities. The rule adopted today revokes regulations that no longer have any effect and thus will not impose any additional burdens or impact on small entities. Therefore, as required by Section 603(b), the Department of Energy certifies that the amendment will not have a significant economic impact on a substantial number of small entities.

(Federal Energy Administration Act of 1974, Pub. L. 93–275; E.O. 11790, 39 FR 23185; Department of Energy Organization Act, Pub. L. 95–91; E.O. 12009, 42 FR 46267; Trade Expansion Act of 1962, as amended, Pub. L. 87–794; Proclamation 5141)

In consideration of the foregoing, Part 205, Subpart T, and Part 213 of Chapter II, Title 10 of the Code of Federal Regulations are revoked, effective January 23, 1984.

Issued in Washington, D.C., January 13, 1984.

**Rayburn Hanzlik,**

*Administrator, Economic Regulatory Administration.*

**List of Subjects**

*10 CFR Part 205*

Administrative practice and procedure, Electric power, Electric utilities, Environmental protection, Exports, Filing fees, Foreign relations, Imports, Investigations, Natural gas, Oil imports, Penalties, Petroleum allocation, Petroleum price regulations, Reporting and recordkeeping requirements.

*10 CFR Part 213*

American Samoa, Canada, Exports, Foreign trade zones, Guam, Mexico, Oil imports, Petroleum allocation, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

**PART 205—ADMINISTRATIVE PROCEDURES AND SANCTIONS**

1. 10 CFR Part 205 is amended by removing Subpart T (§§ 205.250 through 205.255).

**PART 213—OIL IMPORT REGULATIONS [REMOVED]**

2. 10 CFR is amended by removing Part 213.

[FR Doc. 84-1782 Filed 1-20-84; 8:45 am]

BILLING CODE 6450-01-M

## FEDERAL RESERVE SYSTEM

### 12 CFR Part 212

**[Docket No. R-0431]**

### Regulation L, Management Official Interlocks; Correction

*Correction*

In FR Doc. 84-676, appearing on page 1334 in the issue of Wednesday, January 11, 1984, in the second column, in the "Authority", "5 U.S.C." should read "15 U.S.C".

BILLING CODE 1505-01-M

## FARM CREDIT ADMINISTRATION

### 12 CFR Part 614

### Loan Policies and Operations: Correction

**AGENCY:** Farm Credit Administration.

**ACTION:** Final rule; correction.

**SUMMARY:** On November 30, 1983, the Farm Credit Administration published a final rule, 12 CFR 614.4321, which amended existing rules in order to expand the types of differential interest rate programs that may be offered by Farm Credit System ("System") banks or associations with FCA approval. Upon effectiveness, differential interest rate programs may be based on operating and funding costs reasonably associated with different portions of the banks' or associations' loan portfolios or on such other facts as approved by FCA. System banks and associations will be able to associate the cost of funds and operating expenses more equitably to existing lending programs. This document corrects two technical errors contained in the final regulation (48 FR 53998).

**FOR FURTHER INFORMATION CONTACT:** Gary G. Griffith, Operations Management Section, Farm Credit Administration, 490 L'Enfant Plaza, SW., Washington, DC 20578, (202-755-5943).

**PART 614—[AMENDED]**

Accordingly, the Farm Credit Administration is correcting the introductory text and paragraph (b) of § 614.4321 to read as follows:

**§ 614.4321 Interest rate programs.**

The following types of interest rate programs may be employed by banks and production credit associations. Bank interest rate programs and bank guidelines for association interest rate programs are subject to Farm Credit Administration approval.

* * * * *

(b) Variable rates. The interest rate(s) on outstanding loan balances may be changed from time to time during the period of the loan, if appropriate provisions are made in the note or loan document.

* * * * *

**Donald E. Wilkinson,**

*Governor.*

[FR Doc. 84-1625 Filed 1-20-84; 8:45 am]

BILLING CODE 6705-01-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. 83-NM-73-AD; Amdt. 39-4795]**

### Airworthiness Directives; Airbus Industrie Model A300 B2 and B4 Series Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** This amendment adds a new airworthiness directive (AD) applicable to certain Airbus Industrie Model A300 Series B2 and B4 airplanes which requires inspection of main landing gear hinge arms for corrosion and cracks, and repair or modifications if needed. It also requires replacement of the main landing gear shock absorber sliding rod attachment fitting. Corrosion and cracks have been found in these components. If left uncorrected, these conditions could lead to landing gear failure.

**DATES:** Effective February 27, 1984.

**ADDRESSES:** The service bulletins specified in this AD may be obtained upon request to Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France or may be examined at the address shown below.

**FOR FURTHER INFORMATION CONTACT:** Mr. Sulmo Mariano, Foreign Aircraft Certification Branch, ANM-150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 431-2979. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

**SUPPLEMENTARY INFORMATION:** The Direction Generale de l'Aviation Civile (DGAC), which is the French Civil Aviation Authority, has issued three AD's mandating compliance with four Airbus Industrie and four Messier-Hispano Bugatti service bulletins. These service bulletins specify actions necessary to solve the following service difficulties on the main landing gear:

A. Cracks were detected during the cyclic testing of the attachment fittings of the main landing gear shock absorber sliding rod. These cracks occurred after 15,000 simulated landings.

B. Corrosion has been found on the outer surface of the actuating cylinder side trunnion in the radius which transitions the trunnion with the hinge arm.

C. When rework was being done on certain hinge arms which requires the stripping of a chrome plated surface, it was found that the base metal showed some burning on the lateral inboard trunnion. This condition can lead to the formation of cracks.

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring inspections of certain main landing gear components for cracks and corrosion, and repair or part replacement, as needed, was published in the Federal Register on September 30, 1983 (48 FR 44842). The comment period closed on

November 15, 1983, and interested persons have been afforded an opportunity to participate in the making of this amendment. Only one comment was received. The commenter stated that he has accomplished a large part of the proposed AD requirements but would like an extension of the compliance time to complete the work. The FAA realizes that it would be advantageous to the U.S. operator of these airplanes to perform the work during their major maintenance. The FAA has determined that the compliance time can be increased from 120 days to 180 days without compromising safety.

It is estimated that 8 U.S. registered airplanes will be affected by this AD, that it will take approximately 284 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Repair part are estimated at $4,700 per airplane. Based on these figures, the total cost impact of this AD to the sole U.S. operator is estimated to be $128,480. For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. No small entities within the meaning of the Regulatory Flexibility Act will be affected. Therefore, the FAA has determined that air safety and the public interest require the adoption of the rule with the change previously noted.

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

Aviation safety, Aircraft.

**Adoption of the Amendment**

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

**Airbus Industrie:** Applies to the Model A300 B2-1A, B2-1C, B4-2C, B2K-3C, B4-103, B2-203, and B4-203 series airplanes, certificated in all categories. To prevent failure of certain main landing gear components, within 180 days after the effective date of this AD or prior to the accumulation of the number of landings specified in each paragraph below, whichever occurs later, accomplish the following, unless previously accomplished:

A. Prior to the accumulation of 13,000 landings, replace the shock absorber sliding rod attachment fittings, part numbers C61643-4 and C61643-5, with reinforced components in accordance with the instructions of Messier-Hispano-Bugatti (MHB) Service Bulletin 470-32-172, Revision 1, dated June 10, 1981, for aircraft having the serial numbers specified in Airbus Industrie (AI) Service Bulletin A300-32-148, Revision 1, dated December 29, 1978.

B. Prior to the accumulation of 5,000 landings, inspect the trunnion on the actuating cylinder side of the hinge arm, part number C65381-2, in accordance with the instructions of MHB Service Bulletin 470-32-386, Revision 1, dated September 30, 1981, on airplanes having serial numbers specified in AI Service Bulletin A300-32-328, dated August 31, 1981.

1. If no corrosion is found, install a seal to improve the lubrication of the hinge arm trunnion in accordance with the instructions of MHB Service Bulletin 470-32-385, dated August 14, 1981 (related to AI Service Bulletin A300-32-326, dated August 31, 1981), and repeat the above inspections at intervals not to exceed 2,000 landings.

2. If corrosion or cracks are found, remove the corrosion and cracks in accordance with the instructions of MHB Service Bulletin 470-32-386, Revision 1, dated September 30, 1981 and install the seal in accordance with paragraph B.1, above. Repeat the above inspections at intervals not to exceed 250 landings.

3. If the depth of material removed when performing the rework of subparagraph B.2 is greater than one millimeter from the original profile, replace the hinge arm prior to further flight.

C. Prior to the accumulation of 6,500 landings and thereafter at intervals not to exceed 400 landings, inspect the lateral inboard trunnion of the hinge arm, part numbers C65381-2 and C65381-4, for cracks in accordance with the instructions of MHB Service Bulletin 470-32-442, dated March 31, 1983, for aircraft having serial numbers specified in AI Service Bulletin A300-32-365, dated June 27, 1983.

1. For hinge arms that have incorporated modification MHB 595 in the trunnion located in the inboard position on the actuating cylinder side, the time limit is to be counted from the date of reconditioning. For all other cases, the time limit is to be counted from the day the arm was put into service.

2. The repetitive inspections required in paragraph C, above, may be terminated when the actions described in paragraph 2.C of MHB Service Bulletin 470-32-442, on the inboard, outboard, and forward trunnions are accomplished.

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

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

This amendment becomes effective February 27, 1984.

(Sec. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89)

**Note.** For the reasons discussed earlier in the preamble, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities, since no small entities operate A-300 airplanes. A final evaluation has been prepared for this regulations and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT.**"

Issued in Seattle, Washington on January 11, 1984.

**F. Isaac,**

*Acting Director, Northwest Mountain Region.*

[FR Doc. 84-1754 Filed 1-20-84; 8:45 am]

**BILLING CODE 4910-13-M**

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**14 CFR Part 39**

**[Docket No. 83-NM-69-AD; Amdt. 39-4794]**

## Airworthiness Directives: Airbus Industrie Model A300 B2 and B4 Series Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** This amendment adds a new airworthiness directive (AD) applicable to certain Airbus Industrie model A300 B2 and B4 series airplanes which requires a one-time inspection of the brake system hydraulic hose end fitting collars for cracks, and replacement if necessary. Cracks have been found in these components which, if left uncorrected, could lead to loss of braking.

**EFFECTIVE DATE:** February 27, 1984.

**ADDRESSES:** The service bulletin specified in this AD may be obtained upon request to Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France or may be examined at the address shown below.

**FOR FURTHER INFORMATION CONTACT:** Mr. Sulmo Mariano, Foreign Aircraft Certification Branch, ANM-150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 431-2979. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington, 98168.

**SUPPLEMENTARY INFORMATION:** The Direction Generale de l'Aviation Civile (DGAC), which is the French Civil Aviation Authority, issued an AD mandating compliance with Airbus Industrie Service Bulletin A300-32-310. Cracks have been found in the end fitting collars of the 3/8-inch diameter

brake system hydraulic hoses manufactured by Titeflex. Since these hoses are subject to severe environmental conditions and their failure could result in loss of braking, the service bulletin prescribes a one time inspection and replacement of defective hoses.

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring the inspection of hydraulic hoses in the braking system for cracks and replacement of the defective hoses was published in the **Federal Register** on September 14, 1983 (48 FR 41166). The comment period closed on October 15, 1983, and interested persons have been afforded an opportunity to participate in the making of this amendment. Two comments were received. One commenter indicated that the proposed AD will not have any effect on their fleet because the AD requirements have been completed. The other commenter stated that the world fleet of A300 airplanes has accomplished the proposed AD; therefore, there is no need to issue the AD. The FAA disagrees; there is still an outstanding French AD on the subject and no validation that the world fleet of A300 airplanes has accomplished the AD requirements. The AD is issued to cover the import of A300 airplanes that may not have completed the required inspection and replacement of defective brake hoses. Some minor editorial changes have been incorporated in the final document.

There is no burden to the sole U.S. operator of these airplanes because this operator has completed the AD requirements. For any future import that has not fulfilled these requirements the cost will be $340. For these reasons, this rule is not considered to be a major rule under the criteria of Executive Order 12291. No small entities within the meaning of the Regulatory Flexibility Act will be affected.

Therefore, the FAA has determined that air safety and the public interest require the adoption of the rule with minor editorial changes.

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

Aviation safety, Aircraft.

**Adoption of the Amendment**

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

**Airbus Industrie:** Applies to model A300 B2-1A, B2-1C, B4-2C, B2K-3C, B4-103, B2-203, and B4-203 series airplanes, certificated in all categories with serial numbers specified in paragraph 1, Planning Information of Airbus Industrie Service Bulletin A300-32-310, dated February 12, 1981. To prevent potential loss of braking, accomplish the following, unless previously accomplished:

A. Within the next 500 flight hours after the effective date of this AD, inspect the hydraulic hose end fitting collars on Titeflex Type 3/8-inch diameter hoses SC641060266 of the brake hydraulic system in accordance with paragraph 2, Accomplishment Instructions, of the service bulletin.

1. End fittings with batch reference number 06K672C, 06L039C, or 06M330C on the sleeve or other fittings which are cracked must be replaced with end fittings manufactured after January 1976 and having identification mark "U", within 50 flight hours from the date of inspection.

2. Uncracked end fittings with date of manufacture later than January 1976 and no identification mark or identification mark "X" must be replaced with the end fittings types specified in subparagraph A.1, above, within 250 flight hours from the date of inspection.

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

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

This amendment becomes effective February 27, 1984.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89)

**Note.**—For the reasons discussed earlier in the preamble, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities, since no small entities operate A-300 airplanes. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

Issued in Seattle, Wash., on January 11, 1984.

**F. Isaac,**

*Acting Director, Northwest Mountain Region.*

[FR Doc. 84-1755 Filed 1-20-84; 8:45 am]

**BILLING CODE 4910-13-M**

**14 CFR Part 39**

**[Docket No. 83-NM-118-AD; Amdt. 39-4796]**

## Airworthiness Directives: Avions Marcel Dassault-Brequet Aviation Falcon 10 Series Airplane

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

**ACTION:** Final rule.

**SUMMARY:** This amendment adds a new airworthiness directive (AD) applicable to Avions Marcel Dassault-Brequet Aviation Falcon 10 series airplanes which supersedes an existing AD that requires inspection, modification/replacement, as necessary, of wing anti-ice hose clamps. Subsequent to the issuance of AD 82-16-01, there have been reports of hose separations and hose deformations caused by overtorqued hose clamps. This could cause degradation in the wing anti-icing system or damage to electrical wire bundles.

**EFFECTIVE DATE:** January 31, 1984.

**ADDRESSES:** The service bulletin specified in this AD may be obtained upon request to AMD-BA Representative, c/o F. J. C., Teterboro Airport, New Jersey 07608 or may be examined at the address shown below.

**FOR FURTHER INFORMATION CONTACT:** Mr. James Leeder, Foreign Aircraft Certification Branch, ANM-150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 431-2826. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

**SUPPLEMENTARY INFORMATION:** AD 82-16-01 (47 FR 32699, July 29, 1982) requires inspection and modification/replacement of wing anti-ice hose clamps in accordance with AMD-BA Service Bulletins F10-0132 dated April 5, 1977, and F10-0231 dated April 7, 1982. However, even after compliance with these service bulletins, hose disconnections and hot air leaks continued to occur. It has been determined that overtorquing the hose screw clamps caused distortions which permitted the hose to separate. AMD-BA issued Service Bulletin F10-0239 dated September 14, 1983, which provides additional modifications to prevent hose disconnection.

This airplane model is manufactured in France and type certificated in the United States under the provisions of Section 21.29 of the Federal Aviation

Regulations and the applicable airworthiness bilateral agreement. The French Director General of Civil Aviation (DGAC), French Civil Aviation Authority, has classified Service Bulletin F10–0239 as mandatory.

Since this condition is likely to exist or develop on airplanes of this model registered in the United States, the FAA has determined that AD 82–16–01 should be superseded by a new AD which requires compliance with the latest service bulletin.

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

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

Aviation safety, Aircraft.

**Adoption of the Amendment**

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

**Avions Marcel Dassault-Brequet Aviation:** Applies to all Falcon 10 series airplanes certificated in all categories. To prevent failure of the wing leading edge slat anti-icing system, accomplish the following within the next 50 hours time in service or 30 days after the effective date of this AD, whichever occurs later, unless already accomplished.

A. Inspect, repair, and modify the wing leading edge slat anti-icing system in accordance with Avions Marcel Dassault-Brequet Aviation Service Bulletin F10/0239, dated September 14, 1983.

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

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

This supersedes Amendment 39–4423 (47 FR 32699, July 29, 1982), AD 82–16–01.

This amendment becomes effective January 31, 1984.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89)

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

Issued in Seattle, Wash., on January 11, 1984.

**F. Isaac,**

*Acting Director, Northwest Mountain Region.*

[FR Doc. 84–1753 Filed 1–20–84; 8:45 am]

**BILLING CODE 4910–13–M**

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**14 CFR Part 39**

**[Docket No. 82–NM–119–AD; Amdt. 39–4797]**

## Airworthiness Directives; CASA Models C–212CB and C–212CC Series Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** This amendment adds a new airworthiness directive (AD) applicable to CASA Models C–212CB and C–212CC series airplanes which requires replacement and/or modification of certain components to correct unsafe conditions relating to door opening modes. These actions are necessary to prevent possible injuries to passengers during emergency evacuation and to ensure the door locking mechanism functions properly.

**EFFECTIVE DATE:** February 27, 1984.

**ADDRESSES:** The applicable service information and copies may be obtained from Construcciones Aeronauticas, S.A., Getafe-Madrid, Spain or may be examined at the address shown below.

**FOR FURTHER INFORMATION CONTACT:** Mr. Roger D. Anderson, Foreign Aircraft Certification Branch, ANM–150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 431–2978. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

**SUPPLEMENTARY INFORMATION:** FAA discovered several unsafe items on certain CASA C–212CB and CC airplanes relating to door opening modes. A proposal to amend Part 39 of the Federal Aviation regulations to include an AD requiring corrective modifications was published in the **Federal Register** on June 13, 1983 (48 FR 27086). The comment period closed on August 1, 1983.

After the Notice of Proposed Rule Making was published, the manufacturer completed an acceptable design for an outward opening rear door. This design is identified in CASA Service Bulletin 212–53–29, dated July 14, 1983, and is now included this amendment.

Interested parties have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to all comments received. One commenter stated the CASA 212 airplane he operates is used in smokejumping operations. Replacing the inward opening door with one which opens outward would be an inconvenience as it would force him to operate without a door. The FAA recognizes that there may be unique circumstances in which an inward opening door is preferred. Exemptions may be granted when justified.

It is estimated that 31 U.S. registered airplanes will be affected by this AD, that it will take approximately 320 manhours per airplane to accomplish the required actions, and that the average labor cost will be $35 per manhour. Repair parts are estimated at $30,000 per airplane. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $1,300,000. For these reasons, this rule is not considered to be a major rule under the criteria of Executive Order 12291. Few small entities within the meaning of the Regulatory Flexibility Act will be affected.

Therefore, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

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

Aviation safety, Aircraft.

**Adoption of the Amendment**

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

**CASA:** Applies to all model C–212CB and model C–212CC airplanes certificated in all categories. Compliance required as indicated.

A. To reduce the potential for passenger injury during egress from the forward door, within 600 hours time in service or 4 months

after the effective date of this AD, whichever comes first, unless already accomplished, modify the forward exit door on the CB model and doors on the CC model to automatically lock full open in accordance with CASA Service Bulletin 212–52–13 dated September 17, 1982.

B. To prevent inability to open the aft left door during an emergency for evacuation, accomplish one of the following no later than March 31, 1984: (1) install an outward opening rear passenger door in accordance with CASA Service Bulletin 212–53–29 dated July 14, 1983; or (2) rearrange the cabin interior in accordance with CASA Service Bulletin 212–25–30 dated September 14, 1982, and Aircraft Furnishings International Limited Service Bulletin 25–89 dated September 1982.

C. To preclude improper passenger door locking, within the next 600 hours time in service or four months, whichever occurs first, after the effective date of this AD, install an individual switch door warning light system for cockpit warning of an unlocked passenger door in accordance with CASA Service Bulletin 212–52–14 R2 dated February 14, 1983.

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

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

This amendment becomes effective February 27, 1984.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89)

**Note.**—For the reasons discussed earlier in the preamble, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

Issued in Seattle, Wash., on January 12, 1984.

**F. Isaac,**

*Acting Director, Northwest Mountain Region.*

[FR Doc. 84–1756 Filed 1–20–84; 8:45 am]

**BILLING CODE 4910–13–M**

## 14 CFR Part 71

**[Airspace Docket No. 83–ANE–26]**

## Amendment of the Description of the Willimantic, Connecticut 700 Foot Transition Area

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

**ACTION:** Final rule.

**SUMMARY:** This amendment alters the description of the 700-foot transition area at Willimantic, Connecticut. The Very High Frequency Omnidirectional Range–A (VOR–A) instrument approach procedure to the Windham Airport, Willimantic, Connecticut is being changed and, as a result, this alteration of the 700-foot transition area is required to contain Instrument Flight Rules (IFR) arrival procedures.

**EFFECTIVE DATE:** March 15, 1984.

**FOR FURTHER INFORMATION CONTACT:** David Hurley, Operations, Procedures and Airspace Branch, ANE–530, Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273–7385.

**SUPPLEMENTARY INFORMATION:**

### History

On Friday, October 21, 1983, a notice of proposed rulemaking was published in the **Federal Register** [48 FR 48831] stating that the FAA proposed to change the description of the 700-foot transition area at Willimantic, Connecticut. Interested persons were invited to participate in the rulemaking process by submitting written comments on the proposal to the FAA. No objections were received.

### List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

### Adoption of the Amendment

### PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration amends § 71.181 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

**Willimantic, Connecticut**

Insert after the line that reads, "That airspace * * * the end of the runway" the following:

"within 4.5 miles each side of the Norwich VOR 324° radial extended from the 8-mile radius area to one mile northwest of the VOR and within two miles each side of the centerline of Runway 27 extended from the 8-mile radius area to 9 miles W of the end of the runway."

(Secs. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983)), and 14 CFR 11.69)

**Note.**—The FAA has determined that this regulation involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, it is certified that this (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) the rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Burlington, Massachusetts, on January 9, 1984.

**Robert E. Whittington,**

*Director, New England Region.*

[FR Doc. 84–1752 Filed 1–20–84; 8:45 am]

**BILLING CODE 4910–13–M**

## 14 CFR Part 97

**[Docket No. 23887; Amdt. No. 1260]**

## Standard Instrument Approach Procedures; Miscellaneous Amendments

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

**ACTION:** Final rule.

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

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

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

*For Examination*

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

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

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

*For Purchase*

Individual SIAP copies may be obtained from:

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

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

*By Subscription*

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

**FOR FURTHER INFORMATION CONTACT:** Donald K. Funai, Flight Procedures Standards Branch (AFO-230), Air Transportation Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8277.

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

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

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

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

**List of Subjects in 14 CFR Part 97**

Approaches, Standard instrument.

**Adoption of the Amendment**

**PART 97—[AMENDED]**

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

1. By amending Part 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN SIAPs identified as follows:

* * * *Effective March 15, 1984*

Carlsbad, CA—McClellan-Palomar, VOR-A, Amdt. 6
Fort Worth, TX—Luck Field, VOR/DME-A, Orig.

* * * *Effective March 1, 1984*

San Diego, CA—Montgomery Field, VOR/DME-C Amdt. 3, Cancelled
Greeley, CO—Weld County Muni, VOR-A, Amdt. 6
Cornelia, GA—Habersham County, VOR/DME RWY 6, Amdt. 3
Washington, GA—Washington-Wilkes County, VOR/DME RWY 13, Amdt. 2
Indianapolis, IN—Eagle Creek, VOR-A, Amdt. 4
LaPorte, IN—LaPorte Muni, VOR-A, Amdt. 3
Presque Isle, ME—Northern Maine Regional Arpt at Presque Isle, VOR RWY 19, Amdt. 8
Detroit, MI—Detroit City, VOR RWY 33, Amdt. 25
Fremont, MI—Fremont Muni, VOR-A, Amdt. 8
Fremont, MI—Fremont Muni, VOR RWY 36, Amdt. 3
Manistique, MI—Schoolcraft County, VOR RWY 28, Amdt. 6
Cross Keys, NJ—Cross Keys, VOR RWY 9, Amdt. 2
Batavia, NY—Genesee County, VOR RWY 28, Amdt. 4
Hamilton, NY—AMA Executive Airstrip, VOR-A, Amdt. 2
Raeford, NC—Raeford Muni, VOR/DME-A, Amdt. 2
Hebron, OH—Buckeye Executive, VOR-A, Amdt. 2
Toughkenamon, PA—New Garden, VOR RWY 24, Amdt. 5
North Kingstown, RI—Quonset State, VOR-A, Amdt. 1
North Kingstown, RI—Quonset State, VOR RWY 34, Amdt. 3
Providence, RI—Theodore Francis Green State, VOR/DME RWY 16, Amdt. 2

* * * *Effective February 16, 1984*

Norfolk, NE—Karl Stefan Memorial, VOR RWY 1, Amdt. 3
Norfolk, NE—Karl Stefan Memorial, VOR RWY 13, Amdt. 3
Norfolk, NE—Karl Stefan Memorial, VOR RWY 19, Amdt. 3
Norfolk, NE—Karl Stefan Memorial, VOR RWY 31, Amdt. 3

* * * *Effective January 10, 1984*

Long Beach, CA—Long Beach/Daugherty Field, VOR or TACAN RWY 30, Amdt. 6

* * * *Effective December 28, 1983*

Bessemer, AL—Bessemer, VOR RWY 5, Amdt. 2

2. By amending Part 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, and SDF/DME SIAPs identified as follows:

* * * *Effective March 1, 1984*

Anderson, IN—Anderson Muni, LOC (BC) RWY 12, Admt. 4, Cancelled
Latrobe, PA—Westmoreland County, LOC BC RWY 5, Amdt. 6
Marshfield, WI—Marshfield Muni, SDF RWY 34, Amdt. 2

* * * *Effective February 16, 1984*

Norfolk, NE—Karl Stefan Memorial, LOC RWY 1, Amdt. 5, Cancelled

3. By amending Part 97.27 NDB and NDB/DME SIAPs identified as follows:

* * * *Effective March 15, 1984*

Carlsbad, CA—McClellan-Palomar, NDB RWY 24, Amdt. 3
Clovis, NM—Clovis Muni, NDB RWY 4, Amdt. 2

* * * *Effective March 1, 1984*

Vidalia, GA—Vidalia Muni, NDB RWY 24, Admt. 4
Beverly, MA—Beverly Muni, NDB–A, Amdt. 8
Charlevoix, MI—Charlevoix Muni, NDB RWY 8, Amdt. 6
Charlevoix, MI—Charlevoix Muni, NDB RWY 26, Amdt. 7
Benson, MN—Benson Muni, NDB RWY 14, Amdt. 3
Hudson, NY—Columbia County, NDB–A, Amdt. 2

* * * *Effective January 12, 1984*

Orange City, IA—Orange City Muni, NDB RWY 34, Amdt. 2

* * * *Effective January 10, 1984*

Long Beach, CA—Long Beach/Daugherty Field, NDB RWY 30, Amdt. 8

4. By amending § 97.29 ILS ILS/DME, ISMLS, MLS, MLS/DME and MLS/RNAV SIAPs identified as follows:

* * * *Effective March 15, 1984*

Carlsbad, CA—McClellan-Palomar, ILS RWY 24, Amdt. 5

* * * *Effective March 1, 1984*

Boston, MA—General Edward Lawrence Logan Intl, ILS/DME RWY 15R, Amdt. 8
Boston, MA—General Edward Lawrence Logan Intl, ILS/RWY 33L, Amdt. 19
Detroit, MI—Detroit City, ILS RWY 15, Amdt. 7
Detroit, MI—Detroit City, ILS RWY 33, Amdt. 10
Batavia, NY—Genesee County, ILS RWY 28, Amdt. 1
Pittsburgh, PA—Allegheny County, ILS RWY 10, Amdt. 3

* * * *Effective February 16, 1984*

Norfolk, NE—Karl Stefan Memorial, ILS RWY 1, Orig.

* * * *Effective January 10, 1984*

Long Beach, CA—Long Beach/Daugherty Field, ILS RWY 30, Amdt. 31

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

* * * *Effective March 1, 1984*

North Kingstown, RI—Quonset State, RADAR–1, Amdt. 3

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

* * * *Effective March 1, 1984*

Gainesville, FL—Gainesville Regional, RNAV RWY 28, Amdt. 5
LaPorte, IN—LaPorte Muni, RNAV RWY 20, Amdt. 1
Pittsburgh, PA—Allegheny County, RNAV RWY 10, Amdt. 5
Charleston, SC—Charleston Executive, RNAV RWY 9, Amdt. 3

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. §§ 1348, 1354(a), 1421, and 1510); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.49(b)(3))

**Note.**—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on January 20, 1984.

**Kenneth S. Hunt,**

*Director of Flight Operations.*

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

[FR Doc. 84–1758 Filed 1–20–84; 8:45 am]

**BILLING CODE 4910–13–M**

## COMMODITY FUTURES TRADING COMMISSION

## 17 CFR Part 33

## Domestic Exchange-Traded Commodity Options; Expansion of Pilot Program To Include Options on Domestic Agricultural Commodities

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commodity Futures Trading Commission ("Commission") is adopting amendments to its previously approved regulations governing a three-year pilot program to permit the trading of commodity options on domestic boards of trade. The amendments being adopted herein provide for the trading of options on futures contracts in domestic agricultural commodities. These rules will permit the trading of such options under the same conditions which apply to the Commission's ongoing options pilot program.

**EFFECTIVE DATE:** These rules will become effective upon the expiration of thirty calendar days of continuous session of Congress after their transmittal with related materials, to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry pursuant to Section 4c(c) of the Commodity Exchange Act, but not before further notice of the effective date is published in the **Federal Register.**

**ADDRESS:** Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581.

**FOR FURTHER INFORMATION CONTACT:** Paul M. Architzel, Chief Counsel, Division of Economics and Education at the above address. Telephone: (202) 254–6900.

**SUPPLEMENTARY INFORMATION:**

### I. Introduction

On October 14, 1983, the Commission published for public comment proposed amendments to Commission Rule § 33.4 (48 FR 46797). These proposed amendments would have permitted the trading of options of futures contracts in domestic agricultural commodities under essentially the same regulatory scheme as the Commission's ongoing pilot options program.

The Commission's previously adopted regulations establishing a three-year pilot program to permit the trading of commodity options on domestic boards of trade initially permitted trading only in options on commodity futures contracts. 46 FR 54500 (November 3, 1981). The pilot program was subsequently expanded to permit the trading of options on physical commodities as well. 47 FR 56996 (December 22, 1982). At that time a statutory bar to such trading found in Section 4c of the Commodity Exchange Act, 7 U.S.C. 6c (1976), prevented the consideration of the trading of options on domestic agricultural commodities.

The statutory bar to trading options on domestic agricultural commodities was repealed by Section 206 of the Futures Trading Act of 1982, Pub. L. 97–444, 96 Stat. 2294, 2301 (1983).[1] That amendment to the Commodity Exchange Act permitted the Commission to establish a pilot program for a period not to exceed three years for the trading of options on domestic agricultural commodities.[2]

[1] Section 206 of the Futures Trading Act of 1982 provides in part that:

With respect to any commodity regulated under this Act and specifically set forth in section (2)(a) of this Act prior to the date of enactment of the Commodity Futures Trading Commission Act of 1974, the Commission may, pursuant to the procedures set forth in this subsection, establish a pilot program for a period not to exceed three years to permit such commodity option transactions. The Commission may authorize commodity option transactions during the pilot program in as many commodities as will provide an adequate test * * *

[2] These commodities are enumerated in Section 2(a) of the Act and include: Wheat, cotton, rice, corn, oats, bareley, rye, flaxseed, grain sorghums, mill feeds, butter, eggs, Irish potatoes, wool, wool tops, fats and oils (including lard, other fats and oils), cottonseed meal, cottonseed, peanuts, soybeans, soybean meal, livestock, livestock products, and frozen concentrated orange juice.

In permitting a pilot program for the trading of options on domestic agricultural commodities, Congress believed that such options might benefit producers by offering protection from adverse price movements without requiring the sacrifice of potential profits from favorable price movements. Congress also believed that the abuses which characterized the trading of options in the the 1930s were unlikely to recur. S. Rep. No. 384, 97th Cong., 2nd Sess. 49–50 (1982). Accordingly, the Conference Committee reported that Congress;

> * * * [has] permit[ted] the Commission to authorize commodity option transactions during a pilot program in as many agricultural commodities as will provide an adequate test for these options.* * *.
>
> The conferees intend that the pilot program should, wherever possible, be "folded into" existing option pilot programs, using the same kind of regulatory scheme already in place for these other options pilot programs.
>
> H.R. Rep. No. 964, 97th Cong., 2nd Sess. 40 (1982).

**II. Public Participation in Consideration of Domestic Agricultural Options**

The following removal of the statutory bar, the Commission began an inquiry into the feasibility and desirability of trading in options on domestic agricultural commodities. As part of this inquiry, the Commission published an advance notice of proposed rulemaking raising eight specific issues regarding the potential use of such options and the appropriate regulatory structure. 48 FR 6128 (February 10, 1983). Those issues included the potential uses for agricultural options, the form and structure of the pilot program, the extent and breadth of the program, and whether existing regulatory protections were adequate. Thirty-five comments, a majority from agricultural producers, were received by the Commission in response to that advance notice.

In addition, the Commission convened an Agricultural Options Advisory Committee ("Advisory Committee") which was formed under the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. I, Section 1, *et seq.*, as amended, to provide additional input and advice with respect to the pilot program. The Advisory Committee met in Washington, D.C., on June 23, July 28, and October 5, 1983 to explore various policy alternatives for the trading of options on domestic agricultural commodities.

Also, the Commission conducted a series of public meetings in nine cities across the nation, including Atlanta, Georgia; Cedar Rapids, Iowa; Indianapolis, Indiana; Kansas City, Missouri; Lubbock, Texas; Memphis, Tennessee; Minneapolis, Minnesota; St. Louis, Missouri; and Reno, Nevada. These public meetings provided an additional opportunity for interested members of the public to express their views concerning the development of a pilot program for options on domestic agricultural commodities.

Finally, the Commission provided for a sixty-day comment period in its notice of proposed rulemaking. Thirty-two commentators responded. These included comments from three commodity exchanges, two industry associations, three associations representing producers, and twenty-three individuals or commercial firms. The comments received from the producer-representative organizations were generally favorable. However, certain individuals expressed concern over the option program specifically and over futures trading in general. After carefully considering the views of the members of the Commission's Advisory Committee, comments received from the public in response to the advance notice of proposed rulemaking, views of the public elicited during the nationwide public meetings, and comments received by the Commission in response to the proposed rules, the Commission is adopting final regulations to permit the trading of options on futures contracts in domestic agricultural commodities.

**III. Comments on Issues Raised by the Proposed Rules**

*1. Potential Utility of Options on Domestic Agricultural Commodities*

Many of the commentators, as requested, addressed the potential utility of options on futures contracts in domestic agricultural commodities. Generally, those commenting on both the advance notice of proposed rulemaking and the proposed rulemaking, those participating at the Commission's plubic meetings, and the members of the Advisory Committee supported the concept of options on futures contracts in domestic agricultural commodities. They believed that such options would offer producers an additional and perhaps superior method of hedging their risks.

Nevertheless, the Commission received eighteen similar comments from individuals questioning the utility of options on futures contracts for agricultural commodities. The concerns expressed by these commentators over the utility of options on domestic agricultural futures contracts reflected a basic mistrust of a producer's ability to use futures trading or its derivative markets profitably. Indeed, many of these comments questioned the general utility of futures trading. These individual commentators expressed concern with futures trading because of the ability of nonproducers to speculate and to sell short in the futures markets. Others questioned the utility of the pilot option program based upon a fear that options would be used to replace existing governmental programs for the support and maintenance of agricultural production.

The organizations representing producers which commented on the proposal, however, were highly supportive of the concept of the pilot program for options on futures contracts in domestic agricultural commodities. They asserted that options would provide producers with an additional, beneficial tool. The United States Department of Justice concurred in this view and particularly supported the pilot program because it permitted a market test of the efficacy of various instruments in transferring market risks.

In adopting this pilot program for agricultural options, the Commission believes that producers will thereby have made available to them an additional tool to help manage price risks. As discussed in the notice of proposed rulemaking, options will permit producers to hedge their downside price risks without forgoing potential gains from price rises. This protection can be obtained at a premium established at the outset. After carefully considering the views of both the individual producers who questioned the potential utility of options on futures contracts in domestic agricultural commodities and the views of those supporting the proposal, the Commission has concluded that options on domestic agricultural futures, when correctly used, are a potentially beneficial tool to producers. However, the Commission does not view domestic agricultural futures or options on such futures as the only appropriate tool to aid producers in the management of risk, or more generally in the support and maintenance of agricultural production.

*2. Determination To Permit Options on Only Futures Contracts*

The rules, as proposed, provided that options on domestic agricultural commodities be traded on futures contracts but not on the physical commodity. Those commentators discussing this issue generally were in agreement that the Commission's determination to proceed at this time with options on futures but not on physicals was correct. For example, an association representing producers

believed that in light of the checkered history of agricultural options and the lack of recent experience with them, it was most appropriate to proceed only with options on futures contracts. In this connection the commentator particularly supported the restriction of trading options on futures contracts to the exchange trading the underlying futures contract. In the commentator's view such a restriction increases the accountability of the self-regulatory organizations for surveillance.

A second commentator representing an industry source was firmly opposed to exchange-traded options on physical commodities. Other commentators, such as the United States Department of Justice, agreed that it was reasonable to limit the pilot program to trading on futures contracts initially, but suggested that as experience with options increases the Commission may wish to consider whether to expand the program to include exchange-traded options on physical commodities. However, one association representing producers favored options on physical commodities and advocated their inclusion in the pilot program as a means of testing their efficacy.

As noted in the notice of proposed rulemaking, the Commission believes that a cautious approach, initially limiting the program to options on futures, is warranted. As the Commission previously stated:

> In light of the views of the majority of commentators and members of the Advisory Committee that the agricultural option program should initially include only options on futures, the trading experience in the existing pilot program with options on futures, the apparent preference of potential users for options on futures rather than physicals, and the lack of experience with any actively-traded contracts for options on physicals, the Commission has determined initially to restrict the pilot program in domestic agricultural options to options on futures. In so doing, the Commission has chosen to exercise at this time only a portion of its jurisdiction with respect to options on agricultural commodities. As experience is gained in the trading of options on agricultural futures, the Commission will consider whether, and under what circumstances, trading in options on agricultural physicals should be permitted. 48 FR 46799.

*3. Limitation on Number of Option Contracts*

As proposed, the pilot program in options on domestic agricultural commodities permits two additional options to be traded on those exchanges trading the underlying futures contracts in domestic agricultural commodities. Three exchanges objected to this provision. Two of the exchanges currently do not trade futures contracts in agricultural commodities. They reasoned that limiting the additional options permitted under the agricultural pilot program to agricultural futures contracts was anticompetitive and thereby violated Section 15 of the Commodity Exchange Act, 7 U.S.C. 19.[3] They argued that:

> * * * the nature of the proposal is unfairly beneficial to the nation's largest futures exchanges which offer so many contracts that they will qualify to trade four options. The fact that an exchange offers a large number of futures contracts should not afford them the advantage to trade more options contracts than a smaller exchange not diversified in the same way.

The two exchanges objecting to this provision of the proposed pilot program advocated that the Commission establish a uniform number of options which may be traded by each exchange and permit the exchanges to determine which particular options on futures are offered. The other commentators who addressed this issue, including the Department of Justice, found the limitation of the pilot program to options on domestic agricultural futures contracts, in light of its interim nature, to be reasonable and not anti-competitive.

The Commission believes that the suggestion of the two exchange commentators to provide for all exchanges to trade more options than now permitted, in any combination, would not achieve the statutorily-established objectives of the proposed pilot program to make a limited test of the efficacy of options on domestic agricultural commodities. The exchange commentators' suggestion would not meet that objective because it would not ensure that options on domestic agricultural commodities were offered. Secondly, were the Commission to follow this suggestion and include options on futures contracts in domestic agricultural commodities as an undifferentiated part of the existing pilot option program, there is no reason to assume that the Commission would increase the overall number of option contracts permitted to be traded on a particular exchange. In this regard, it should be noted that many exchanges, including the two commentators, have yet to reach the maximum number of options currently permitted by the existing pilot program.

Moreover, under the initial pilot program an exchange which trades only domestic agricultural commodities was not permitted to trade any options. Accordingly, because of the limited number of options permitted and because of the phased nature of the program, not all contract markets have been able to participate in all phases of the pilot program. In addition, the rules of the pilot program do not bar exchanges which do not currently trade such futures contracts but which would like to trade these options from seeking designation in futures contracts on domestic agricultural commodities. Accordingly, the Commission believes that its provision for a pilot program for options in domestic agricultural commodities does not unfairly disadvantage any exchange and is consistent with the requirements of Section 15 of the Act.

The third exchange commentator, which trades more than two futures contracts on domestic agricultural commodities, objected that the limitation of the pilot program to two options on such futures contracts was anti-competitive. This exchange advocated a pilot program limited to options on domestic agricultural futures contracts, but which did not provide for a maximum number of options permitted for each eligible exchange. However, consistent with the approach adopted in the initial pilot program, the Commission believes that in light of the past abuses associated with options trading, caution is warranted. Accordingly, the Commission believes that initially the total number of options which may be traded should be limited to two per exchange.

In this regard, several commentators noted that although they occurred in and supported the Commission's initial limitation of the program to options on two futures contracts, they hoped that after sufficient experience had been gained the program would be expanded. One commentator representing an association of producers based its support of an expanded pilot program on its desire to have options offered for each sector of the agricultural community. The Commission does not disagree that producers in every sector of the domestic agricultural economy should have access to the benefits of option trading, after those benefits have been demonstrated. However, in light of the past history of agricultural options trading and the general lack of

[3] Section 15 of the Act provides that:

> The Commission shall take into consideration the public interest to be protected by the antitrust laws and endeavor to take the least anticompetitive means of achieving the objectives of this Act, as well as the policies and purposes of this Act, in issuing any order or adopting any Commission rule or regulation, or in requiring or approving any bylaw, rule, or regulation of a contract market or registered futures association established pursuant to section 17 of this Act.

experience with them, caution is warranted in order to assure the success of the program and to minimize possible adverse occurrences. Thus, although cognizant of the desire of some people to see the program expanded, the Commission believes that the more prudent approach is to hold any determination on further expansion of the program in abeyance until experience has been gained with the trading of options on domestic agricultural commodities.

*4. Option Expiration Dates*

As noted above, the proposed rules folded the pilot program for domestic agricultural options into the existing pilot program wherever possible. Accordingly, in the proposed rules, the Commission treated agricultural options no differently from other options with respect to the relative expiration dates of the option and future contracts. The current rule provides that a contract market must justify an expiration date which is later than ten business days before the earlier of the first notice date or last trading day of the underlying futures contract. Several commentators reiterated their support for the application of the current rule on option expirations to domestic agricultural options. The Commission believes that Rule 33.4(d)(1) should be retained for options on domestic agricultural commodities since it enables the Commission to balance, on a case-by-case basis, the commercial utility of an option's expiration date against any attendant risks of disruption to a particular futures contract. The Commission has found that this case-by-case approach has worked well with respect to those options already trading.

*5. Customer Protections*

The Commission also requested the views of commentators concerning whether any additional or different customer protections should be required for the trading of options on domestic agricultural commodities. 48 FR 46799. Clearly, the consensus was that the current regulations provide sufficient customer protections. One commentator noted, however, that although the regulations provide sufficient customer protections, there is a serious need to educate the public with respect to these options. That commentator noted that in light of the lack of trading experience in domestic agricultural options, and in light of the current mistrust of many producers toward options and futures, better education would be the main bulwark against customer abuses. A second commentator further noted that in order for these markets to be able to provide farmers with the services intended, trust must be established between the producers and the markets. Educational efforts by both the Commission and the industry will play an important part in establishing this trust.

Although most commentators believed that the customer protections currently provided in the options rules are sufficient, one commentator, a commodity exchange, believed that the disclosure requirements for customers under existing Commission Rules §§ 33.4(b)(9) and 33.7(d), 17 CFR 33.4(b)(9) and 33.7(d), are unnecessarily strict. Commission Rule § 33.4(b)(9) requires that exchanges designated to trade options adopt rules requiring member futures commission merchants, when engaging in the offer or sale of option contracts for a customer account for which discretion is vested in a third party, to disclose to the customer "the nature and risks of the strategy or strategies to be used in connection with the option customer's account." The commentator also objected to Rule § 33.7(d) which requires that customers be informed of various costs and fees of their option transactions before entering into the transaction.[4]

The commentator objected to these requirements on the grounds that disclosing these fees for each transaction is too burdensome for futures commission merchants. However, no futures commission merchant advanced this view. A second exchange commentator objected to Commission Rules §§ 33.3(b)(1)(i) (A) and (B), 33.4b (4), (5), (8), and (10); 33.4 (c) and (g), 33.5(d), 33.6(d) and 33.7. These rules provide, *inter alia*, for oversight of futures commission merchants who accept option orders and for their marketing techniques, the handling of customer complaints, and the disclosure to customers of the risks of options trading. The Commission believes that all of the customer protections provided for in the pilot program are essential to protect the public from the past abuses associated with the trading of options and finds no reason at this time to amend these rules.

One commentator suggested that revisions to current speculative limits combining options and futures contracts in one overall limit were necessary. The Commission would note that it has not required exchanges to provide for unified speculative limits on both futures and options contracts. In this regard, futures contracts in most domestic agricultural commodities have federally-set speculative limits under Part 150 of the Commission's Rules, 17 CFR Part 150. Speculative limits will be required for options on those futures contracts as well, but pursuant to Commission Rule § 1.61, speculative limits on the options contracts will be set by the exchanges in the first instance. In reviewing and approving the option limits proposed by the exchanges under Commission Rule § 1.61, the Commission will take into account several factors, including the relationship of the futures and options markets. The Commission has noted that:

> * * *In reviewing such limits, Commission will consider the options and futures market as a whole in determining whether exchange limits, either specified jointly for futures and options or separately, are set at appropriate levels. More specifically, the Commission wishes to ensure that option limits are set at levels which will not undermine the primary purposes for establishing limits on the underlying future.
>
> 46 FR 50938, 50944 (October 16, 1981).

Finally, one producer organization, while believing current customer protections are adequate, expressed the view that a futures-type margining system would be preferable. This commentator noted that options will be useful for farmers only if the premiums are available at an attractive price. To increase their availability, this commentator and an exchange commentator recommended a margining system for the option premium which is similar to that which exists for futures contracts. However, another commentator, also representing an agricultural producer's association, fully supported the concept of full premium payment as a means of customer protection and differentiation of options from futures. The Commission is aware of both views with respect to the advisability of various margining alternatives for option premiums and will be studying this issue further. The Commission believes that the public margining systems for all option contracts should be similar, regardless of the commodity on which the option is offered. Accordingly, issues relating to the margining systems for options will

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[4] Commission Rule § 33.7(d) provides that:

Prior to the entry into a commodity option transaction on or subject to the rules of a contract market, each option customer or prospective option customer shall, to the extent the following amounts are known or can reasonably be approximated, be informed by the person soliciting or accepting the order therefor of the amount of the premium and any mark-ups thereon, if applicable, commissions, costs, fees and other charges to be incurred in connection with the commodity option transaction, as well as the strike price and all costs to be incurred by the option customer if the commodity option is exercised.

be considered apart from these proposed rules.

*6. Trade Options*

The final issue raised in the notice of proposed rulemaking related to options in actual cash commodities which are traded off of exchanges between producers, processors, commercial users, or merchants. In the notice of proposed rulemaking, the Commission stated that it

> * * *[r]ecognizes that there may be possible benefits to commercials and to producers from the trading of these "trade" options in domestic agricultural commodities. On the other hand, in light of the lack of recent experience with agricultural options and because the trading of exchange-traded options is subject to more comprehensive oversight, caution would suggest proceeding in a gradual fashion by initially permitting only exchange-traded agricultural options.

48 FR 46800.

With the exception of one commentator, an agricultural insurance company that wished to offer these trade options, other commentators commenting on this issue generally agreed that the Commission's approach of initially proceeding with exchange-traded options and considering off-exchange instruments at a later time was appropriate. Indeed, many of these commentators believed that the lack of recent experience with options clearly favored the conservative approach of limiting the trading of options to exchanges. Moreover, with two exceptions, no commentators even addressed the issue of the present need for such off-exchange instruments. Accordingly, the Commission has determined to proceed only with exchange-traded options on domestic agricultural futures contracts at this time. The Commission notes that does not imply that it has reached a final determination as to the future feasibility or desirability of permitting the trading of off-exchange trade options in these commodities. Rather, that determination will be made after further experience has been gained in connection with the trading of options on exchanges as part of this pilot program.[5]

*7. Applications for Designation*

The Commission also notes that commentators, in connection with the Commission's consideration of the existing pilot program, previously expressed concern over the timing of Commission approvals of applications for designation as option contract markets. 46 FR 54501. They expressed the concern that particular exchanges may obtain a competitive advantage by being among the first contract markets designated for options trading. Although commentators did not specifically raise this concern in connection with the proposed rules for options on futures in domestic agricultural commodities, the Commission appreciates its responsibility to treat all contract markets equally.

Accordingly, the Commission has determined to review applications for designation as option contract markets in domestic agricultural futures on a unified schedule. Applications for designation will not be accepted officially by the Commission until the expiration of the statutorily-mandated period for Congressional review of these rules.[6] Because of the relatively great demands on Commission resources such unified timetables impose, the Commission will include in the initial grouping only one application per exchange for designation as an option contract market in domestic agricultural futures. Accordingly, boards of trade simultaneously applying for more than one option should specify which application has higher priority. Those applications received later than thirty days after applications are first accepted, applications for second options, and those applications within the initial group which are seriously deficient or otherwise require stricter scrutiny, will be scheduled for review under the Commission's routine procedures.

## IV. The Final Regulations

The regulations herein adopted incorporate the pilot program in options on domestic agricultural commodities into the existing options pilot program wherever possible. The Commission, as proposed, is hereby amending Commission Rule 33.4 to provide that options on agricultural commodities be on a futures contract and not directly on the physical commodity.

Moreover, for the reasons identified above, the Commission in Rule § 33.4(a)(6), is permitting designation for each board of trade in no more than two options on futures contracts in domestic agricultural commodities. As previously stated, the Commission believes that by permitting each board of trade to be designated in two options on domestic agricultural commodities, a sufficient number of option contracts will be traded to permit an adequate test for the pilot program. As more experience is gained with these contracts, the Commission will re-evaluate the limitation on the number of option contracts permitted.

## V. Related Matters

*A. The Regulatory Flexibility Act*

The Regulatory Flexibility Act ("RFA") (5 U.S.C. 601 *et seq.*) requires that agencies in proposing rules consider the impact of those rules on small businesses. As stated in the notice of proposed rulemaking, 48 FR 46801, the Commission previously determined that contract markets are not small entities for purposes of the RFA. In certifying pursuant to Section 3(a) of the RFA, 5 U.S.C. 605(b) that these regulations will not have a significant economic impact on a substantial number of small entities, the Commission invited comments from any firms or other persons who believe that the promulgation of these rule amendments might have an impact upon their activities. No such comments were received.

**List of Subjects in 17 CFR Part 33**

Commodity exchange, Commodity exchange designation procedures, Commodity exchange rules, Commodity futures, Consumer protection.

In consideration of the foregoing and pursuant to the authority contained in the Commodity Exchange Act and in particular Sections 2(a)(1)(A), 4c(b), 4c(c), and 8a thereof, 7 U.S.C. 2, 6c(b), 6c(c), and 12a, the Commission hereby amends Chapter 1 of Title 17 of the Code of Federal Regulations as follows:

## PART 33—REGULATION OF DOMESTIC EXCHANGE-TRADED COMMODITY OPTION TRANSACTIONS

1. Section 33.4 is amended by revising the introductory paragraph and paragraph (a)(6) to read as follows:

[5] Nor is the Commission, by proceeding only with exchange-traded commodity options, making a determination with respect to the status of certain practices which may exist currently as part of cash market contracting. The Commission's policy to date has been to examine various instruments on a case-by-case basis and to determine their status by a functional analysis of the instrument. The Commission will continue to follow this approach in determining whether various instruments fall within the Commission's jurisdiction or are contracts of a cash commodity for deferred shipment or delivery.

[6] Section 4c(c) of the Act, 7 U.S.C. 6c(c) provides in part that the pilot program may be established when:

(1) The Commission transmits to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry documentation of its ability to regulate successfully such transactions, including a copy of the Commission's proposed rules and regulations, and (2) the expiration of thirty calendar days of continuous session of Congress after the date of such transmittal.

**§ 33.4 Designation as a contract market for the trading of commodity options.**

The Commission may designate any board of trade located in the United States as a contract market for the trading of options on contracts of sale for future delivery on any commodity regulated under the Act, or for options on physicals in any commodity regulated under the Act other than those commodities which are specifically enumerated in Section 2(a)(1)(A) of the Act, when the applicant complies with and carries out the requirements of the Act (as provided in § 33.2), these regulations, and the following conditions and requirements with respect to the commodity option for which the designation is sought:

(a) Such board of trade * * *

(6) For commodities not specifically enumerated in Section 2(a)(1)(A) of the Act, is not designated as a contract market for more than one other commodity option on a commodity not enumerated in Section 2(a)(1)(A) of the Act; and for those commodities which are specifically enumerated in Section 2(a)(1)(A) of the Act, is not designated for more than one other commodity option in a commodity which is specifically enumerated in Section 2(a)(1)(A) of the Act.

* * * * *

Issued in Washington, D.C., by the Commission on January 17, 1984.

Jane K. Stuckey,

*Secretary of the Commission.*

[FR Doc. 84-1776 Filed 1-20-84; 8:45 am]

BILLING CODE 6351-01-M

## DEPARTMENT OF THE TREASURY

### Bureau of Alcohol, Tobacco and Firearms

### 27 CFR Part 9

**[T.D. ATF-164; Ref: Notice No. 399 and No. 434]**

### Monticello Viticultural Area

**AGENCY:** Bureau of Alcohol, Tobacco and Firearms, Treasury.

**ACTION:** Final rule; Treasury decision.

**SUMMARY:** This final rule establishes a viticultural area in central Virginia to be known as "Monticello." The Bureau of Alcohol, Tobacco and Firearms (ATF) believes the establishment of "Monticello" as a viticultural area and subsequent use as an appellation of origin on wine labels and in wine advertisements will allow wineries to better designate the specific grape-growing area where their wines come from and will enable consumers to better identify the wines they may purchase.

**EFFECTIVE DATE:** February 22, 1984.

**FOR FURTHER INFORMATION CONTACT:** James A. Hunt, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226 (202-566-7626).

**SUPPLEMENTARY INFORMATION:**

#### Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4 allowing the establishment of definite viticultural areas. The regulations also allow the name of an approved viticultural area to be used as an appellation of origin in wine labeling and advertising.

Section 9.11, Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical characteristics. Section 4.25a(e)(2) outlines the procedures for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area.

Six wine grape growers in the Charlottesville area of Virginia petitioned ATF to establish a viticultural area to be known as "Monticello." In response to the petition ATF published a notice of proposed rulemaking, Notice No. 399 (46 FR 59274), on December 4, 1981, to establish a viticultural area in the Charlottesville, Virginia, area to be known as "Monticello."

The Jefferson Wine Grape Growers Society petitioned for an enlargement of the Monticello viticultural area boundary. ATF published an amended notice of proposed rulemaking, Notice No. 434 (47 FR 52200), on November 19, 1982. Seven comments were received which all strongly favored the enlarged boundary for the Monticello viticultural area.

#### Historical and Current Evidence of the Name

The petitioner stated that the name "Monticello" is known nationally and locally as the home of Thomas Jefferson. Located on a high mountain outside the city of Charlottesville, Virginia, Monticello is easily seen for several miles in all directions. Today, Monticello is a major tourist attraction in the central Virginia area and signs on all major roads direct visitors to this historical landmark.

The petitioner submitted evidence to show that the name "Monticello" has also been historically linked to wine production in the area. There are numerous references of Thomas Jefferson planting wine grapes at Monticello. There are also historical references of a Monticello Wine Company in Charlottesville winning medals in Europe between the years 1873 and 1920.

A survey of rainfall data was taken from owners of 15 vineyards throughout the Monticello area. The average annual rainfall reported was 42.4 inches with a range of 39.5 to 44.0 inches. The Shenandoah Valley viticultural area to the north has a broader range of 38.6 to 48.6 inches of rainfall and the North Fork of Roanoke viticultural area to the west annually averages 3 inches of rainfall less than the Monticello viticultural area.

#### Boundaries

In the amended notice of proposed rulemaking extending the boundaries of the Monticello viticultural area from approximately 475 square miles to 1,250 square miles, ATF asked for further evidence to support the larger viticultural area. The evidence submitted by commenters showed that there are approximately 300 acres of grapes on 26 vineyards scattered throughout the Monticello viticultural area with another 150 acres planned in the near future. Reducing the size would leave out vineyards which are within the historical and geographical confines of the Monticello viticultural area.

After carefully considering the evidence submitted ATF is adopting the Monticello viticultural area boundaries stated in the amended notice of proposed rulemaking and found at 27 CFR 9.48 in this final rule.

#### Miscellaneous

ATF does not wish to give the impression by approving Monticello as a viticultural area that it is approving or endorsing the quality of the wine from this area. ATF is approving this area as being distinct and not better than other areas. By approving the area, wine producers are allowed to claim a distinction on labels and advertisements as to the origin of the grapes. Any commercial advantage gained can only come from consumer acceptance of Monticello wines.

#### Executive Order 12291

In compliance with Executive Order 12291 (46 FR 13193 (1981)), ATF has determined that this final rule is not a "major rule" since it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries,

Federal, State or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

**Regulatory Flexibility Act**

The provisions of the Regulatory Flexibility Act relating to a final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this final rule because it will not have a significant economic impact on a substantial number of small entities. The proposal is not expected to have significant secondary or incidental effects on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of Section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this final rule will not have a significant economic impact on a substantial number of small entities.

**Paperwork Reduction Act**

The Provisions of the Paperwork Reduction Act of 1980, Pub. L. 96–511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this final rule because no requirement to collect information is imposed.

**Disclosure**

A copy of the petition and the comments received are available for inspection during normal business hours at the following location: ATF Reading Room, Rm. 4407, Office of Public Affairs and Disclosure, 12th and Pennsylvania Ave., NW., Washington, DC.

**List of Subjects in 27 CFR Part 9**

Administrative practice and procedure, Consumer protection, Viticultural areas, and Wine.

**Drafting Information**

The principal author of this document is James A. Hunt, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

**Authority and Amendment**

## PART 9—AMERICAN VITICULTURAL AREAS

Accordingly, under the authority contained in Section 5 of the Federal Alcohol Administration Act (49 Stat. 981, as amended; 27 U.S.C. 205), 27 CFR Part 9 is amended as follows:

**Paragraph 1.** The table of sections in 27 CFR Part 9, Subpart C, is amended by revising the heading of § 9.48 as follows:

**Subpart C—Approved American Viticultural Areas**

Sec.

* * * * *

9.48 Monticello.

**Para. 2.** Subpart C is amended by adding § 9.48 to read as follows:

### Subpart C—Approved American Viticultural Areas

**§ 9.48 Monticello.**

(a) *Name.* The name of the viticultural area described in this section is "Monticello."

(b) *Approved Maps.* Approved maps for the Monticello viticultural area are two 1971 U.S.G.S. maps titled: Charlottesville Quadrangle Virginia; 1:250,000 minute series; and Roanoke Quadrangle Virginia; 1:250,000 minute series.

(c) *Boundaries.* From Norwood, Virginia, following the Tye River west and northwest until it intersects with the eastern boundary of the George Washington National Forest; following this boundary northeast to Virginia Rt. 664, then west following Rt. 664 to its intersection with the Nelson County line; then northeast along the Nelson County line to its intersection with the Albemarle County line at Jarman Gap; from this point continuing northeast along the eastern boundary of the Shenandoah National Park to its intersection with the northern Albemarle County line; following the county line southeast to its intersection with the Orange County line; continuing north on the county line to its intersection with the Rapidan River, which continues as the Orange County line; following the river east and northeast to its confluence with the Mountain Run River; then following the Mountain Run River southwest to its intersection with Virginia Rt. 20; continuing southwest along Rt. 20 to the corporate limits of the town of Orange; following southwest the corporate limit line to its intersection with U.S. Rt. 15; continuing southwest on Rt. 15 to its intersection with Virginia Rt. 231 in the town of Gordonsville; then southwest along Rt. 231 to its intersection with the Albemarle County line; continuing southwest along the county line to its intersection with the James River; then following the James River to its confluence with the Tye River at Norwood, Virginia, the beginning point.

Signed: December 16, 1983.

**Stephen E. Higgins,**

*Director.*

Approved: January 12, 1984.

**John M. Walker Jr.,**

*Assistant Secretary (Enforcement and Operations).*

[FR Doc. 84–1770 Filed 1–20–84; 8:45 am]

BILLING CODE 4810–31–M

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**27 CFR Part 9**

**[T.D. ATF–166; Ref: Notice No. 485]**

## Clarksburg Viticultural Area

**AGENCY:** Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

**ACTION:** Final rule, Treasury decision.

**SUMMARY:** This final rule establishes a viticultural area in north central California, to be known as "Clarksburg." The establishment of viticultural areas and the subsequent use of viticultural area names as appellations of origin in wine labeling and advertising will help consumers better identify wines they purchase. The use of this viticultural area as an appellation of origin will also help winemakers distinguish their products from wines made in other areas.

**EFFECTIVE DATE:** February 22, 1984.

**FOR FURTHER INFORMATION CONTACT:** James P. Ficaretta, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226 (202–566–7626).

**SUPPLEMENTARY INFORMATION:**

**Background**

On August 23, 1978, ATF published Treasury Decision ATF–53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4. These regulations allow for the establishment of definite viticultural areas. The regulations also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements.

On October 2, 1979, ATF published Treasury Decision ATF–60 (44 FR 56692) which added a new Part 9 to 27 CFR, providing for the listing of approved American viticultural areas, the names of which may be used as appellations of origin.

Section 4.25a(e)(1), Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features. Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Any interested person

may petition ATF to establish a grape-growing region as a viticultural area.

The Clarksburg Vintners and Growers Association petitioned ATF for the establishment of a viticultural area in north central Califoornia, to be known as "Clarksburg." In response to this petition, ATF published a notice of proposed rulemaking (Notice No. 485) in the **Federal Register** on September 16, 1983 (48 FR 41602), proposing the establishment of the Clarksburg viticultural area.

**General Description**

The Clarksburg viticultural area, located just southwest of Sacramento, is approximately sixteen miles long and eight miles wide, encompassing 101 square miles (64,640 acres). It includes two bonded wineries and 25 vineyards, with approximately 2,300 acres of Vitis Vinifera grapes. In addition, the Merritt Island viticultural area is located within the Clarksburg viticultural area.

Historical and current evidence regarding the name as well as the boundaries of the proposed area include:

(a) Excerpts from articles that appeared in *Vintage Magazine*, Robert Finigan's *Private Guide to Wines*, and *Bon Appetit* magazine, indicate that the viticultural area is locally and nationally known.

(b) A Clarksburg Chenin Blanc won a medal in four major competitions in 1981, including the Orange and Los Angeles County Fairs.

(c) The large number of settlers arriving after the discovery of gold in 1849 led to the founding of Clarksburg and many other towns in the Sacramento River Delta Region.

(d) The town of Clarksburg was named after Judge Robert C. Clark, who is credited with having the first peach orchard in Yolo County.

Geographical features of the Clarksburg viticultural area include the following:

(a) Average yearly precipitation within the viticultural area is 16 inches, unlike the surrounding areas which average more to the north and east, and less to the west and south.

(b) The viticultural area is dominated by poorly drained clay and clay loam soils. West of the viticultural area the soil classification and the annual flooding of the Yolo Bypass make grape-growing impossible. The lower terraces east of the viticultural area are subject to the 100 year flood and are considered a flood prone area. Land south of the viticultural area is dominated by poorly drained organic and mineral soils.

(c) The northern boundary separates the northern area where the natural cooling fades out. Normally on a hot summer day Sacramento will be eight to ten degrees warmer than the Clarksburg area.

The boundaries of the Clarksburg viticultural area may be found on eight California U.S.G.S. maps (Sacramento West, Saxon, Clarksburg, Florin, Liberty Island, Courtland, Bruceville, and Isleton).

The boundaries, as proposed by the petitioner, are described in § 9.95.

**Public Comment**

In response to Notice No. 485, nine comments were received, all in support of the proposed viticultural area.

**Miscellaneous**

ATF does not wish to give the impression by approving Clarksburg as a viticultural area that it is approving or endorsing the quality of the wine from the area. ATF is approving this area as being distinct and not better than other areas. By approving the area, wine producers are allowed to claim a distinction on labels and advertisements as to origin of the grapes. Any commercial advantage gained can only come from consumer acceptance of Clarksburg wines.

**Paperwork Reduction Act**

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this final rule because no requirement to collect information is imposed.

**Regulatory Flexibility Act**

The provisions of the Regulatory Flexibility Act relating to a final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this final rule because it will not have a significant economic impact on a substantial number of small entities. The final rule will not impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The final rule is not expected to have significant secondary or incidental effects on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of Section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this final rule will not have a significant economic impact on a substantial number of small entities.

**Executive Order 12291**

In compliance with Executive Order 12291, the Bureau has determined that this regulation is not a major rule since it will not result in:

(a) An annual effect on the economy of $100 million or more;

(b) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(c) Significant adverse effects on competition, employment, investment, productivity, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

**Disclosure**

A copy of the petition and the comments received are available for inspection during normal business hours at the following location: ATF Reading Room, Room 4407, Office of Public Affairs and Disclosure, 12th and Pennsylvania Avenue, NW, Washington, D.C.

**List of Subjects in 27 CFR Part 9**

Administrative practice and procedure, Consumer protection, Viticultural areas, Wine.

**Drafting Information**

The principal author of this document is James P. Ficaretta, Specialist, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

**Authority and Amendment**

## PART 9—AMERICAN VITICULTURAL AREAS

This regulation is issued under the authority in 27 U.S.C. 205. Accordingly, 27 CFR Part 9 is amended as follows:

**Par. 1.** The table of sections in 27 CFR Part 9, Subpart C, is amended to add the heading of § 9.95 to read as follows:

**Subpart C—Approved American Viticultural Areas**

Sec.

* * * * *

9.95 Clarksburg.

**Par. 2.** Subpart C is amended by adding § 9.95 to read as follows:

**Subpart C—Approved American Viticultural Areas**

**§ 9.95 Clarksburg.**

(a) *Name.* The name of the viticultural area described in this section is "Clarksburg."

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Clarksburg viticultural area are eight U.S.G.S. topographic maps in the 7.5 minute series, as follows:

(1) Sacramento West, Calif., 1967 (photorevised 1980).

(2) Saxon, Calif., 1952 (photorevised 1968).
(3) Clarksburg, Calif., 1967 (photorevised 1980).
(4) Florin, Calif., 1968 (photorevised 1980).
(5) Liberty Island, Calif., 1978.
(6) Courtland, Calif., 1978.
(7) Bruceville, Calif., 1978 (photorevised 1980).
(8) Isleton, Calif., 1978.

(c) *Boundaries.* Beginning at a point (on the Sacramento West topographic map) in Yolo County in T8N/R4E, at the intersection of Jefferson Blvd. and Burrows Ave.,

(1) Then southwest in a straight line 1.2 miles along Jefferson Blvd. to the eastern bank of the Sacramento River Deep Water Ship Channel.

(2) Then southwest along the Sacramento River Deep Water Ship Channel, approximately 17 miles to T5N/R3E, to the Class 5 trail on the levee connecting the Sacramento River Deep Water Ship Channel and the dredger cut Miner Slough, approximately 2 miles from the Solano/Yolo County line.

(3) Then east along the trail to the Miner Slough.

(4) Then east along Miner Slough to the point where it joins Sutter Slough, then south along Sutter Slough around the tip of Sutter Island to the junction of Sutter Slough and Steamboat Slough; then north around Sutter Island along Steamboat Slough to Section 8 in T5N/R4E where Steamboat Slough joins the Sacramento River.

(5) The southeast following the Sacramento River to the point where the Sacramento River meets the Delta Cross Channel at the Southern Pacific Railroad in Section 35, T5N/R4E.

(6) Then northeast along the Southern Pacific Railroad for 2 miles, to a point ⅓ mile past the intersection of the Southern Pacific Railroad and the eastern branch of Snodgrass Slough.

(7) Then east approximately 2½ miles along the levee to Interstate 5 (under construction).

(8) Then north approximately 8½ miles along Interstate 5 (under construction, proposed, and completed) to Section 18 in T6N/R5E, at the intersection of Interstate 5 and Hood Franklin Road.

(9) Then southwest along Hood Franklin Road to the Southern Pacific Railroad Levee, .1 mile northeast of Hood Junction.

(10) Then north approximately 18 miles along the Southern Pacific Railroad Levee to Section 11 in T7N/R4E, at Freeport Blvd., and then across the Sacramento River at the line between Sections 11 and 14.

(11) Then northwest along the west bank of the Sacramento River to Burrows Ave.

(12) Then northwest along Burrows Ave. to the starting point at the intersection of Jefferson Blvd. and Burrows Ave.

Signed December 7, 1983.

**Stephen E. Higgins,**

*Director.*

Approved: January 12, 1984.

**John M. Walker, Jr.,**

*Assistant Secretary (Enforcement and Operations)*

[FR Doc. 84-1771 Filed 1-20-84; 8:45 am]

BILLING CODE 4810-31-M

## DEPARTMENT OF LABOR

### Office of the Secretary

### 29 CFR Part 17

### Notice of Exclusion of Labor Force Statistics Program From Coverage Under E.O. 12372—"Intergovernmental Review of Federal Programs"

**AGENCY:** Office of the Secretary, Department of Labor.

**ACTION:** Notice of exclusion.

**SUMMARY:** The Labor Force Statistics Program is excluded from coverage under E.O. 12372 on the basis that intergovernmental review under the Executive Order would substantially impede the achievement of Presidentially or Congressionally established goals as specified in 29 U.S.C. 491–1. This program was previously excluded for reasons specified in the final rule found at 48 FR 29250, June 24, 1983.

**FOR FURTHER INFORMATION CONTACT:** Annabelle Lockhart, (202) 523–8176.

Issued at Washington, D.C., this 13th day of January 1984.

**Raymond J. Donovan,**

*Secretary of Labor.*

[FR Doc. 84-1698 Filed 1-20-84; 8:45 am]

BILLING CODE 4510-23-M

## DEPARTMENT OF AGRICULTURE

### Forest Service

### 36 CFR 223

### Sale and Disposal of National Forest System Timber

**AGENCY:** Forest Service, USDA.

**ACTION:** Final rule; redesignation.

**SUMMARY:** The Department of Agriculture hereby retitles and redesignates its regulations at 36 CFR 223 governing Sale and Disposal of National Forest System Timber. This redesignation will make it easier for users to make reference to and locate pertinent rules in this Part and will facilitate any future amendments that may be necessary. This action is limited to redesignation of the regulations and makes neither technical nor substantive changes to the rules.

**EFFECTIVE DATE:** Feburary 22, 1984.

**FOR FURTHER INFORMATION CONTACT:** Marian Connolly, Federal Register Liaison Officer, Forest Service, USDA, P.O. Box 2417, Washington, D.C. 20013, (202) 235–1488.

**SUPPLEMENTARY INFORMATION:** The Forest Service has concluded that the present organization and coding of its rules governing sale and disposal of timber make it difficult to readily locate relevant provisions. This difficulty can be remedied by assigning section numbers and headings to those paragraphs presently coded by alphabetic enumeration and by establishing subparts which more readily identify major subject areas treated within Part 223.

The redesignation will have no effect on timber sale contract forms or other Forest Service forms and reports.

**List of Subjects in 36 CFR Part 223**

Exports, Government contracts, National forests, Reporting and recordkeeping requirements, Timber.

## PART 223—SALE AND DISPOSAL OF NATIONAL FOREST SYSTEM TIMBER

For the reasons set forth above, Part 223 of Title 36 of the Code of Federal Regulations is amended as follows:

1. Title 36 of the Code of Federal Regulations is amended by revising the part heading for Part 223 as set out above and by redesignating the sections in the part as shown below. The left-hand column contains the former section designations. The right-hand column contains the new section designations.

| Former part 223 section designation | New part 223 section designation |
|---|---|
| 223.1(a) | 223.1. |
| 223.1(b) | 223.2. |
| 223.1(c) | 223.3. |
| 223.1(d) | 223.4. |
| 223.1(e)(1)(2) | 223.5(a)(b). |
| 223.1(e)(3), first 3 sentences | 223.6. |
| 223.1(e)(3), rest of paragraph | 223.7. |
| 223.1(e)(4)(5) | 223.8(a)(b). |
| 223.1(e)(6) | 223.9. |
| 223.1(f) | 223.10. |
| 223.1(g)(1)(2) | 223.11(a)(b). |
| 223.1(h)(1)–(3) | 223.12(a)–(c). |
| 223.1(i) | 223.13. |
| 223.2(a)–(f) | 223.14(a)–(f). |
| 223.3(a)(1)–(8) | 223.30(a)–(h). |
| 223.3(b) | 223.31. |

| Former part 223 section designation | New part 223 section designation |
|---|---|
| 223.3(c) | 223.32. |
| 223.3(d) | 223.33. |
| 223.3(e) | 223.34. |
| 223.3(f) | 223.35. |
| 223.3(g)(1)(2) | 223.36(a)(b). |
| 223.3(h) | 223.37. |
| 223.3(i) | 223.38. |
| 223.3(j) | 223.39. |
| 223.3(k) | 223.40. |
| 223.3(l) | 223.41. |
| 223.3(m)(1), 1st three sentences. | 223.42. |
| 223.3(m)(1), 4th sentence | 223.43(a)(1)–(3). |
| 223.3(m)(1), remainder | 223.43(b). |
| 223.3(m)(2) | 223.44. |
| 223.3(m)(3) | 223.45. |
| 223.3(n) | 223.46. |
| 223.3(o), first sentence | 223.47(a). |
| 223.3(o), second sentence | 223.47(b). |
| 223.3(o), third sentence | 223.47(c). |
| 223.3(o), fourth sentence | 223.47(d). |
| 223.3(o), fifth and sixth sentences. | 223.47(e). |
| 223.3(o), seventh sentence | 223.47(f). |
| 223.3(p)(1)–(3) | 223.48(a)–(c). |
| 223.4(a) | 223.60. |
| 223.4(b) | 223.61. |
| 223.4(c) | 223.62. |
| 223.4(d) | 223.63. |
| 223.4(e)(1)–(4) | 223.64(a)–(d). |
| 223.4(f) | 223.65. |
| 223.4(g) | 223.66. |
| 223.5(a) | 223.80. |
| 223.5(b) | 223.81. |
| 223.5(c) | 223.82. |
| 223.5(d)(1)–(8) | 223.83(a)–(h). |
| 223.5(e)(1)–(7) | 223.84(a)–(g). |
| 223.5(f)(1)–(3) | 223.85(a)–(c). |
| 223.5(g) | 223.86. |
| 223.5(h)(1)(i)–(iii) | 223.87(a)(1)(2). |
| 223.5(h)(2)(i)–(iii) | 223.87(b)(1)–(3). |
| 223.5(h)(3) | 223.87(c). |
| 223.5(h)(4)(i)(ii) | 223.87(d)(1)(2). |
| 223.5(i)(1)–(4) | 223.88(a)–(d). |
| 223.6(a)–(f) | 223.89(a)–(f). |
| 223.7(b) | 223.90. |
| 223.7(a)(1)–(5) | 223.100(a)–(e). |
| 223.7(c) | 223.101. |
| 223.7(d) | 223.102. |
| 223.7(e) | 223.103. |
| 223.8(a) | 223.110. |
| 223.8(b)(1)–(4) | 223.111(a)–(d). |
| 223.8(c) | 223.112. |
| 223.8(d) | 223.113. |
| 223.8(e) | 223.114. |
| 223.8(f)(1)(2) | 223.115(a)(b). |
| 223.9(a)–(c) | 223.116(a)–(c). |
| 223.10(a)(1)–(10) | 223.160(a)–(j). |
| 223.10(b) | 223.162. |
| 223.10(c) | 223.161. |
| 223.10(d)(1)–(3) | 223.163(a)–(c). |
| 223.10(e) | 223.164. |
| 223.11(a)–(e) | 223.117(a)–(e). |
| 223.12(a) | 223.130. |
| 223.12(b) | 223.131. |
| 223.12(c) | 223.132. |
| 223.12(d) | 223.133. |
| 223.12(e) | 223.134. |
| 223.12(f) | 223.135. |
| 223.12(g) | 223.136. |
| 223.12(h) | 223.137. |
| 223.12(i) | 223.138. |
| 223.12(j) | 223.139. |
| 223.12(k) | 223.140. |
| 223.12(l) | 223.141. |
| 223.12(m) | 223.142. |
| 223.12(n) | 223.143. |
| 223.12(o) | 223.144. |
| 223.12(p) | 223.145. |

2. The Table of Contents for the newly redesignated Part 223 reads as follows:

**Subpart A—General Provisions**



**Subpart B—Timber sale contracts.**



**Subpart C—Suspension and Debarment of Timber Purchasers**



**Subpart D—Timber Export and Substitution Restrictions**



**Authority:** Sec. 14, Pub. L. 94–588, 90 Stat. 2958, 16 U.S.C. 472a, unless otherwise noted.

Dated: January 13, 1984.

**Douglas W. MacCleery,**

*Deputy Assistant Secretary for Natural Resources and Environment.*

[FR Doc. 84–1779, Filed 1–20–84; 8:45 am]

BILLING CODE 3410–11–M

**36 CFR Part 254**

**Conveyance of Small Tracts**

*Correction*

In FR Doc. 84–535 beginning on page 1184 in the issue of Tuesday, January 10, 1984, make the following correction:

**§ 254.35 [Corrected]**

On page 1186, column two, § 254.35 (d), line one, "loans" should read "lands".

BILLING CODE 1505-01-M

## ENVIRONMENTAL PROTECTION AGENCY

**40 CFR Part 60**

**[A-9-FRL 2508-3]**

**Delegation of New Source Performance Standards (NSPS); State of Arizona**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Delegation of authority.

**SUMMARY:** The EPA hereby places the public on notice of its delegation of NSPS authority to the Arizona Department of Health Services (ADHS). This action is necessary to bring the NSPS program delegations up to date with recent EPA promulgations and amendments of these categories. This action does not create any new regulatory requirements affecting the public. The effect of the delegation is to shift the primary program responsibility for the affected NSPS categories from EPA to State and local governments.

**EFFECTIVE DATE:** September 22, 1983.

**FOR FURTHER INFORMATION CONTACT:** Julie A. Rose, New Source Section (A–3–1), Air Operations Branch, Air Management Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, Tel: (415) 974–8236, FTS 454–8236.

**SUPPLEMENTARY INFORMATION:** The ADHS has requested authority for delegation of certain NSPS categories. Delegation of authority was granted by a letter dated September 9, 1983 and is reproduced in its entirety as follows:

Mr. Arthur A. Aymar, P.E.,
*Chief, Bureau of Air Quality Control, Arizona Department of Health Services, State Health Building, 1740 West Adams Street, Phoenix, AZ*

Dear Mr. Aymar: EPA is delegating to your agency authority to implement and enforce certain categories of New Source Performance Standards (NSPS). We understand that you have a lengthy adoption process, and that you intend to request delegation as soon as the regulations are certified by the Secretary of State. To speed up the process, this delegation will be effective on the date the Secretary of State certifies the regulations. However, if for some reason, the regulations are not certified, this delegation will be void. The delegation includes authority for the following sources categories:

| NSPS | 40 CFR part 60 |
|---|---|
| Lead-Acid Battery Manufacturing Plants | KK |
| Phosphate Rock Plants | NN |
| Asphalt Processing & Asphalt Roofing Manufacture. | UU |

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Part 60, including use of EPA's test methods and procedures. The delegation is effective upon the date the regulations are certified by the Secretary of State. Please let us know as soon as possible what date the certification takes place. A notice of this delegated authority will be published in the **Federal Register** after we receive notification that the regulations have been certified.

If you have any questions, please call Julie A. Rose of my staff.

Sincerely,

Judith E. Ayres,
*Regional Administrator.*

The Secretary of State for Arizona certified the regulations on September 22, 1983, therefore, the delegation was effective as of that date.

With respect to the areas under the jurisdiction of the ADHS, all reports, applications, submittals, and other communications pertaining to the above listed NSPS source categories should be directed to the ADHS at the address shown in the letter of delegation in this notice.

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

This Notice is issued under the authority of Section 111 of the Clean Air Act, as amended (42 U.S.C. 1857, *et seq.*).

I certify that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act.

Dated: December 22, 1983.

**John Wise,**

*Acting Regional Administrator.*

[FR Doc. 84–1447 Filed 1–20–84; 8:45 am]

BILLING CODE 6560-50-M

**40 CFR Part 747**

**[OPTS–61008; TSH FRL 2501–6]**

**Prohibition of Nitrites in Metalworking Fluids**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Immediately Effective Proposed Rule.

**SUMMARY:** EPA is proposing a rule under section 6(a) of the Toxic Substances Control Act (TSCA), which is effective immediately under section 5(f)(2) of TSCA. The proposed rule will remain in effect until EPA promulgates a final rule. The rule applies to two new chemical substances which were the subject of premanufacture notices (PMN's) submitted under section 5(a) of TSCA. The rule prohibits the addition of nitrosating agents such as nitrites, to the chemical substance known generically as the triethanolamine salt of tricarboxylic acid (subject of PMN P–83–1005) when it is or could be used as or in metalworking fluids. The rule also requires distributors of the substance to notify customers of the restrictions of the rule through letters sent prior to shipment of the substance and to notify machine shop workers of the health hazard through labels on metalworking fluids containing the substance. In addition, the rule requires distributors of tricarboxylic acid (subject of PMN P–83–1062), which, when combined with water and triethanolamine, produces the triethanolamine salt of tricarboxylic acid, to notify customers of the restrictions of the rule through letters sent prior to shipment of the substance. EPA believes that the unrestricted distribution in commerce of both substances and the unrestricted processing and use of the triethanolamine salt of tricarboxylic acid in combination with nitrosating agents, such as nitrites, will present an unreasonable risk of injury to human health before a final rule can be promulgated under section 6 of TSCA to protect against this risk.

The Agency is also initiating a regulatory investigation into the potential human health risk posed by exposure to nitrosamines in metalworking fluids generally. EPA is soliciting data and information through this notice on several matters pertinent to this regulatory investigation.

**DATES:** This rule is effective January 23, 1984. Written comments and requests for a public hearing must be submitted by March 23, 1984. A public hearing will be held, only if requested, beginning on April 6, 1984.

**ADDRESS:** Since some comments are expected to contain confidential business information, all comments should be sent in triplicate to: Document Control Officer (TS–793), Office of Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M St. SW., Washington, D.C. 20460.

Comments must include the docket control number OPTS–61008. Non-confidential versions of comments received on this proposal will be available for reviewing and copying from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays, in Rm. E–107 at the address given above.

Requests for a public hearing must be submitted to the above address and must reference the docket control number OPTS–61008. The time and location of the public hearing will be announced in the future. Any person wishing information on the time and location of the hearing should contact the TSCA Assistance Office at the address and telephone number under **"FOR FURTHER INFORMATION CONTACT"** below.

**FOR FURTHER INFORMATION CONTACT:** Jack P. McCarthy, Director, TSCA Assistance Office (TS–798), Office of Toxic Substances, Environmental Protection Agency, Rm. E–543, 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. Authority

Section 5(f)(2) of TSCA authorizes the Administrator to issue a proposed rule under section 6(a) of TSCA to apply to a chemical substance which is the subject of a premanufacture notice. Such a rule may be issued if the Administrator finds that there is a reasonable basis to conclude that the manufacture, processing, distribution in commerce, use, or disposal of the substance presents or will present an unreasonable risk of injury to health or the environment before a final rule promulgated under section 6 can protect against such risk. The section 6(a) rule may, among other things, require that a chemical substance be marked with or accompanied by clear and adequate warnings and instructions with respect to its use, distribution in commerce, or disposal as prescribed by the Agency; the Agency may also restrict the processing and use of the chemical substance. Pursuant to section 5(f)(2), a rule thus proposed under section 6(a) is immediately effective upon its publication in the **Federal Register.**

Substances covered by a proposed section 6(a) rule immediately effective upon publication pursuant to section 5(f)(2) are subject to the export reporting requirements of TSCA section 12(b). EPA regulations interpreting section 12(b) requirements appear at 40 CFR Part 707. Substances covered by such a proposed rule are also subject to TSCA section 13 import certification requirements at 19 CFR 12.118 through 12.127, and 127.8 [amended] (48 FR 84734, August 1, 1983). EPA regulations discussing TSCA's import requirements appear at 40 CFR Part 707 (48 FR 55462 December 13, 1983).

## II. PMN Background

On July 29, 1983, a PMN was received by the Agency and subsequently designated as P–83–1005. The specific identity of the substance, generically identified as the triethanolamine salt of tricarboxylic acid, was claimed confidential. EPA announced receipt of this PMN in the **Federal Register** of August 12, 1983 (48 FR 36647). The original 90-day review period expired on October 26, 1983. EPA extended the review for an additional 90 days under the authority of section 5(c) of TSCA. The extended review period expires on January 24, 1984.

On August 22, 1983, EPA received a PMN from the same company which it designated P–83–1062. The specific identity of the substance, generically identified as tricarboxylic acid, was claimed confidential. EPA announced receipt of the PMN in the **Federal Register** of September 1, 1983 (48 FR 39689). The original 90-day review period was scheduled to expire on November 19, 1983. However, the submitter voluntarily suspended the review period. This review period will now expire on January 23, 1984.

Because the specific chemical identities of both these substances are confidential, each will be referred to by its generic name or PMN number in this preamble and the proposed rule.

In the PMN for P–83–1005, the notice submitter included test data on the substance which is summarized below.

| Test | Result |
|---|---|
| Acute oral—rat | $LD_{50}$ > 5,000 mg/kg. |
| Eye irritation—rabbit | Minimal irritant (Draize score of 6.7; possible score of 110). |
| Skin irritation—rabbit | Slight irritant (Draize score of 1.4; possible score of 8). |
| Skin sensitization—guinea pig | Not a sensitizer. |

In the PMN for P–83–1062, the following data were submitted on the substance:

| Test | Result |
|---|---|
| Acute oral—rat | $LD_{50}$ > 5,000 mg/kg. |
| Eye irritation—rabbit | Minimal irritant (Draize score of 21; possible score of 110). |
| Skin irritation—rabbit | Minimal irritant (Draize score 0.04; possible score of 8). |

For both PMN's, the company name and proposed production volume were also claimed as confidential business information. The notice submitter specified that P–83–1005 will be imported for use as a ferrous metal corrosion inhibitor in metalworking fluid concentrates or in hydraulic fluids. An estimated 50 percent of P–83–1005 will be used as a ferrous metal corrosion inhibitor in metalworking concentrates, with the remaining 50 percent to be used in hydraulic fluids. P–83–1062 will be imported for sale to processors for use as an intermediate in preparation of P–83–1005, which is made by reacting P–83–1062, water, and triethanolamine. The Agency believes that if P–83–1062 were commercially available as an intermediate, as intended by the PMN submitter, purchasing customers would likely add triethanolamine and water to yield the corrosion inhibitor, P–83–1005. Thus, the following reasons for proposing this section 6(a) rule apply to P–83–1062 as well as P–83–1005. P–83–1062 will be specifically referenced only when concerns which apply solely to tricarboxylic acid are under consideration.

## III. Reasons for Proposing the Rule

### *A. Introduction—Summary of Reasons for Proposing the Rule*

Metalworking fluids containing P–83–1005 generally would not require addition of nitrosating agents, such as nitrites, to perform effectively. Based on the use patterns of similar substances, however, EPA believes that such addition will occur in practice. The Agency has determined that nitrosating agents combined with P–83–1005 will nitrosate the triethanolamine to form N-nitrosodiethanolamine (NDELA), which has been shown to be carcinogenic in animals.

The Agency believes that occupational exposures to NDELA due to the use of metalworking fluids containing P–83–1005 together with nitrosating agents will subject workers to carcinogenic risks. NDELA is expected to be absorbed via all routes (lungs, gastrointestinal tract, and skin). The Agency has therefore concluded that the unrestricted processing, distribution in commerce, and use of P–83–1005 and P–83–1062 will present an unreasonable risk of injury to health

before a final rule could be promulgated under section 6 of TSCA to protect against the risk.

EPA also believes that processing and use restrictions, and appropriate warnings and instructions to notify processors and users of the risks of combining P–83–1005 with nitrosating agents will protect persons from any unreasonable risk resulting from exposure to NDELA. In the absence of nitrosating agents, NDELA is not expected to occur in metalworking fluids containing P–83–1005. Detailed technical information supporting the discussion which follows is contained in the Technical Support Document available in the record of this rulemaking.

*B. Formation of NDELA*

Like P–83–1005, nitrites, are corrosion inhibitors; they are frequently added to water-based metalworking fluids to extend the useful lifetimes of the fluids (Ref. 1) and to impart some specific corrosion inhibiting properties. The Agency has information that the addition of nitrites to metalworking fluids routinely occurs, both by formulators (processors) and users.

The formation of N-nitrosamines in commercial metalworking fluids is well established (Ref. 2). The addition of nitrite to an aqueous metalworking fluid generates direct nitrosating agents, such as nitrous acid (HONO) or dinitrogentrioxide ($N_2O_3$), which may directly transform (nitrosate) secondary, tertiary, and certain primary amines to N-nitrosamines (Ref. 3; Ref. 4). The Agency has concluded that under conditions of use in metalworking fluids, the triethanolamine (a tertiary amine) contained in P–83–1005 will be nitrosated by the nitrosating agents derived from nitrites to form NDELA. This conclusion is supported by the work of Linjinsky et al. (Ref. 5) demonstrating that triethanolamine, a tertiary amine, can be readily dealkylated and nitrosated to form NDELA.

If P–83–1005 is used without nitrites, as intended by the PMN submitter, there will be no risk of nitrosamine formation. However, EPA believes that some processors and users could economically use P–83–1005 as a co-corrosion inhibitor in metalworking fluids which contain nitrites. Likewise, EPA believes that metalworking fluid formulations containing P–83–1005 may subsequently have nitrites added to them because it is a common industry practice to add nitrites to existing metalworking fluids. EPA is not aware of any reason that these practices could not occur. EPA has been unable to determine the exact amounts of NDELA which will form. However, it is clear that, over time and during use, significant quantities of NDELA could be formed, limited only by the amounts of P–83–1005 and nitrites available. A substantial number of people involved in metalworking practices may be exposed to varying levels of NDELA for significant periods of time, thereby experiencing potentially increasing risks.

*C. Absorption of NDELA*

Edwards et al. (Ref. 6) demonstrated the absorption of NDELA through the skin of humans wearing an NDELA-contaminated facial cosmetic, by measuring NDELA in the urine of exposed humans. In addition, Bronaugh et al. (1979) showed that NDELA can penetrate isolated human epidermis *in vitro*. In a more recent quantitative study, Linjinsky et al. (Ref. 7) showed that at least 16 percent of the NDELA applied as a solution in metalworking fluid to rat skin was absorbed, since 16 percent of the applied dose was recovered in the urine of the treated animals after 24 hours. These authors also demonstrated that the absorption of undiluted or aqueous solutions of NDELA via the dermal and oral routes was approximately the same. There are no data regarding the absorption of NDELA following inhalation exposure. However, EPA believes it is reasonable to conclude that the absorption of NDELA by this route will be at least equivalent to that observed following the dermal administration of NDELA as a solution in metalworking fluids.

Based on these data, the Agency has also concluded that the NDELA formed in metalworking fluids containing P–83–1005 will be dermally absorbed through exposed human skin at a rate of at least 16 percent within 24 hours. The Agency has concluded that the NDELA to which workers may be exposed via the inhalation route (due to the volatilization, especially from steam distillation, of the substance from metalworking fluids or to the formation of mists of NDELA-containing fluids generated during metalworking operations) will also be absorbed via the lung and the gut to an extent of at least 16 percent over a 24-hour period.

*D. Adverse Health Effects of NDELA—Laboratory Data*

Laboratory data indicate that among the nitrosamines, NDELA is one of the most potent animal carcinogens. NDELA has been shown to elicit nasal carcinomas and tracheal papillary tumors when administered to hamsters by subcutaneous injection (Ref. 8). In addition, hepatocellular carcinomas appeared in rats following oral administration of NDELA (Ref. 9). A more recent and comprehensive study by Preussman et al. (Ref. 10) has confirmed the positive findings of Druckery et al. (Ref. 9). EPA has concluded that NDELA is an animal carcinogen and for regulatory purposes under TSCA should be presumed to be a human carcinogen.

*E. Use Practices*

Because of general concerns about the formation of N-nitrosamines during use of metalworking fluids, EPA has been studying metalworking industry practices for some time. EPA has concluded that processors of metalworking fluid concentrates (i.e., persons who formulate the concentrates) routinely add corrosion inhibitors, for example nitrites, to such concentrates to impart corrosion inhibiting properties to the fluid. Typically these corrosion inhibitors are added to concentrates in ranges of 1 to 10 percent. Such use of nitrites has a long history in metalworking and in the formulation of metalworking fluid concentrates.

In machine shops and other metalworking operations, nitrosating agents, including nitrites, are routinely available and used by the workers to impart corrosion inhibiting properties. EPA's analysis has shown that workers commonly add corrosion inhibitors, such as nitrites, to metalworking fluids during metalworking operations, particularly to restore the corrosion inhibiting properties of a fluid that has been used for some time. Historical use of nitrites in metalworking fluids has made the addition of nitrites during metalworking operations a common practice.

P–83–1005 is a corrosion inhibitor which offers advantages such as the following: good performance at very low concentrations, low foaming tendency, extremely low hard water sensitivity, high concentration of the active functional group per unit weight, neglible adverse effects on wear performance, and the apparent absence of any tendency towards film formation on metal surfaces. The PMN submitter states that the substance is intended to be used without nitrites and the lack of nitrites will not have any adverse effects on performance. However, P–83–1005 is chemically compatible with up to 10 percent nitrites. Metalworking fluid concentrates typically contain 1 to 10 percent corrosion inhibitors although at higher concentrations nitrites or other salts could impede some of the other positive properties of P–83–1005.

EPA believes that there are two possible scenarios where PMN P–83–

1005 could be used in the presence of nitrites.

First, the good performance provided by P–83–1005 could lead a formulator to replace an existing specialty corrosion inhibitor with P–83–1005 to improve performance. Thus P–83–1005 could be used in combination with a nitrite triethanolamine blend. The PMN submitter believes P–83–1005 does not require use of nitrites to provide the necessary corrosion inhibiting properties. However, the submitter has not tested such a formulation.

Secondly, P–83–1005 could come into contact with nitrites at the user sites. It is a common industry practice to add corrosion inhibitors to metalworking fluids to improve or maintain corrosion inhibition properties during use (Master 1983, Springborn 1983). Potassium or sodium nitrites may be among the corrosion inhibitors added in such a manner. EPA believes that this is an additional way that formulations containing P–83–1005 could come in contact with nitrosating agents.

Accordingly, processors and users could add nitrite to metalworking fluids containing P–83–1005 during formulation or during use in accordance with normal industry practices.

*F. Potential Worker Exposures*

EPA examined the possible exposures of workers to P–83–1005 contained in metalworking fluids and to NDELA in fluids containing P–83–1005 and nitrites. The Agency determined that potential dermal and respiratory exposure of machine shop workers to NDELA is significant.

1. *Exposure During Processing.* The PMN submitter has indicated that when P–83–1005 is used as an additive in the preparation of metalworking fluid concentrates, the concentration of P–83–1005 in the metalworking fluid concentrate will range from 0.5 percent to 0.75 percent. P–83–1005 will be processed into metalworking fluid concentrates at 30 industrial sites, with a maximum of 200 workers exposed for 1 or 2 hours per day for 20 to 200 days per year, as estimated by the PMN submitter. The manufactured or imported P–83–1005 will contain no nitrites and no NDELA and, thus, exposures to P–83–1005 alone are not of concern.

Typical metalworking fluid concentrates to which P–83–1005 might be added usually contain 1 to 10 percent of corrosion inhibitor. Since nitrites are commonly used for this purpose, it is probable that some metalworking fluid concentrates to which P–83–1005 would be added will also contain nitrites. In time, NDELA would be formed in these concentrates. However, processing workers who formulate and package metalworking fluid concentrates containing both nitrites and P–83–1005 are not expected to be exposed to NDELA because the concentrates are likely to be packaged immediately, before NDELA could form to any significant extent.

2. *Exposure during use.* Metalworking fluid concentrates containing P–83–1005 would primarily be used in machine shops. The major exposure to NDELA would occur during metalworking operations. Addition of nitrites to water-based metalworking fluids is a common practice in machine shops. Neither the Agency nor the PMN submitter knows of any inherent reason why nitrites could not be added to a fluid containing P–83–1005. The Agency has concluded that 25,000 workers could be exposed to metalworking fluids containing P–83–1005 and nitrosating agents, such as nitrites.

Workers' hands and arms are routinely exposed to metalworking fluids in machine shops. This exposure results from handling machine parts coated with the fluids during metalworking operations, contact with contaminated equipment, and maintenance and clean-up operations. Workers are not expected to avoid contact with the metalworking fluids because the fluids are non-irritating to the skin (aside from allergic dermatitis which may develop over prolonged periods of exposure), and the workers are generally not aware of the hazards associated with the fluids. In addition, gloves decrease the dexterity needed when handling machine parts and are, therefore, not worn. Thus the Agency believes that workers could be dermally exposed each workday to potentially significant levels of the carcinogenic NDELA formed in metalworking fluids containing P–83–1005 together with nitrosating agents.

Workers could also be exposed to NDELA generated in metalworking fluids via inhalation of mists generated during machining operations (Kipling 1977). Workers using metalworking fluids containing P–83–1005 and nitrosating agents could also be exposed to smaller amounts of NDELA from inhalation of NDELA vapors. The workers in machine shops do not routinely wear respirators that would protect against such exposure to NDELA.

*G. Human Carcinogenic Risk*

Because NDELA, a known carcinogen, will form if nitrosating agents are added to metalworking fluids containing P–83–1005, because workers in machine shops will be exposed to and absorb potentially significant amounts of NDELA in such metalworking fluids through dermal contact with the fluids and inhalation of fluid mists and NDELA vapors, and because NDELA is absorbed in significant amounts through the skin, lungs, and gastrointestinal tract, EPA has concluded that machine shop workers will experience a significant risk of cancer from using such metalworking fluids.

Similarly, if P–83–1062 is used to manufacture P–83–1005 by adding triethanolamine and water, the same risks result.

*H. Economic and Health Benefit Considerations*

1. *Substitutes for Nitrites and P–83–1005*

EPA believes that there are numerous potential substitutes for nitrites that could be used in metalworking fluids containing P–83–1005 without presenting any risk concern. These substitutes generally fall into the following groups:

a. Tall oil, fatty acids, alkanolamine reaction producers.

b. Borates and boron/nitrogen compounds.

c. Petroleum sulfonates.

d. Carboxylates.

In addition, EPA believes that substances in the groups listed above, as well as nitrites, could serve as substitutes for P–83–1005, if necessary.

Chemical substances within these groups are commercially available and in use currently in metalworking fluids. They could provide all the properties of nitrites and some, if not all, of the property advantages of P–83–1005. The prices of substitutes are generally competitive with the prices of nitrites. Since the PMN submitter considers price information about P–83–1005 confidential, EPA cannot discuss the relative pricing of P–83–1005 and its substitutes.

2. *Cost of Controls*

EPA is proposing that processors and users of metalworking fluids which contain P–83–1005 be prohibited from adding nitrosating agents, especially nitrites, to such fluids. EPA is also proposing that the manufacturer and distributors of P–83–1005, or any product containing P–83–1005, who distribute the substance in commerce in such a manner that it could be used in metalworking fluids notify customers through a letter of the requirements of the rule. EPA is also proposing that distributors of P–83–1005 label containers. In addition, EPA is proposing that any person distributing

P–83–1062, or any product containing P–83–1062, in commerce, in any manner in which it could be used to manufacture P–83–1005 for use in metalworking fluids, notify customers through a letter of the requirements of the rule.

EPA has concluded that there is little, if any, cost associated with prohibiting the addition of nitrosating agents to metalworking fluids containing P–83–1005. P–83–1005 itself is intended to be marketed as a corrosion inhibitor. If used alone in a metalworking fluid without the addition of nitrostating agents, P–83–1005 will provide the needed corrosion inhibition without any change in performance in most cases. If additional corrosion inhibitors are desired in the metalworking fluid, substitutes for nitrostating agents are readily available at a cost comparable to that for nitrites.

EPA has concluded that the present value of the cost of notifying customers through labels and/or letters in accordance with the rule will be $300 to $1,050 for distributors and between $230 and $600 per processor of the metalworking fluids over a 10-year life cycle for the two substances.

EPA does not believe that such letters and labels will make the substances or resulting products any less competitive than other corrosion inhibitors or metalworking fluids and may attract buyers interested in avoiding use of nitrites.

3. *Health Benefits*

EPA has established that, if P–83–1005 and nitrosating agents are combined in metalworking fluids, NDELA will form. EPA has also established that NDELA is a known animal carcinogen and presumed to be a human carcinogen. Both from the animal data and as a matter of Agency policy, the Agency has concluded that cancer could result from exposure to NDELA, however small.

EPA has established that, if machine shop workers use metalworking fluids containing P–83–1005 and nitrosating agents, they will be exposed to the resulting NDELA through dermal and inhalation routes. If exposed, workers will absorb NDELA into the body, where it could cause cancer.

EPA has not been able to quantify exactly the amount of NDELA that any individual worker will be exposed to, in large part because as a new chemical substance P–83–1005 has not been used in the United States for this purpose and there is no monitoring data. Consequently, EPA cannot quantify the specific risk of cancer to machine shop workers. However, it is clear that the machine shop workers will be exposed to some amount of NDELA if P–83–1005 is combined with nitrosating agents in metalworking fluids.

The controls proposed in this rule would minimize any risk to machine shop workers of cancer resulting from exposure to NDELA formed in metalworking fluids from P–83–1005. Needless to say, those benefits cannot be quantified, but they are significant.

4. *Economic Impacts*

EPA selected an approach for regulating the two substances which is the least burdensome method of providing the health benefits of minimizing, if not eliminating, the risk associated with use of P–83–1005 in combination with nitrites. Other alternatives available to EPA, such as a ban or exposure controls, may provide the same health benefits, but probably would keep the two substances from being introduced into the market. Taking no regulatory action would not provide these health benefits.

Introduction of P–83–1005 into the market as a corrosion inhibitor for metal-working fluids and P–83–1062 as an intermediate in the preparation of P–83–1005 may present benefits to the PMN submitter and society. The two substances may present property benefits over some existing products now on the market. EPA's selected approach is expected to provide almost all of the benefits of allowing the PMN substances on the market, though somewhat less than taking no regulatory action.

EPA realizes that there could be some adverse impact on the marketability of the two substances resulting from this rulemaking. EPA believes that most of this impact would result from the loss of market to those who would use P–83–1005 in combination with nitrites. EPA believes this form of loss of market would be slight and is a desirable outcome of this rulemaking. Some unintended loss in market may also result due to the existence of this regulation.

As discussed above, the cost of complying with the section 5(f)(2) rule is not expected to be significant. Most of the impact on the marketability of the two substances is not expected to result from these compliance costs.

Other methods of regulating the two substances, such as a ban or exposure controls, would impose significant costs on the PMN submitter and others. While taking no regulatory action would impose no costs, the health benefits of reduced risk would be lost.

*I. The Section 5(f) Finding*

Section 5(f)(1) of TSCA authorizes EPA to take action with respect to a new chemical substance which is the subject of a PMN. The Agency can take such action if it "has a reasonable basis to conclude" that the manufacture, processing, distribution in commerce, use, or disposal of the chemical substance, or any combination of such activities "presents or will present an unreasonable risk of injury to health or the environment before a rule promulgated under section 6 can protect against such risk." There are two components to this finding, as follows:

1. *Unreasonable Risk*

TSCA does not specifically define the term "unreasonable risk." However, the legislative history makes clear that a determination of whether a risk is unreasonable requires a balancing of the probability and severity of harm from the substance against the costs of the regulatory action to society. Congress recognized that the implementation of the unreasonable risk standard "will of necessity vary depending on the specific regulatory authority which the Administrator seeks to exercise." Legislative History of the Toxic Substances Control Act (1976) (Legislative History) at 422.

With respect to a new chemical substance that is the subject of a PMN, EPA will have less complete information and experience upon which to base a regulatory action than for a chemical substance which has been in commerce for some time. This is particularly true with respect to information on exposure and release which, because the substance is not yet in use, has not yet occurred. However, it is clear that Congress intended EPA to exercise authority under section 5(f) of TSCA for new substances which will pose unreasonable risks.

In this instance EPA has concluded that NDELA will form when P–83–1005 is used in the presence of nitrosating agents. Since P–83–1005 has not yet been distributed in commerce for use in metalworking fluids, EPA is unable to quantify exactly how much NDELA will form in such fluids. Different amounts of P–83–1005 may be used in different formulations of metalworking fluids, and different types of and amounts of nitrites or other nitrosating agents may be added to such fluids. Time and conditions of storage and use are also variables in determining the amount of NDELA that might be formed in a specific metalworking fluid.

EPA has a strong basis for concluding that NDELA poses a carcinogenic hazard and that if it gets on workers' skin, into their lungs, or into their gastrointestinal tracts, it will be

absorbed and, with chronic exposure, will very likely cause cancer.

The extent to which workers will be exposed to NDELA as a result of the introduction of P–83–1005 is unknown because P–83–1005 has not yet been distributed in commerce for use in metalworking fluids. However, EPA has based its exposure analysis on knowledge of the use of metalworking fluids of this type and the types and quantity of exposure which result.

In light of the potentially significant risk of cancer to workers using metalworking fluids containing P–83–1005 and nitrosating agents and the low cost of the regulatory controls chosen, EPA has concluded in accordance with section 5(f)(1) that processing, distribution in commerce, and use of P–83–1005 and P–83–1062 without the use restrictions and notification requirements will present an unreasonable risk of injury to human health.

As with any new chemical substance which has not actually been distributed and used, EPA's exposure analysis is based on general knowledge of exposure to similar substances in metalworking fluids. Thus, EPA's risk findings are, to a certain degree, speculative. However, EPA believes that even if exposure to NDELA in metalworking fluids containing P–83–1005 and nitrosating agents such as nitrites were low, such exposure would still lead to a risk to the health of machine shop workers which is unreasonable in light of the extremely low cost of eliminating that risk entirely.

2. *Need for Expedited Action*

Action under section 5(f) of TSCA also requires a finding that the unreasonable risk will occur before a rule promulgated under section 6 of TSCA can protect against the risk. Unless it is clear that, because of special circumstances, the exposures of concern will not occur for an interval during which EPA could conduct an ordinary section 6 rulemaking, EPA is authorized to determine that immediate control is necessary to protect against the risk.

In this instance, in accordance with section 5(f)(1), EPA has concluded that the risk of exposure to NDELA and the resulting risk of cancer in machine shop workers would begin as soon as these workers are exposed to metalworking fluids containing P–83–1005 and nitrosating agents such as nitrites. EPA has concluded that processors who formulate metalworking fluid concentrations are likely to add nitrites or other nitrosating agents to formulations containing P–83–1005 once distribution of P–83–1005 or P–83–1062 begins. In addition, based on routine workplace practices in metalworking operations, in particular in machine shops, EPA has concluded that, even if the formulated metalworking fluid concentrates containing P–83–1005 are not sold with nitrosating agents such as nitrites, workers are likely to add nitrosating agents to those fluids during use in the workplace. Thus, the risk of NDELA formation and exposure to workers will begin immediately.

A typical section 6 rulemaking could take at least a year, and probably more, to complete. Thus, unless section 5(f) authority is invoked, machine shop workers would be at risk from exposure for a considerable length of time.

Even though cancer results from chronic exposure, EPA believes it is appropriate to use the authority of section 5(f) to deal with such a risk. Congress intended that EPA pay special attention to risks of cancer and make every effort to insure such risks are not unreasonable.

## IV. Alternatives Considered

EPA considered other possible approaches to ensuring the protection of human health. The Agency chose not to take action under section 5(e) of TSCA because sufficient information is available on the carcinogenic hazards of NDELA without further testing. Sufficient information exists also to show that workers in machine shops are exposed to metalworking fluids. Section 5(e) orders are regulatory actions taken pending development of the necessary information. In this case, the Agency believes there is sufficient information to make a section 5(f) finding.

The Agency also considered issuing an immediately effective significant new use rule (SNUR) for these substances. However, the SNUR would not reach the end users where exposure occurs. Moreover, like section 5(e) actions, SNURs are more appropriate to situations where additional information is necessary for the Agency to assess risk. The necessary information is available to the Agency now for these substances.

A third alternative would be to promulgate a section 6(a) rule without using section 5(f)(2) authority to make the section 6(a) rule effective upon proposal. EPA chose not to proceed with such a section 6(a) rule because the Agency has determined that the two substances will present an unreasonable risk of injury to human health, and that action is necessary now to protect against this risk of injury before a section 6 rule can be promulgated. Action under section 5(f) will protect against this risk.

A fourth alternative would be to regulate the two substances as part of a larger, generic effort now under development to regulate addition of nitrites and other nitrosating agents to metalworking fluids containing amines. The Agency chose not to pursue this alternative because it is the policy of EPA that each new chemical substance be evaluated independently for the risk the substance may present to human health and the environment, though relative risk is explicitly considered, and not from the perspective of the incremental risk the new substance may present. The Agency has not chosen this alternative because the Agency has determined that sufficient information currently exists to lead to a reasoned determination that these two substances combined with nitrites will present an unreasonable risk of injury to human health before such a section 6 rule could protect against the risk.

A fifth alternative would be to rely on the submitter of P–83–1005 and P–83–1062 to label voluntarily or otherwise notify customers recommending against the use of P–83–1005 with nitrosating agents. However, such a label or notification would reach processors only, and there is no reason to believe that processors would label the resulting formulations or that users would not add nitrites during end use. Such an alternative is not enforceable and, in view of the risk of cancer to machine shop workers the Agency chose to take action under section 5(f).

A sixth option would be to issue just a Chemical Advisory to warn about the risks of nitrosamine formation associated with the addition of nitrites to amine-based metalworking fluids. The Agency has decided to issue a Chemical Advisory in addition to the proposed rule and expects to issue an advisory in the near future. Because a Chemical Advisory is informative it would not substitute for the affirmative requirements which would be imposed by the section 5(f) rule given the known health risks which the two new substances present.

## V. Regulatory Investigation of Metalworking Fluids

The Agency's action on these two new substances reflects its concern about the potential human health risk posed by exposure to nitrosamines in metalworking fluids in general. The Agency is conducting a regulatory investigation into any unreasonable risks to human health posed by synthetic and semi-synthetic metalworking fluids. This investigation may culminate in the promulgation of a

rule under section 6 of TSCA addressing nitrosamine-related health risks posed by existing metalworking fluids. Such a rule could render this proposed rule redundant or obsolete. If so, EPA may in the future incorporate this rule into the section 6 rule or revoke it entirely.

The primary basis for the Agency's concern arises from the formulation of many synthetic and semi-synthetic metalworking fluid concentrates. Many of these concentrates contain amines (primarily di- and triethanolamines) and nitrites, which function as corrosion inhibitors. The concentrates may contain up to 45 percent di- or triethanolamines, and up to 18 percent sodium nitrite. The potential for the formation of nitrosamines in metalworking fluids is therefore present, since triethanolamine has been shown to be readily nitrosated to form NDELA (Lijinsky 1972). Other nitrosamines may also be present in metalworking fluids. The Agency also believes that there is a practice in machine shops of intentionally adding nitrites to metalworking fluids to enhance their corrosion-inhibiting properties.

As part of its regulatory investigation, EPA is examining the extent of occupational exposure to nitrosamines from metalworking fluids from dermal contact, inhalation, and ingestion. EPA is also examining the availability and toxicity of nitrite substitutes, and economic impacts of alternative regulatory measures. Based on the evaluation of exposure levels in the workplace, and the existing animal studies, EPA expects to reach an assessment of the potential risk to humans from exposure to NDELA and other nitrosamines in metalworking fluids.

Section 6 of TSCA provides for a number of alternative controls for reducing human exposure to chemical substances which pose an unreasonable risk to health or the environment. Control alternatives under this section include totally or partially banning the manufacture, processing, or use of a substance; regulating a substance's concentration in products; imposing labeling requirements; or prohibiting or otherwise regulating any manner or method of commerical use of a substance. The regulatory options currently being considered by EPA include banning the use of nitrites in metalworking fluids. EPA is also considering requiring reformulation of metalworking fluids in order to limit the amount of NDELA and other nitrosamines which can be present. The reformulation options include: limiting the amount of nitrite which can be present in combination with alkanolamines; placing a ceiling on the permissible NDELA content of metalworking fluids; or requiring the use of non-nitrosatable amines in such fluids. In addition, EPA is examining the effectiveness of engineering controls and industrial hygiene measures in reducing exposure.

Other nations have regulated metalworking fluids. For example, the Product Safety Branch of the Consumer Standards Directorate, Canada, has limited the amount of nitrites which can be present in combination with ethanolamines in metalworking fluids. (Trade Communique, Cutting Oils and Fluids, Issue No. 2 Feb. 1979.)

The Agency solicits comments on any aspect of the regulatory investigation on metalworking fluids, including which, if any, of the above regulatory options would be most appropriate for reducing the risk posed by such fluids. EPA would also note that much of the information currently available to it pertains to machine shops and the types of metalworking fluids used there. Less is known about metalworking fluids used in other metalworking operations. EPA encourages the public, when responding to the inquiries below, to provide information pertinent to all metalworking operations which utilize metalworking fluids containing nitrite and amines.

Information is specifically solicited from the public in the following areas:

*A. Exposure*

EPA is interested in obtaining information on the likelihood and frequency of nitrite addition to synthetic and semi-synthetic metalworking fluids at machine shops. Information is also solicited on the identity, concentration, sources, and rate of formation of nitrosamines besides NDELA in metalworking fluids. In addition, EPA solicits information on common work practices in the metalworking industry, monitoring data, and measurements or estimates of dermal and inhalation exposure to nitrosamines and oil mist from different types of metalworking operations. EPA is also interested in the effectiveness of machine splash guards, shields, and hoods in preventing or reducing inhalation and dermal exposure. Information is also solicited on utilization and effectiveness of any controls, such as personal protective equipment, to reduce or prevent exposure, and on the effectiveness of barrier creams in preventing or reducing skin absorption of nitrosamines.

*B. Substitutes*

The Agency believes that substitutes for nitrites are generally available for use in metalworking fluids. EPA has identified several categories of chemicals which are used as ferrous metal corrosion inhibitors in metalworking fluids. These include:

1. Inorganic nitrite/triethanolamine blends.
2. Tall oil/alkanolamine reaction products (amine soaps and alkanolamides).
3. Borates and boron/nitrogen compounds.
4. Alkanolamines.
5. Petroleum sulfonates.
6. Carboxylates (petroleum oxidates, naphthenic acids).
7. Phosphate esters.

The Agency has been able to identify very few specific chemical substances within these categories currently used as substitutes for nitrites because of the proprietary nature of many of these products. EPA therefore solicits information on the identity, use, availability, and costs of specific chemical substances currently used as nitrite substitutes, and the toxicity of such substitutes. In addition, information is solicited comparing the effectiveness of various specific chemical substitutes as corrosion inhibitors, and comparative costs of such substitutes. The Agency also seeks information regarding any metalworking operations in which nitrite-containing fluids are essential because of the absence or ineffectiveness of substitutes.

*C. Economics and Benefits*

EPA is interested in cost estimates for the following regulatory options: banning the use of nitrites in metalworking fluids requiring reformulation by limiting the amount of nitrites which can be present in combination with alkanolamines in metalworking fluids, limiting the permissible NDELA content of such fluids, or requiring the use of non-nitrosatable amines. The Agency also solicits information on the benefits of nitrite-containing fluids, and of nitrite-free substitutes. Information is requested on the costs of time necessary to effect a switch in various types of metalworking facilities using nitrite-containing fluids to substitute metalworking fluids. EPA is also interested in estimates of the cost of labeling requirements, and in the effectiveness of labels in preventing cross-contamination of metalworking fluids.

## VI. Exemptions to the Rule

Persons who process, distribute in commerce, or use the two substances would not be subject to the restrictions of this proposed rule if:

1. The substances are manufactured, imported, processed, distributed in commerce, or used in small quantities solely for research and development.
2. The substances are manufactured, imported, processed, distributed in commerce, or used only as impurities.
3. The substances are imported, processed, distributed in commerce, or used only as part of an article.
4. The substances are manufactured solely for export. EPA has designated these exemptions because in these four situations the two substances are unlikely to present a risk.

## VII. Procedures for Informing Persons of the Existence of This Rule

The final rule will be published in the **Federal Register** and codified in the Code of Federal Regulations (CFR).

EPA intends to publish information concerning the final rule, as for this immediately effective proposed rule, in the TSCA Chemicals-in-Progress Bulletin, published by the TSCA Assistance Office of EPA's Office of Toxic Substances (OTS). EPA may also use the TSCA Chemical Substance Inventory to inform persons of the existence of the final rule through footnotes to the chemical identities of the chemical substances subject to the rule. The footnotes would refer to an Inventory Appendix which would give a **Federal Register** or CFR citation for the final rule.

Determining whether a chemical substance is subject to the rule is more difficult when the identity of the chemical substance is confidential. In this case, the chemical identities of the substances were claimed confidential in the PMNs. EPA is proposing to keep the specific identities of the substances confidential in the final rule. The substances would be referred to by generic chemical names and PMN numbers. On the printed versions of the Inventory, there would be a footnote indicating that chemical substances masked by the generic names are subject to the rule.

Any person proposing to manufacture or import a chemical substance within the generic names of P–83–1005 and P–83–1062 for the first time would ask EPA whether its chemcial substance is on the Inventory. To make such a request, the person would have to show EPA that the person has a *bona fide* intent to manufacture or import the substance in question. Under either 40 CFR 710.7(g)(2) of the Inventory Reporting Rules or 40 CFR 720.25(b)(2) of the Premanufacture Notification Rules, which were published in the **Federal Register** of May 13, 1983 (48 FR 21722), EPA would evaluate the inquiry and would answer the inquiry by either informing the requester that the substance is on the Inventory or informing the requester that sufficient information has not been furnished to show a *bona fide* intent to manufacture or import the substance in question. In the first case, EPA is proposing to tell the manufacturer or importer, as well, whether the substance is subject to this rule.

This procedure would allow manufacturers and importers to determine whether they are subject to the rule while protecting confidential business information from unnecessary disclosure.

The existing *bona fide* procedure can be used only by manufacturers and importers. EPA believes that, since manufacturers and importers who distribute the substances will be required to notify customers about the rule, processors, distributors, and users buying the substances will be aware, through the letters and labels, that the substances are subject to this rule and will not need to use a *bona fide* procedure.

Because EPA is not proposing a separate *bona fide* procedure for processors, distributors, and users to determine whether the substances they process, distribute, and use are subject to this rule, EPA is proposing to hold processors, distributors, and users liable for violations of the rule only if they are also manufacturers or importers or if they have received the letters and labels specified in the rule. Thus compliance by processors, distributors, and users will be dependent upon the notification and labeling requirements of the rule which will flow initially from manufacturers and importers.

## VIII. The Rule

### *A. Proposed Rule Language*

This proposed rule is structured as follows: The chemical substances are described in paragraph (a). Paragraph (b) contains applicable definitions. Paragraphs (c) and (d) contain processing and use prohibitions and warning and instructions requirements. Paragraph (e) sets forth the procedures for determining whether a substance is subject to the rule and discusses processor, distributor, and user liability. Paragraph (f) sets out activities that are exempt from the rule. Paragraph (g) describes enforcement provisions applicable to the rule.

EPA invites comments on all aspects of the proposed rule language.

### *B. Discussion of Provisions*

The proposed rule applies to both P–83–1005 and P–83–1062. EPA has decided to require that letters be sent to customers receiving P–83–1005 and that labels be used on metalworking fluids containing P–83–1005 because processors, distributors, and users are unlikely to become aware of the processing and use restrictions in this rule when they buy P–83–1005, or products containing P–83–1005, unless they receive adequate notice of the rule provisions. Absent such notice, EPA believes unintentional noncompliance with the processing and use restrictions would be widespread, and the rule would be difficult to enforce. EPA's sole concern with P–83–1062 is in its use to produce P–83–1005. Accordingly, EPA is proposing letters to buyers of P–83–1062 to make the buyers aware that this regulation applies when P–83–1062 is used to produce P–83–1005. EPA has chosen to regulate P–83–1062 in this manner because it may be distributed itself and used to make P–83–1005. However, buyers are likely to buy it under a trade name or generic name that will not reveal that combination with water and triethanolamine will produce P–83–1005. Therefore, buyers might make P–83–1005 without knowing it is subject to this rule. Accordingly, a letter will make them aware of this rule and its requirements.

EPA considered requiring labeling P–83–1005 when distributed in commerce in any form in which it could be used in a metalworking fluid, and labeling of P–83–1062 when distributed in commerce in any form in which it could be combined with water and triethanolamine to produce P–83–1005. However, the PMN submitter suggested an alternative that EPA concluded is superior to labeling.

For purposes of notifying distributors and processors of P–83–1005 before it is formulated into metalworking fluids, EPA is proposing that distributors (beginning with manufacturers and importers) send to each customer, and confirm receipt prior to the first shipment of the product containing P–83–1005, a notice letter alerting the customer to the rule and explaining its provisions. EPA concluded that this approach would be much more effective in achieving compliance with the rule than requiring labels on each container of the shipment because management at a formulator (processor) or distributor

would be responsible for the decision to formulate metalworking fluids or further distribute products. Workers likely to read a label would have no control over those operations.

On the other hand, in the machine shop use situation, EPA wants to ensure that both the management and the individual workers who may add nitrites to a metalworking fluid as part of a standard operating procedure are aware of the restrictions of the rule. Accordingly, EPA is proposing that distributors (including processors) send to the users' management, and confirm receipt prior to the first shipment of the product containing P–83–1005, a notice letter. The distributors must also label individual containers of metalworking fluids containing P–83–1005 to protect and inform users.

For P–83–1062, EPA is proposing only that distributors notify customers by letter of the rule provisions. Again, EPA believes that a letter to management would be more effective in achieving compliance with the rule than labels on containers of P–83–1062. In this instance management will have control over further reaction of P–83–1062 to produce P–83–1005.

Although the proposed rule requires that one notice letter be sent prior to the first shipment of the PMN substances, the Agency is investigating whether to require more frequent use of the letters. Additional letters could be required either upon the lapse of a specified period of time after the first shipment or with each shipment. The Agency solicits comments on these alternative approaches.

The PMN submitter indicated in the PMN that P–83–1005 can also be used in hydraulic fluids. In that use, addition of nitrites is unlikely, and EPA has no concerns for such use of P–83–1005. However, it is possible that P–83–1005 will be marketed in forms in which it could be used either in metalworking fluids or in hydraulic fluids. For this reason EPA is proposing that the processing restrictions and letter notification requirements apply when P–83–1005 is processed or distributed in commerce in any form in which it could become a component of a metalworking fluid regardless of whether that use is intended by the processor or distributor.

### *C. Immediately Effective Provisions*

All the provisions of the proposed rule, promulgated under the authority of section 6(a) of TSCA, are in effect as of this publication in the **Federal Register** and will remain in effect until EPA promulgates the final rule as provided by section 5(f) of TSCA.

## IX. Enforcement

It is unlawful for any person to fail or refuse to comply with any rule promulgated under section 6 of TSCA. Distribution in commerce of the chemical substances without letter notification and labeling, as required by the rule, is a violation of section 15. Processing and use of P–83–1005 in violation of the rule is a violation of section 15.

Section 15 of TSCA also makes it unlawful for any person to:

1. Use for commercial purposes a chemical substance or mixture which such persons knew or had reason to know was processed or distributed in commerce in violation of this rule.

2. Fail or refuse to permit entry or inspection as required by section 11 of TSCA.

3. Fail or refuse to permit access to or copying of records, as required by section 11 of TSCA.

Violations may be subject to both criminal and civil liability. Under the penalty provisions of section 16 of TSCA, any person who violates section 15 could be subject to a civil penalty of up to $25,000 for each violation. Each day of operation in violation could constitute a separate violation. Knowing or willful violations of the rule could lead to the imposition of criminal penalties of up to $25,000 for each day of violation and imprisonment for up to one year. Other remedies are available to EPA under sections 7 and 17 of TSCA such as seeking an injunction to restrain violations of the rule and seizing chemical substances processed or distributed in violation of the rule.

Individuals, as well as corporations, could be subject to enforcement actions. Sections 15 and 16 of TSCA apply to "any person" who violates various provisions of TSCA. EPA may, at its descretion, proceed against individuals as well as companies.

## X. Confidential Business Information

### *A. Public Comments*

Any person who submits comments claimed as confidential business information must mark the comments as "confidential," "trade secret," or other appropriate designation. Any comments not claimed as confidential at the time of submission will be placed in the public file. Any comments marked as confidential will be treated in accordance with the procedure in 40 CFR Part 2. EPA requests that any party submitting confidential comments prepare and submit a sanitized version of the comments which EPA can place in the public file.

### *B. Disclosure of Specific Chemical Identities*

The specific chemical identities of the two new chemical substances that are the subject of this proposed rule were claimed confidential in the PMNs. While EPA has authority under section 14(a)(4) of TSCA to disclose information relevant in a proceeding under TSCA notwithstanding its confidentiality, EPA has determined initially that disclosure of the specific identities of those two substances is not necessary to conduct this rulemaking proceeding or to comply with the rule.

The generic names which the PMN submitter has authorized EPA to use in this rulemaking reveal the relevant aspects of the molecules in question, in particular the triethanolamine component of P–83–1005. EPA believes that interested parties will thus have an adequate opportunity to comment on all aspects of the proposed rule.

## XI. Rulemaking Record

EPA has established a record for this rulemaking (docket control number OPTS–61008). The record includes the basic information considered by the agency in developing this proposed rule. EPA will supplement the record with additional information as it is received. The record now includes the following:

### *A. Categories of Information*

1. The PMNs for these substances.

2. The **Federal Register** notices of receipt of the PMNs.

3. The **Federal Register** notices of the extension of the review period.

4. The Economic Analysis of this proposed rule.

5. Technical Support Document (Risk Assessment).

6. OMB Comments on the Proposed Rule and EPA Response.

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23. Wagner. Metal-working fluids: health and toxic effects. Paper presented at the Society of Manufacturing Engineers Modern Metal-Working Fluids Clinic, Chicago, Illinois. 1981.

24. Wong KF. Initial Review Engineering Report for P83–1005. Document Control Number: 50–381–6022. 1983a.

25. Wong KF. Detailed Engineering Review for P83–1005. Document Control Number: 50–841–0226. 1983b.

A public version of this record from which confidential business information is deleted is available to the public from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays, in the OTS Public Information Office, Rm. E–107, 401 M St., SW., Washington, D.C.

EPA will identify the complete rulemaking record by the date of promulgation. The Agency will accept additional materials for inclusion in the record at any time between this notice and designation of the complete record. The final rule will also permit persons to point out any errors or omissions in the record.

## XII. The Section 5(f) Rulemaking Process

Under section 5(f)(2) of TSCA, after making the appropriate statutory findings discussed in Unit III, I of this preamble, EPA may issue a proposed rule under section 6(a). Such a proposed rule is effective upon publication in the **Federal Register.** The rulemaking procedures that would apply to an ordinary section 6(a) rule apply to a section 6(a) rule effective upon publication under section 5(f) except that section 5(f)(2) incorporates the provisions of section 6(d)(2)(B) of TSCA. EPA will thus follow its general section 6 rulemaking procedures in 40 CFR Part 750 subject to specific section 6(d)(2)(B) requirements.

Section 6(d)(2)(B) of TSCA provides that EPA must give interested persons prompt notice of the action, provide a reasonable opportunity for a hearing in accordance with section 6(c) (2) and (3), and either promulgate the rule as proposed, or with modifications, or revoke it. However, unlike an ordinary section 6(c) rulemaking in which EPA would schedule the hearing after allowing written comment, section 6(d)(2)(B) provides that, if a person requests a hearing, EPA must begin the hearing within five days of the request, unless EPA and the person making the request agree upon a later date. Section 6(d)(2)(B) further provides that EPA promulgate a final rule, or revoke the proposed rule, within 10 days of the conclusion of the hearing.

For this rulemaking, EPA has established the following schedule: To provide a reasonable opportunity for comment by all interested persons, EPA will accept written comments for 60 days from the date of publication of this **Federal Register** notice. A legislative hearing is scheduled to begin 14 days after the end of the 60-day comment period. The hearing will be held only if EPA receives a formal request from an interested person by the end of the 60-day comment period. If a hearing is requested, interested persons will be given an opportunity to present information. Fourteen days after the conclusion of the initial hearing, EPA will hold a cross-examination hearing, but only if an opportunity for cross-examination is requested by an interested person within 7 days of the time the full transcript of the initial hearing becomes available and EPA grants the request. Within 14 days of the close of the initial hearing, or within 14 days of the close of the cross-examination hearing if such a hearing is held, reply comments may be submitted.

After that 14-day period, the hearing is officially concluded, and EPA will promulgate the final rule or revoke it within 10 days.

EPA requests that all interested persons adhere to this schedule to allow all persons an adequate opportunity to comment and participate. However, if a person comes in at any time during the 60-day period and requests an immediate hearing, EPA is required to begin the hearing within 5 days of the request. If so, EPA will be forced to cut short the written comment period and proceed with the hearing. EPA will give as much notice as possible of any such hearing request and any change in the rulemaking schedule.

**XIII. Regulatory Assessment Requirements**

*A. Executive Order 12291*

Under Executive Order 12291, EPA must determine whether a regulation is "major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this proposed rule is not a "Major Rule" because it does not have an effect on the economy of $100 million or more, and will not have a significant effect on competition, costs, or prices. While there is no precise way to calculate the annual cost of this rule, EPA believes that the cost will be low.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

Any comments from OMB to EPA and any response to these comments are available for public inspection in the record for this immediately effective proposed rulemaking.

*B. Regulatory Flexibility Act*

Under the Regulatory Flexibility Act, 5 U.S.C. 605(b), EPA certifies that this proposed rule will not have a significant impact on a substantial number of small entities. Even though many machine shops may be small businesses, EPA has concluded that there is little, if any, cost associated with prohibiting the addition of nitrosating agents to metalworking fluids containing P–83–1005. EPA does not believe that the required letters and labels will make the substances or resulting products any less competitive than other corrosion inhibitors or metalworking fluids, and may attract buyers interested in avoiding nitrites. The cost of complying with the section 5(f) rule is not expected to be significant.

*C. Paperwork Reduction Act*

Under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, the information provisions of a proposed rule must be submitted to the Office of Management and Budget (OMB) for approval. The proposed section 5(f) rule requires no "collection of information" as that term is defined in the Paperwork Reduction Act. The rule requires distributors to transmit information supplied by the Agency to the recipients of the two substances via warning labels and letters. No new information need be generated by the distributors of the chemical substances, nor are reporting or recordkeeping requirements imposed under this rule. The proposed section 5(f) rule is therefore not reviewable under the Paperwork Reduction Act.

**List of Subjects in 40 CFR Part 747**

Chemicals, Environmental protection, Hazardous materials, Metalworking fluids.

Dated: January 19, 1984.

**William D. Ruckelshaus,**

*Administrator.*

Therefore, it is proposed that Chapter I of Title 40 is amended by adding Part 747 consisting at this time of § 747.200 to read as follows:

## PART 747—METALWORKING FLUIDS

### Subpart A—[Reserved]

### Subpart B—Specific Use Requirements for Certain Chemical Substances

**§ 747.200 Triethanolamine salt of tricarboxylic acid.**

This section identifies activities with respect to two chemical substances which are prohibited and requires that warnings and instructions accompany the substances when distributed in commerce.

(a) *Chemical substances subject to this section.* The following chemical substances, referred to by their premanufacture notice numbers and generic chemical names, are subject to this section: P–83–1005, triethanolamine salt of tricarboxylic acid; and P–83–1062, tricarboxylic acid.

(b) *Definitions.* Definitions in section 3 of the Act, 15 U.S.C. 2602, apply to this section unless otherwise specified in this paragraph. In addition, the following definitions apply:

(1) The terms "Act," "article," "byproducts," "chemical substance," "commerce," "imported," "impurity," "Inventory," "manufacture or import for commercial purposes," "manufacture solely for export," "manufacturer," "new chemical substance," "person," "process," "processor," and "small quantities solely for research and development" have the same meaning as in § 720.3 of this chapter.

(2) "Metalworking fluid" means a liquid of any viscosity or color containing intentionally added water used in metal machining operations for the purpose of cooling or lubricating.

(3) "Nitrosating agent" means any substance that has the potential to transfer a nitrosyl group (—NO) to a secondary or tertiary amine to form the corresponding nitrosamine.

(c) *Use limitations.*

(1) Any person producing a metalworking fluid, or a product which could be used in or as a metalworking fluid, which includes as one of its components P–83–1005 is prohibited from adding any nitrosating agent to the metalworking fluid or product.

(2) Any person using as metalworking fluid a product containing P–83–1005 is prohibited from adding any nitrosating agent to the product.

(d) *Warnings and instructions.*

(1) Any person who distributes in commerce P–83–1005 in a metalworking fluid, or in any form in which it could be used as a component of a metalworking fluid, must sent to each recipient of P–83–1005 and confirm receipt prior to the first shipment to that person:

(i) A letter that includes the following statements:

A substance, identified generically as triethanolamine salt, of tricarboxylic acid, contained in the product (*insert distributor's trade name or other identifier for product containing P–83–1005*) has been regulated by the Environmental Protection Agency, at 40 CFR 747.200, as published in the Federal Register of January 23, 1984. A copy of the regulation is enclosed. The regulation prohibits the addition of any nitrosating agent, including nitrites, to the triethanolamine salt of tricarboxylic acid, when the substance is or could be used in metalworking fluids. The addition of nitrites or other nitrosating agents to this substance leads to formation of a substance known to cause cancer in laboratory animals. The triethanolamine salt of the tricarboxylic acid, has been specifically designed to be used without nitrites. Consult the enclosed regulation for further information.

(ii) A copy of this rule.

(2) Any person who distributes in commerce a metalworking fluid containing P–83–1005 must affix to each container containing the fluid a label that includes, in letters no smaller than ten point type, the following statement:

WARNING! Do Not Add Nitrites to This Metalworking Fluid under Penalty of Federal Law. Addition of nitrite leads to formation of a substance known to cause cancer. This product is designed to be used without nitrites.

(3) Any person who distributes in commerce P–83–1062 in any form in which it could be combined with water

and triethanolamine to produce P-83-1005 must send to each recipient of P-83-1062, and confirm receipt prior to the first shipment to that person:

(i) A letter that includes the following statements:

A substance, identified generically as tricarboxylic acid, contained in the product (*insert distributor's trade name or other identifier for product containing P-83-1062*) has been regulated by the Environmental Protection Agency (40 CFR Part 747.200 published in the **Federal Register** of January 23, 1984. A copy of the regulation is enclosed. Combining tricarboxylic acid with water and the triethanolamine produces a substance, identified generically as the triethanolamine salt of the tricarboxylic acid. The regulation prohibits the addition of nitrosating agents, including nitrites, to the triethanolamine salt of tricarboxylic acid, when that substance is or could be used in metalworking fluids. The addition of nitrites or other nitrosating agents to that substance leads to formation of a substance known to cause cancer in laboratory animals. Consult the enclosed regulation for further information.

(ii) A copy of this rule.

(e) *Liability and determining whether a chemical substance is subject to this section.*

(1) If a manufacturer or importer of a chemical substance which is described by one of the generic names in paragraph (a) of this section makes an inquiry under § 710.7(g) of this Chapter or § 720.25(b) of this Chapter as to whether the specific substance is on the Inventory and EPA informs the manufacturer or importer that the substance is on the Inventory, EPA will also inform the manufacturer or importer whether the substance is subject to this section.

(2) Except for manufacturers and importers of P-83-1005 and P-83-1062, no processor, distributor, or user of P-83-1005 or P-83-1062 will be in violation of this section unless that person has received a letter specified in paragraph (d) (1) or (3) of this section or a container with the label specified in paragraph (d)(2) of this section.

(f) *Exemptions and exclusions.* The chemical substances identified in paragraph (a) of this section are not subject to the requirements of paragraphs (c) and (d), of this section if:

(1) The substance is manufactured, imported, processed, distributed in commerce, and used only in small quantities solely for research and development, and if the substance is manufactured, imported, processed, distributed in commerce, and used in accordance with section 5(h)(3) of the Act.

(2) The substance is manufactured, imported, processed, distributed in commerce, or used only as an impurity.

(3) The substance is imported, processed, distributed in commerce, or used only as part of an article.

(4) The substance is manufactured solely for export.

(g) *Enforcement.*

(1) Failure to comply with any provision of this section is a violation of section 15 of the Act [15 U.S.C. 2614].

(2) Failure or refusal to permit access to or copying of records, as required under section 11 of the Act, is a violation of a section 15 of the Act [15 U.S.C. 2614].

(3) Failure or refusal to permit entry or inspection, as required under section 11 of the Act, is a violation of section 15 of the Act [15 U.S.C. 2614].

(4) Violators may be subject to the civil and criminal penalties in section 16 of the Act [15 U.S.C 2615] for each violation.

(5) EPA may seek to enjoin the processing, distribution in commerce, or use of a chemical substance in violation of this section, act to seize any chemical substance, processed, distributed in commerce, or used in violation of this section or take other actions under the authority of section 7 or 17 of the Act [15 U.S.C. 2605 or 2616].

(Secs. 5 and 6, Pub. L. 94-469, 90 Stat. 2112 and 2020 (15 U.S.C. 2604f and 2605))

[FR Doc. 84-1881 Filed 1-20-84; 8:45 am]
BILLING CODE 6560-50-M

## GENERAL SERVICES ADMINISTRATION

### 41 CFR Part 101-29

**[FPMR Amdt. E-256]**

### Use of Metric System of Measurement in Federal Product Descriptions

**AGENCY:** Office of Acquisition Policy, GSA.

**ACTION:** Final rule.

**SUMMARY:** This final rule amends Part 101-29 to the Federal Property Management Regulations and implements Pub. L. 94-168 by requiring Federal agencies to eliminate barriers to procurement of metric goods and services and to work with state and local governments and the private sector to accomplish this objective. Thus, products produced in U.S. customary units and metric units will be placed on an equal competitive basis.

**EFFECTIVE DATE:** January 23, 1984.

**FOR FURTHER INFORMATION CONTACT:** Mr. Michael N. Zabych, GSA Metrication Coordinator, Office of Acquisition Management and Contract Clearance, Office of Acquisition Policy, (202) 566-0690.

**SUPPLEMENTARY INFORMATION:** The proposed rule was published in 48 FR 33024, July 20, 1983. The period of comment extended from July 20, 1983, to August 15, 1983. A total of 11 comments were received; 4 of which were from business and private trade associations, 4 from state agencies and 3 from Federal agencies. One commentor recommended that the last sentence of the first paragraph under Supplementary Information be changed to "Federal agencies will consider the acquisition and use of such products or services on an equal basis with U.S. customary units to the extent that such consideration is permitted by law and policy." Although supplementary information is not part of the proposed rule, and General Services Administration concurs in the recommended wording. Another commentor requested that paragraph (a) of the proposed rule be simplified to clearly delineate the Federal agency functions performed in accordance with U.S. metric policy. We concur in this comment and have changed the subparagraph accordingly. All other comments support issuance of the proposed rule.

On September 21, 1983, 28 Federal agencies of the Interagency Committee on Metric Policy unanimously approved the proposed rule.

A recent amendment to 41 CFR Part 101-29 was published in 48 FR 25196, June 6, 1983. The Amendment changed the title and paragraph numbers of Part 101-29; therefore, this amendment includes a change in paragraph numbering and title from the proposed rule.

#### Regulatory Impact

The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual affect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. Therefore, a Regulatory Impact Analysis has not been prepared. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of this rule; has determined that the potential benefits to society from this rule outweigh potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

**List of Subjects in 41 CFR Part 101–29**

Government property management.

## PART 101–29—FEDERAL PRODUCT DESCRIPTIONS

For the reasons set forth in the preamble, 41 CFR Part 101–29 is amended as follows:

(1) The authority citation for 41 CFR 101–29 reads as follows:

**Authority:** Sec 205(c), 63 Stat. 390; U.S.C. 486(c).

(2) The table of contents for Part 101–29 is amended by adding one entry as follows:

Sec.

101–29.102 Use of metric system of measurement in Federal product descriptions.

### Subpart 101–29—General

(3) Section 101–29.102 is added as follows:

**§ 101–29.102 Use of metric system of measurement in Federal product descriptions.**

In accordance with Pub. L. 94–168, 15 U.S.C. 205b, the Administrator of General Services shall develop procedures and plan for the increasing use of metric products by requiring Federal agencies to:

(a) Maintain close liaison with other Federal agencies, State and local governments, and the private sector on metric matters, and

(b) Review, prepare, and revise Federal standardization documents to eliminate barriers to the procurement of metric goods and services. These actions will occur during the overage document review or when the agency is informed by the private sector that metric products can be produced in a specific Federal supply classification class.

Dated: December 30, 1983.

**Ray Kline,**

*Acting Administrator of General Services.*

[FR Doc. 84–1789 Filed 1–20–84; 8:45 am]

BILLING CODE 6820–61–M

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

### 43 CFR Public Land Order 6502

**[A–10898]**

### Arizona; Designation and Withdrawal of Mineral Estate

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Public Land Order.

**SUMMARY:** This order designates as unsuitable for noncoal mining and withdraws the federally owned mineral estate underlying 9,183.50 acres of land in and near the Town of Wickenburg, Arizona, from location and entry under the mining laws, but not from leasing under the mineral leasing laws. This withdrawal shall remain in effect for a period of 5 years.

**EFFECTIVE DATE:** January 23, 1984.

**FOR FURTHER INFORMATION CONTACT:** Mario L. Lopez, Arizona State Office, (602) 261–4774.

**SUPPLEMENTARY INFORMATION:** By virtue of the authority vested in the Secretary of the Interior by Section 601 of the Surface Mining Control and Reclamation Act of 1977, 91 Stat. 515; 30 U.S.C. 1281, it is ordered as follows:

1. Subject to valid existing rights, the minerals reserved to the United States in the following described patented lands are hereby designated as unsuitable for noncoal mining and withdrawn from appropriation under the mining laws, 30 U.S.C. Ch. 2, but not from leasing under the mineral leasing laws, to protect residential lands in and near the Town of Wickenburg, Arizona. The area consists of federally owned mineral interests where mining operations would have an adverse impact on lands used primarily for residential or related purposes. The purpose of the withdrawal is to prevent mining claim conflicts from occurring within a 5-year period during which the land owners may seek to acquire the mineral estate under authority of Sec. 209 of the Federal Land Policy and Management Act of 1976.

**Gila and Salt River Meridian**

T. 7 N., R. 4 W.,
Sec. 17, NE¼, E½NW¼, E½W½NW¼, S½SW¼NW¼NW¼, W½SW¼NW¼, E½SW¼, N½SE¼, W½SW¼SE¼, NE¼SW¼SE¼, W½SE¼SW¼SE¼, SE¼SE¼, and that portion of the N½SW¼NW¼NW¼ described as follows:

Beginning at the Southeast corner of said North half of the Southwest quarter of the Northwest quarter of the Northwest quarter; thence west parallel to the North line of the North half of the Southwest quarter of the Northwest quarter of the Northwest quarter, 330 feet; thence North parallel to the West line of the North half of the Southwest quarter of the Northwest quarter of the Northwest quarter, 264 feet; thence East parallel to the North line of the North half of the Southwest quarter of the Northwest quarter of the Northwest quarter, 330 feet; thence South parallel to the West line of the North half of the Southwest quarter of the Northwest quarter of the Northwest quarter, 264 feet to the Point of Beginning;
Sec. 20, E½SE¼.
T. 7 N., R. 5 W.,
Sec. 3;
Sec. 4, E½NE¼, NE¼SE¼;
Sec. 8, N½, N½SW¼, NW¼SE¼;
Sec. 9, NE¼, E½NW¼, NW¼NW¼, NE¼SE¼;
Sec. 10;
Sec. 11, NW¼NE¼, W½;
Sec. 17.
T. 8 N., R. 5 W.,
Sec. 17, W½E½, W½
Sec. 18;
Sec. 19;
Sec. 20, W½, S½NW¼SE¼, SW¼SE¼, S½SE¼SE¼;
Sec. 21, S½S½SW¼;
Sec. 27, NW¼SW¼;
Sec. 28, SW¼NE¼NE¼, W½NE¼, SE¼NE¼, W½, SE¼;
Sec. 29;
Sec. 30, Lots 1, 2, 3, NE¼, E½NW¼, NE¼SW¼, N½SE¼, and SE¼SE¼ lying east of the Atchison, Topeka and Santa Fe Railroad right-of-way;
Secs. 33 and 34;
Sec. 35, W½SW¼, SE¼SW¼.

The areas described aggregate 9,183.50 acres in Maricopa and Yavapai Counties.

2. The withdrawal made by this order does not govern the disposal of mineral resources other than under the mining laws.

3. This withdrawal and the unsuitability designation made in paragraph 1 of this order shall remain in effect for only a 5-year period from the effective date of this order.

Inquiries concerning the public lands should be addressed to the Arizona State Director, Bureau of Land Management, U.S. Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073.

**Garrey E. Carruthers,**

*Assistant Secretary of the Interior.*

January 14, 1984.

[FR Doc. 84–1791 Filed 1–20–84; 8:45 am]

BILLING CODE 4310–84–M

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

**[MM Docket No. 83–364; RM–4291]**

### TV Broadcast Station in Bloomington, Indiana; Changes Made in Table of Assignments

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** Action taken herein assigns UHF Channel 42 to Bloomington, Indiana, as its third commercial assignment, in response to a petition filed by William V. Johnson.

**EFFECTIVE DATE:** March 20, 1984.

**ADDRESS:** Federal Communications Commission, Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:** Kathy Scheuerle, Mass Media Bureau, (202) 634–6530.

**List of Subjects in 47 CFR Part 73**

Television broadcasting.

**Report and Order (Proceeding Terminated)**

In the Matter of Amendment of Section 73.606(b), Table of Assignments, TV Broadcast Stations. (Bloomington, Indiana). MM Docket No. 83–364 RM–4291.

Adopted: January 6, 1984.
Released: January 13, 1984.

By the Chief, Policy and Rules Division.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 48 FR 16914, published April 20, 1983, which invited comments on a proposal to assign UHF Television Channel 42 to Bloomington, Indiana, in response to a petition filed by William V. Johnson ("petitioner"). Petitioner filed comments in support of the *Notice* and reaffirmed his interest in applying for the channel, if assigned. No opposing comments were received.

2. We believe that petitioner adequately demonstrated the need for a third commercial television assignment to Bloomington, Indiana, and that the public interest would be served by assigning UHF Television Channel 42 to that community.

3. Accordingly, pursuant to the authority contained in §§ 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective March 20, 1984, the Television Table of Assignments, § 73.606(b) of the Rules, is amended, with respect to the community listed below:

| City | Channel No. |
|---|---|
| Bloomington, Indiana | 4, *30–, 42+ and 63+. |

4. It is further ordered, That this proceeding is terminated.

5. For further information contact Kathy Scheuerle, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

**Roderick K. Porter,**

*Chief, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 84-1814 Filed 1-20-84; 8:45 am]

BILLING CODE 6712-01-M

**47 CFR Part 73**

**[MM Docket No. 83–490; RM–4395]**

## TV Broadcast Stations in Fort Scott, Kansas, and Poplar Bluff, Missouri; Changes Made in Table of Assignments

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** Action taken here assigns UHF television Channel 26 to Fort Scott, Kansas, in response to a petition filed by K of K Communications, Inc. The assignment could provide a first television service to Fort Scott.

**EFFECTIVE DATE:** March 20, 1984.

**ADDRESS:** Federal Communications Commission, Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:** Montrose H. Tyree, Mass Media Bureau, (202) 634–6530.

**List of Subjects in 47 CFR Part 73**

Television broadcasting.

**Report and Order (Proceeding Terminated)**

In the Matter of Amendment of § 73.606(b), Table of assignments, TV Broadcast Stations (Fort Scott, Kansas, and Poplar Bluff, Missouri). MM Docket No. 83–490 RM–4395).

Adopted: January 6, 1984.
Released: January 13, 1984.

By the Chief, Policy and Rules Division.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 48 FR 27562, published June 16, 1983, in response to a petition filed by K of K Communications, Inc. ("petitioner"). The *Notice* proposed assigning UHF television Channel 26 to Fort Scott, Kansas, as its first television assignment. The petitioner filed comments reaffirming its intention to apply for the channel, if assigned.

2. In the *Notice*, we indicated that Channel 26 could be assigned to Fort Scott, if the carrier frequency offset of unused and unapplied for Channel *26 at Poplar Bluff, Missouri, is changed from negative to positive.

3. The Commission believes that the public interest would be served by assigning UHF television Channel 26 to Fort Scott, Kansas. The petitioner has adequately demonstrated the need for a first television assignment to that community. Channel 26 can be assigned to Fort Scott in compliance with the minimum distance separation requirements and other technical criteria.

4. Accordingly, pursuant to the authority contained in §§ 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective March 20, 1984, the Television Table of Assignments, § 73.606(b) is amended with respect to the following communities:

| City | Channel No. |
|---|---|
| Fort Scott, Kansas | 26–. |
| Poplar Bluff, Missouri | 15+, *26+. |

5. It is further ordered, That this proceeding is terminated.

6. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau (202) 634–6530.

Federal Communications Commission.

**Roderick K. Porter,**

*Chief, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 84-1819 Filed 1-20-84; 8:45 am]

BILLING CODE 6712-01-M

**47 CFR Part 73**

**[MM Docket No. 83–362; RM–4349]**

## TV Broadcast Station in Paducah, Kentucky; Changes Made in Table of Assignments

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** Action taken herein assigns UHF television Channel 49 to Paducah, Kentucky, in response to separate requests from William T. Conner and Johnny G. Box. The assignment could provide Paducah with its third commercial television broadcast service.

**EFFECTIVE DATE:** March 20, 1984.

**ADDRESS:** Federal Communications Commission, Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:** Nancy V. Joyner, Mass Media Bureau, (202) 634–6530.

**List of Subjects in 47 CFR Part 73**

Television broadcasting.

**Report and Order (Proceeding Terminated)**

In the Matter of Amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations (Paducah, Kentucky): MM Docket No. 83–362, RM–4349.

Adopted: January 6, 1984.
Released: January 13, 1984.

By the Chief, Policy and Rules Division.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 48 FR 16920, published April 20, 1983,

issued in response to a request filed by William T. Conner ("petitioner"), proposing the assignment of UHF television Channel 49 to Paducah, Kentucky, as that community's third commercial television broadcast service. Additionally, a separate petition was filed by Johnny G. Box ("Box"), requesting the same channel assignment to Paducah. We have treated that petition as comments in support. Both parties have indicated their intent to apply for the channel, if assigned. No oppositions to the proposal were received.

2. Paducah (population 29,315),[1] the seat of McCracken County (population 61,310), is located in western Kentucky, approximately 285 kilometers (178 miles) southwest of Louisville. Presently, Paducah is served by commercial television Stations WSPD (TV) (Channel 6) and WKPD (TV) (Channel 29).

3. In the *Notice* herein, we proposed the assignment of UHF television Channel 49 to Paducah with a "plus" offset. However, a staff engineering study since reveals that a "zero" offset would provide a more efficient means of utilizing the spectrum capabilities for future assignments. Accordingly, it will be changed herein to reflect that finding. As indicated in the *Notice*, Channel 49 can be assigned to Paducah, Kentucky, in conformity with the minimum distance separation requirements of §§ 73.610 and 73.698 of the Commission's Rules.

4. In view of the above, we believe the public interest would be served by assigning UHF television Channel 49 to Paducah, since it could provide a third commercial television broadcast service to that community.

5. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective March 20, 1984, the Television Table of Assignments, § 73.606(b) of the Commission's Rules, is amended as follows:

| City | Channel No. |
|---|---|
| Paducah, Ky | 6+, 29, and 49. |

6. It is further ordered, That this proceeding is terminated.

7. For further information concerning the above, contact Nancy V. Joyner, Mass Media Bureau, (202) 634–6530.

[1] Population figures were extracted from the 1980 U.S. Census.

Federal Communications Commission.

**Roderick K. Porter,**

*Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 84–1812 Filed 1–20–84; 8:45 am]

BILLING CODE 6712–01–M

## 47 CFR Part 73

**[MM Docket No. 83–241; RM–4296]**

## TV Broadcast Station, Tulsa, Oklahoma; Changes Made in Table of Assignment

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** Action taken herein assigns UHF TV Channel 53 to Tulsa, Oklahoma, in response to a petition filed by Harry C. Powell, Jr. The assignment could provide Tulsa with its ninth television service.

**EFFECTIVE DATE:** March 20, 1984.

**ADDRESS:** Federal Communications Commission, Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:** Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

**List of Subjects in 47 CFR Part 73**

Television broadcasting.

**Report and Order (Proceeding Terminated)**

In the Matter of Amendment of Sec. 73.606(b) Table of Assignments, TV Broadcast Stations (Tulsa, Oklahoma); MM Docket No. 83–241, RM–4296.

Adopted: January 6, 1984.

Released: January 13, 1984.

By the Chief, Policy and Rules Division.

**SUPPLEMENTARY INFORMATION:**

1. A *Notice of Proposed Rule Making* (48 FR 14696, Published April 5, 1983), was issued in response to a petition filed by Harry C. Powell, Jr. ("petitioner"), proposing the assignment of UHF television Channel 53 to Tulsa, Oklahoma, as its ninth assignment. Petitioner submitted comments in support of the proposal and reaffirmed his interest in applying for the channel, if assigned. Tulsa Family Television ("TFT"), applicant for a low power TV station on Channel 53 in Tulsa, filed comments opposing the assignment.

2. TFT states that another full service station is unnecessary since Tulsa is currently assigned eight full service channels and that such an assignment could preclude the use of a low power TV station on Channel 53.

3. The Commission has determined that low power TV is not a substitute for a full service station and that the issue of the impact of a ninth full service station on other existing Tulsa stations is best determined at the application stage, where the specific proposal can be analyzed. In fact, we can assign a full service television channel without regard to considering the possibility of a low power operation on that channel. Section 74.702 of the Commission's Rules. See *Rancho Palos Verdes, Cal.*, 48 FR 1492 (pub. Jan. 13, 1983); *recons. den.*, Mimeo No. 5238, released July 13, 1983.

4. We believe that the petitioner has adequately demonstrated the need for a ninth television assignment in Tulsa. Accordingly, we find that the public interest would be served by assigning UHF commercial Channel 53 to that community.

5. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective March 20, 1984, the Television Table of Assignments, § 73.606(b) of the Rules, is amended, with respect to the following community:

| City | Channel No. |
|---|---|
| Tulsa, Okla. | 2+, 6+ 8–, *11–, 23, *35–, 41+, 47, and 53. |

6. It is further ordered, That this proceeding is terminated.

7. For further information contact Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

**Roderick K. Porter,**

*Chief, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 84–1811 Filed 1–20–84; 8:45 am]

BILLING CODE 6712–01–M

## 47 CFR Part 73

**[MM Docket No. 83–414; RM–4297]**

## TV Broadcast Station in Lebanon, Tennessee; Changes Made in Table of Assignments

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** Action taken herein assigns UHF television Channel 66 to Lebanon, Tennessee, in response to a petition filed by Peggy Ann Rothchild. The assignment could provide Lebanon with its first television service.

**EFFECTIVE DATE:** March 20, 1984.

**ADDRESS:** Federal Communications Commission, Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:** Nancy V. Joyner, Mass Media Bureau, (202) 634–6530.

**List of Subjects in 47 CFR Part 73**

Television broadcasting.

**Report and Order (Proceeding Terminated)**

In the Matter of Amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations (Lebanon, Tennessee); MM Docket No. 83–414, RM–4297.

Adopted: January 6, 1984.
Released: January 13, 1984.

By the Chief, Policy and Rules Division.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 48 FR 20966, published May 10, 1983, issued in response to a petition filed by Peggy Ann Rothchild ("petitioner"), proposing the assigment of UHF television Channel 66 to Lebanon, Tennessee, as that community's first television service. Supporting comments were filed by petitioner reiterating her intention to apply for the channel, if assigned. Comments were also filed by William O. Barry ("Barry") and the Association of Maximum Service Telecasters, Inc. ("AMST").

2. Lebanon (population 11,872),[1] seat of Wilson County (population 56,064), is located approximately 42 kilometers (26 miles) east of Nashville, Tennessee.

3. In his comments, Barry proposed the additional assignment of UHF television Channel 33 to Lebanon. We have treated this request as a counterproposal to MM Docket No. 83–467, in which we have proposed the mutually-exclusive assignment of Channel 33 to McMinnville, Tennessee.

4. AMST notes that the proposed assignment of Channel 66 to Lebanon is short-spaced to the proposed assignment of Channel 59 to Bowling Green, Kentucky (MM Docket No. 83–420; RM–4340). However a site restriction of 5.4 miles south of Lebanon will correct the separation deficiency.

5. In view of the above, and having found no policy objections to the proposal, we believe the public interest would be served by assigning UHF television Channel 66 to Lebanon, Tennessee, since it could provide a first television service to the community. As noted above, the channel can be assigned with a site restriction to comply with the minimum mileage separation requirements of §§ 73.610 and 73.698 of the Commission's Rules.

[1] Population figures are extracted from the 1980 U.S. Census.

6. Accordingly, pursuant to the authority contained in §§ 4(i), 5(c)(1), 303 (g) and (r) and 307 (b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective March 20, 1984, the Television Table of Assignments, § 73.606(b) of the Commission's Rules, is amended with respect to the community listed below, as follows:

| City | Channel No. |
|---|---|
| Lebanon, Tennessee | 66— |

7. It is further ordered, That this proceeding is terminated.

8. For further information concerning the above, contact Nancy V. Joyner, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

**Roderick K. Porter,**

*Chief, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 84–1818 Filed 1–20–84; 8:45 am]

**BILLING CODE 6712–01–M**

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**47 CFR Part 73**

**[MM Docket No. 83–382; RM–4312]**

## TV Broadcast Station in El Paso, Texas; Changes Made in Table of Assignments

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** Action taken herein assigns UHF Channel 65 to El Paso, Texas, in response to a petition filed by Peggy Ann Rothchild.

**EFFECTIVE DATE:** March 20, 1984.

**ADDRESS:** Federal Communications Commission, Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:** Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

**List of Subjects in 47 CFR Part 73**

Television Broadcasting.

**Report and Order (Proceeding Terminated)**

In the Matter of Amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations (El Paso, Texas); MM Docket No. 83–382, RM–4312.

Adopted: January 6, 1984.
Released: January 13, 1984.

By the Chief, Policy and Rules Division.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 48 FR 18847, published April 26, 1983, which invited comments on a proposal to assign UHF Television Channel 65 to El Paso, Texas, in response to a petition filed by Peggy Ann Rothchild ("petitioner"). Petitioner submitted comments in support of the proposal and expressed an interest in applying for the channel, if assigned. No other comments were received.

2. We believe that the petitioner has adequately demonstrated the need for an eighth television assignment in El Paso and that the public interest would be served by assigning UHF Television Channel 65 to that community. The channel can be assigned in compliance with the minimum distance separation requirements of § 73.610 of the Commission's Rules.

3. Mexican concurrence has been received.

4. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective March 20, 1984, the Television Table of Assignments, § 73.606(b) of the Rules, is amended, with respect to the following community:

| City | Channel No. |
|---|---|
| El Paso, Tex. | 4, 7, 9, *13, 14, 26+, *38—, and 65. |

5. It is further ordered, That this proceeding is terminated.

6. For further information contact Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

**Roderick K. Porter,**

*Chief, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 84–1815 Filed 1–20–84; 8:45 am]

**BILLING CODE 6712–01–M**

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**47 CFR Part 73**

**[MM Docket No. 83–363; RM–4376]**

## TV Broadcast Station Lubbock, Texas; Changes Made in Table of Assignments

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** Action taken herein assigns UHF television Channel 16 to Lubbock, Texas, as that community's fifth commercial television service, in response to a petition filed by Kyle R. Wesley.

**EFFECTIVE DATE:** March 20, 1984.

**ADDRESS:** Federal Communications Commission, Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:** Nancy V. Joyner, Mass Media Bureau, (202) 634–6530.

**List of Subjects in 47 CFR Part 73**

Television broadcasting.

**Report and Order (Proceeding Terminated)**

In the Matter of Amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Lubbock, Texas), MM Docket No. 83–363 RM–4376.

Adopted: January 6, 1984.
Released: January 13, 1984.
By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the *Notice of Proposed Rule Making*, 48 FR 16915, published April 20, 1983, which proposed the assignment of UHF television Channel 16 to Lubbock, Texas, as that community's fifth commercial television service, in response to a petition filed by Kyle R. Wesley ("petitioner"). Supporting comments were filed by petitioner reiterating his intention to apply for the channel, if assigned. No oppositions to the proposal were received.

2. Lubbock (population 173,979),[1] the seat of Lubbock County (population 211,651), is located in the northwest portion of Texas, approximately 470 kilometers (290 miles) northwest of Dallas. Presently Lubbock is served by commercial Stations KCBD–TV (Channel 11), KLBK–TV (Channel 13), KAMC (TV) (Channel 28), and KJAA(TV) (Channel 34), as well as noncommercial educational Station KTXT–TV (Channel 5).

3. The Commission believes that the public interest would be served by assigning UHF television Channel 16 to Lubbock. An apparent need for the additional television service to the community has been shown, and the assignment can be made consistent with the minimum distance separation requirements of §§ 73.610 and 73.698 of the Commission's Rules.

4. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules , It Is Ordered, That effective March 20, 1984, the Television Table of Assignments, § 73.606(b) of the Commission's Rules, is amended with respect to the community listed below, as follows:

[1] Population figures were extracted from the 1980 U.S. Census.

| City | Channel No. |
|---|---|
| Lubbock, Texas | *5–, 11, 13–, 16+, 28, and 34–. |

5. It Is Further Ordered, That this proceeding is terminated.

6. For further information concerning the above, contact Nancy V. Joyner, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

**Roderick K. Porter,**

*Chief, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 84–1813 Filed 1–20–84; 8:45 am]

**BILLING CODE 6712–01–M**

**47 CFR Part 73**

**[MM Docket No. 83–404; RM–4335]**

**TV Broadcast Station in Roanoke, Virginia; Changes Made in Table of Assignments**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** Action taken herein assigns UHF TV Channel 60 to Roanoke, Virginia, as its sixth television assignment, in response to a petition filed by David Allen Crabtree.

**EFFECTIVE DATE:** March 20, 1984.

**ADDRESS:** Federal Communications Commission, Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:** Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

**List of Subjects in 47 CFR Part 73**

Television broadcasting.

**Report and Order (Proceeding Terminated)**

In the Matter of Amendment of § 76.606(b), Table of Assignments, TV Broadcast Stations. (Roanoke, Virginia), MM Docket No. 83–404 RM–4335.

Adopted: January 6, 1984.
Released: January 13, 1984.
By the Chief, Policy and Rules Division.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 48 FR 20958, published May 10, 1983, which invited comments on a proposal to assign UHF Television Channel 60 to Roanoke, Virginia, as its sixth television assignment, in response to a petition filed by David Allen Crabtree ("petitioner"). Petitioner filed comments in support of the *Notice* and expressed his interest in applying for the channel, if assigned. The Association of Maximum Service Telecasters, Inc. ("AMST") filed comments disputing the site restriction specified in the *Notice*.

2. As indicated in the *Notice*, a site restriction of 8.7 miles north of Roanoke is required to avoid short-spacing to Station WJTM–TV (Channel 45), Winston-Salem, North Carolina. However, the site restriction favored by AMST is 9.1 miles north. That restriction is based on city coordinates other than those in the National Atlas Index, which forms the basis of F.C.C. calculations. See § 73.208 of the Commission's Rules. Therefore, we reaffirm our previous finding of an 8.7 mile north site restriction.

3. We believe that the petitioner has demonstrated the need for a sixth television assignment to Roanoke, Virginia. Accordingly, we find the public interest would be served by assigning UHF Television Channel 60 to that community.

4. Thus, pursuant to the authority contained in §§ 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective March 20, 1984, the TV Table of Assignments, § 73.606(b) of the Rules, is amended, with respect to the following community:

| City | Channel No. |
|---|---|
| Roanoke, Virginia | 7–, 10, *15+, 27+, 38–, and 60. |

5. It Is Further Ordered, That this proceeding is terminated.

6. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

**Roderick K. Porter,**

*Chief, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 84–1816 Filed 1–20–84; 8:45 am]

**BILLING CODE 6712–01–M**

**47 CFR Part 73**

**[MM Docket No. 83–409; RM–4286]**

**TV Broadcast Station in Seattle, Washington; Changes Made in Table of Assignments**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** Action taken herein assigns UHF television Channel 45 to Seattle, Washington, as its seventh television allocation, in response to a request filed by William V. Johnson.

**EFFECTIVE DATE:** March 20, 1984.

**ADDRESS:** Federal Communications Commission, Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:** Nancy V. Joyner, Mass Media Bureau (202) 634–6530.

**SUPPLEMENTARY INFORMATION: .**

**List of Subjects in 47 CFR Part 73 affected**

Television broadcasting.

**Report and Order (Proceeding Terminated)**

In the matter of Amendment of Section 73.606(b), Table of Assignments, TV Broadcast Stations (Seattle, Washington). MM Docket No. 83–409, RM–4286.
Adopted: January 6, 1984.
Released: January 13, 1984.
By the Chief, Policy and Rules Division.

1. Before the Commission is the *Notice of Proposed Rule Making*, 48 FR 20959, published May 10, 1983, proposing the assignment of UHF television Channel 45 to Seattle, Washington, as that community's seventh television service, in response to a petition filed by William V. Johnson ("petitioner"). Petitioner filed supporting comments reiterating his intention to apply for the channel, if assigned. No oppositions to the proposal were received.

2. Seattle (population 493,846),[1] the seat of King County (population 1,269,749), is located on Puget Sound in northwest Washington. Currently, Seattle is served by commercial television Stations KOMO–TV (Channel 4); KING–TV (Channel 5); KIRO–TV (Channel 7); and Channel 22 (applied for), as well as by noncommercial educational Station KCTS–TV (Channel *9). Also, noncommercial educational Channel *62 is unoccupied and unapplied for at Seattle at the present time.

3. We believe that the public interest would be served by a grant of petitioner's request since it could provide a seventh television service to Seattle.

4. As indicated in the *Notice*, UHF television Channel 45 can be assigned to Seattle in conformity with the minimum distance separation requirements of Sections 73.610 and 73.698 of the Commission's Rules.

5. Canadian concurrence in the proposal was obtained.

6. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b), and 0.283 of the Commission's Rules, it is ordered, that effective March 20, 1984, the Television Table of Assignments, § 73.606(b) of the Commission's Rules, is amended as follows:

| City | Channel No. |
|---|---|
| Seattle, Washington | 4, 5+, 7, *9, 22+, 45+, and *62. |

7. It is further ordered, that this proceeding is terminated.

8. For further information concerning the above, contact Nancy V. Joyner, Mass Media Bureau (202) 634–6530.

Federal Communications Commission.

**Roderick K. Porter,**

*Chief, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 84–1817 Filed 1–20–84; 8:45 am]

**BILLING CODE 6712–01–M**

[1] Population figures were extracted from the 1980 U.S. Census.

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### 50 CFR Part 17

### Endangered and Threatened Wildlife and Plants; Final Rule to List 10 Foreign Mammals as Endangered Species, and Withdrawal of 1 Species

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** The Service hereby lists 10 species of foreign mammals as endangered pursuant to the Endangered Species Act of 1973, as amended. These species are the Singapore roundleaf horseshoe bat (*Hipposideros ridleyi*), Rodrigues Island flying fox fruit bat (*Pteropus rodricensis*), Bulmer's flying fox fruit bat (*Aproteles bulmeri*), bumblebee bat (*Craseonycteris thonglongyai*), buff-headed marmoset (*Callithrix flaviceps*), Preuss's red colobus monkey (*Colobus badius preusii*), Vancouver Island marmot (*Marmota vancouverensis*), African wild dog (*Lycaon pictus*), Pakistan sand cat (*Felis margarita scheffeli*), and giant panda (*Ailuropoda melanoleuca*). Two other species, the ghost bat and the Indus River dolphin, which were originally proposed for listing along with these, are not being listed at this time; the ghost bat is being withdrawn from further listing considerations, and the Indus River dolphin is being referred to the National Marine Fisheries Service the agency having proper jurisdiction over cetaceans. The 10 species classified as endangered are entirely foreign in distribution. Because they do not occur in the United States or in territories or areas administered by the U.S., no critical habitat has been determined for any of them. Threats that are believed causing their declines include habitat destruction, exploitation as a source of human food (mainly by local people), and restricted distributions and/or very specialized habitats. This rule will provide certain benefits to these species that might assist in assuring their survival; these benefits are discussed in the main body of the rule.

**DATES:** The effective date of this rule is February 22, 1984.

**ADDRESSES:** The complete file for this rule is available for inspection during normal business hours by appointment at the Washington Office of Endangered Species, 1000 North Glebe Road, Arlington, Virginia.

**FOR FURTHER INFORMATION CONTACT:** John L. Paradiso, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1975).

**SUPPLEMENTARY INFORMATION:**

**Background**

On March 1, 1983, the Service published a proposed rule in the **Federal Register** (48 FR 8514) to list 12 foreign mammals as endangered species pursuant to the Endangered Species Act of 1973. The present rule classifies the following 10 of these foreign mammals as endangered.

| Common name | Scientific name |
|---|---|
| Rodrigues flying fox fruit bat | *Pteropus rodricensis* (Dobson, 1878). |
| Bulmer's flying fox fruit bat | *Aproteles bulmerae* Menzies, 1977. |
| Singapore roundleaf horseshoe bat. | *Hipposideros ridleyi* (Robinson and Kloss, 1911). |
| Bumblebee bat | *Craseonycteris thonglongyai* (Hill, 1974). |
| Buff-headed marmoset | *Callithrix flaviceps* (Thomas, 1903). |
| Preuss's red colobus monkey | *Colobus badius preussi* (Matschie, 1900). |
| Vancouver Island marmot | *Marmota vancouverensis* Swarth, 1911. |
| African wild dog | *Lycaon pictus* (Temminck, 1820). |
| Pakistan sand cat | *Felis margarita scheffeli* (Hammer, 1974). |
| Giant panda | *Ailuropoda melanoleuca* (David, 1869). |

Twelve foreign species (including the 10 listed herein) were proposed for listing as endangered in the **Federal Register** of March 1, 1983 (48 FR 8514), at which time all interested parties were requested to submit factual reports or information which might contribute to the development of a final rule. The countries in which each of these mammals are resident, and all known experts on individual species, were also contacted and invited to comment.

**Summary of Comments and Recommendations**

Comments received as a result of the proposal may be summarized as follows:

The Smithsonian Institution, in a letter from Secretary S. Dillon Ripley dated June 10, 1983, supported the listing of the giant panda as endangered, but expressed fears that the listing might hamper scientific research on the animals. It gave as examples the Smithsonian's recent work on artificial insemination which required the importation of giant panda semen from the London Zoo on only a few days notice; export of urine for hormonal assay in England takes place frequently and routinely. The Service will work with the Smithsonian, and with other scientific organizations, regarding the issuance of open-ended permits for this species which would allow for such imports and exports routinely and without delay so that legitimate scientific research is not curtailed or handicapped in any way.

The Director, Animal Research and Conservation Center, Bronx Zoo, Bronx, New York, supported the proposal for the giant panda, and said that it was long overdue. He also supplied some valuable biological data that have been incorporated into the giant panda section of this rule.

Two representatives of the American Society of Mammalogists, in a letter dated June 29, 1983, expressed a general concern that species are being added to the endangered species list without sufficient information available to warrant their listing. They presented no objection, however, to the specific listing of any of the 12 species proposed. In addition, they applauded the efforts of the Service in its work to preserve the flora and fauna of the world, and offered the services of the Mammal Society's Committees, and other mammalogists in the Society, in helping to formulate guidelines to aid in the listing process. The Service appreciates the offer, and welcomes the opportunity to work closely with this organization in the future.

Two commenters in a letter of May 17, 1982, and another in a letter dated June 10, 1983, offered their full support for the proposal.

Nine countries responded to the Service's request for comments and data on their resident species. These responses were as follows:

*Burundi*—This country reported that of the 12 proposed species, only the African wild dog is present. It stated that only small numbers of this dog are left in the country, located primarily in the north. Burundi law prohibits hunting of these animals, but they are occasionally killed when they present a threat to livestock. The Burundi Government expressed no objections to the proposed listing.

*Togo*—In this country also, the wild dog is the only one of the 12 proposed species that is resident. Togo reported that this animal is known to exist in the northern part of the country, but that there are no firm statistics on the numbers. Since 1968, Togo has partially protected the wild dog by requiring a special license to hunt it.

*Mozambique*—No data are available on status, numbers, distribution, or population trends of the wild dog, but the country prohibits hunting of the species "presumably because it is considered an endangered species."

*Cameroon*—This Government reported that Preuss's red colobus monkey and the African wild dog are resident. With regard to the monkey, Cameroon informed the Service that it is found in the Southwest Province, especially in the Korup Reserve, where it benefits from complete protection. Elsewhere, it is given classification "B" and may be hunted by holders of licenses. Cameroon claims that the wild dog "exists in great numbers in the North Province," where it does not benefit from any protection outside the boundaries of parks and reserves. Cameroon felt that neither species appeared to be threatened with extinction in that country, but provided no data to support its contention.

*Congo*—Congo informed the Service that "the African wild dog *(Lycaon pictus)* is habitually destroyed by Congolese villagers. Therefore, few, if any remain, and most of these would live in the dense forests of the northern Congo."

*Uganda*—Uganda reported that "* * * for a long time (we) have been very much concerned about the imminent disappearance of the African wild dog *(Lycaon pictus)*. We are also extremely worried as to whether the Preuss's red colobus *(Colobus badius preussi)* still exists * * * (we) therefore convey our complete support for the action taken by the (U.S. Government)."

*Thailand*—This country reported that since 1981, the bumblebee bat (*Craseonycteris thonglongyai*) has been protected from hunting and trade. This country provided valuable status data on the species that are included in the appropriate section of this rule. Thailand felt that protection of this species is of the utmost importance.

*Australia*—The only proposed species that occurs in Australia is the ghost bat (*Macroderma gigas*). The Australian Government reported that the ghost bat cannot be considered in danger of extinction and felt that the proposal to list it was not warranted. It provided the following information to support this position.

"Four colonies of *Macroderma gigas* are known to occur in Queensland and (only) one has part of its habitat affected by limestone mining. The species is not considered endangered in Western Australia. Secure populations exist in remote, inaccessible sandstone country in the north west Kimberley; in the ranges of east Kimberley; in the limestone ranges of south west Kimberley, and in natural caves and abandoned mine shafts in the Pilbara Region. The species is cryptic; even so, it is regularly recorded in all these areas and populations are known from nature reserves and national parks in these regions."

"In the Northern Territory, colonies of *M. gigas* occur in Cutta Cutta Reserve, Katherine Gorge National Park and Kokadu National Park. The species is considered quite common throughout tropical Australia and many sites are known where the species is present in colonies of up to 450 individuals."

Because of the new date provided by the Australian Government, the Service does not now regard the ghost bat as either endangered or threatened, and therefore withdraws it from further listing consideration.

In its proposed rule of March 1, 1983, the Service also proposed listing the Indus River dolphin (*Platanista indi*) as endangered. This species, however, is a cetacean and therefore legally comes under the jurisdiction of the National Marine Fisheries Service. The Fish and Wildlife Service regrets this error in proposing the dolphin and has turned over all data pertaining to this species to the National Marine Fisheries Service. That agency will determine what administrative action, if any, is warranted for the dolphin.

**Descriptions of the Species**

A brief description of each of the species involved in this final rule, their distribution and problems, are as follows:

*Rodrigues flying fox fruit bat*—This bat occurs only on Rodrigues Island in the Indian Ocean, where less the 2 percent of its original habitat remains. A large area of mixed natural vegetation is essential for these bats so that fruits ripening at all times are available for food; such mixed vegetation has largely been destroyed. In addition, cyclones periodically kill many of the animals, and the human population hunts them for food. In 1955, the bats were thought

to exceed 1,000 but by 1965 less than half this number remained. In 1975, it was thought that no more than 80 survived and possibly only 60, but in May 1976, there were estimated to be 120–125 by direct count. The population is continuing to decline and the species may now be close to the lowest possible viable population size (I.U.C.N. Red Data Book, 1976).

*Bulmer's flying fox fruit bat*—This bat was first discovered among fossil remains dating back 9,000 to 12,000 years in central Papua New Guinea (Menzies, 1977). Shortly thereafter, one living specimen was taken in 1975 in the Hindenberg Ranges of far western Papua New Guinea. It had been killed by a native hunter in a large cave at an altitude of 2,300 meters. In November 1977, an intensive effort was made to locate this species, but a local hunter had already killed or driven away nearly the entire colony from the cave in which it was originally found (Hyndman and Menzies, 1980).

*Bumblebee bat*—This bat has been found only at Sai Yoke, Kanchanaburi Province, Western Thailand. Roosting habitat consists of the hot upper chambers of caves in limestone hills. Foraging habitat is teak-bamboo forest where the bats feed around the tops of the dominant plants. This teak-bamboo forest has been highly affected by deforestation and teak logging above the sustainable rate. Vast areas of potential habitat have been lost, and loss of this habitat is probably a significant threat (Bain and Humphrey, 1980). The Royal Forest Department of the Thailand Government (pers. comm., June 2, 1983) reports that during extensive surveys in 1982, these bats were found in only 3 caves, which contained 160 bats.

*Singapore roundleaf horseshoe bat*—This Malayan species has only been taken twice, once in Singapore in 1910, and the second time near Kuala Lumpur. It inhabits lowland peat forest which occurs in Malaya only in small, isolated patches. In recent years, this habitat has been heavily logged and has thus reduced the already limited range of the bat considerably. The Kuala Lumpur specimen was taken as recently as 1975; the total population was estimated to be less than 50 animals (I.U.C.N. Red Data Book, 1978; Medway, 1969; Gould, in press).

*Buff-headed marmoset*—The species currently survives in reduced and fragmented populations in the Espiritu-Santo Range and possibly in northern Rio de Janeiro and Minas Gerais, Brazil; it was formerly much more widely distributed in the mountainous regions of southeastern Brazil. It is threatened by widespread habitat disruption and destruction, and has already disappeared from much of its former range. "Any commercial exploitation would be disasterous." Numbers of animals are unknown, but the distribution is "very small" (I.U.C.N. Red Data Book, 1978, 1982).

*Preuss's red colobus*—The species occurs only in the lowland evergreen forest of Cameroon. Its habitat of mature forest with emergent trees renders it particularly susceptible to logging activities. This species is still hunted for food. The range is very restricted and the animal only survives in the Korup Reserve and perhaps in the Ejhagam Reserve. In this area, it is confined to a strip of forest approximately 60 km wide and 120 km long, along the Cameroon side of the Cameroon-Nigerian border. In historical times, it probably ranged from the Cross to the Sanaga Rivers in Cameroon and southeast Nigeria, but it is now extinct in Nigeria and its range greatly reduced in Cameroon. It is estimated that fewer than 8,000 animals survive. The greatest threat is logging activity which results in fragmentation of the forest canopy. It also falls an easy prey to the hunter and is commonly taken for food (I.U.C.N. Red Data Book, 1978; Wolfheim, 1974; Struhsaker, 1975).

*Vancouver Island marmot*—This marmot occurs only on Vancouver Island, British Columbia, where active colonies are known from only four general locations. The total population is between 100 and 150 animals, an obvious decline in numbers from past populations. This species lives in alpine and subalpine areas characterized by steep slopes, talus debris and open meadow. Steep slopes are preferred because avalanches clear them of snow in the spring which provides early foraging. Avalanches also inhibit tree growth, and thus allow for preferred plants to grow. Ski developments have eliminated some suitable areas, and proposed developments will remove more. Logging may also have an adverse effect on habitat. Because of the restricted habitat for this species, any further reduction must be viewed with alarm (Dearden and Hall, 1983; Munro, 1979).

*African wild dog*—This species has been, and continues to be, widely persecuted as a hated predator. It formerly occurred in most of Africa south of the Sahara, but has been wiped out in South Africa (except in the vicinity of Kruger National Park), and has declined greatly in most other areas. Malcolm (1980) estimates that fewer than 7,000 individuals still survive in all of Africa.

*Pakistan sand cat*—This cat is confined to the Changai area of northern Pakistani Baluchistan. It apparently has always been rare, but declined drastically between 1968 and 1972 when it was relentlessly exploited for the live animal trade and for its pelt. Since that time, it has been extremely difficult to find in the wild. Although it is now protected from export in Pakistan, and is on Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, any sort of trade in the species could prove fatal. Even given strict trade control, the small range of the animal and its rarity within that range make it highly vulnerable, particularly since there are no reserves or known breeding groups in captivity (I.U.C.N. Red Data Book, 1978).

*Giant panda*—The giant panda now occurs in only 6 small mountain ranges totalling 29,500 km² (Schaller, pers. comm., July 22, 1983). Within this range it is limited to narrow bamboo belts and fragmented into small isolated populations. Formerly it was widely distributed over southern and eastern China, but massive habitat disruption eliminated the species from all but the most remote areas at a very early date in Chinese history. According to the New China News Agency (1980), recent threats to the continued survival of the species include the sudden dying out of arrow bamboo (the panda's main food) in recent years, and vulnerability of the pandas to earthquakes (138 died in earthquakes in 1975 and 1976). Arrow bamboo flowers but once in every 60 to 100 years after which it dies. Some years are required after the die-off for the seeds to take root and to produce plants which are sufficient to support the panda populations. Records indicate that a similar dying of the arrow bamboo occurred in the 1870's and 1880's but that pandas then could range more widely to find food than they can today, and hence were able to survive. The current concern is that the populations of pandas may have fallen to such a low numerical level, and be so fragmented in distribution, that the natural die-off of the bamboo may prove fatal to the survival of the panda. It is estimated today that, in all of China, about 1,000 pandas survive. There are 12 reserves containing pandas. About 600 of the 1,000 or so pandas are on reserves. Since pandas reproduce slowly and their habitat continues to shrink, there is little chance that their populations will increase in the near future (Schaller, pers. comm., July 22, 1983).

**Summary of Factors Affecting the Species**

After a thorough review and consideration of all information available, the Service has determined that the above 10 foreign mammals should be classified as endangered species. Procedures found at Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424; under revision to accommodate the 1982 amendments) were followed. A species may be determined to be an endangered or a threatened species due to one or more of the five factors described in Section 4(a)(1). These factors are as follows:

(a) the present or threatened destruction, modification, or curtailment of its habitat or range;

(b) overutilization for commercial, recreational, scientific, or educational purposes;

(c) disease or predation;

(d) the inadequacy of existing regulatory mechanisms; or

(e) other natural or manmade factors affecting its continued existence.

The relationship of the 10 species herein classified as endangered to the specific factors above are as follows:

*Rodrigues flying fox fruit bat*—(A) The habitat is restricted to the tiny island of Rodrigues in the Indian Ocean, and less than 2 percent of the original habitat of the bat remains on this island; (B), (C) not applicable; (D) there are no regulatory mechanisms known to the Service which operate to the benefit of this species; (E) the bat is widely hunted by the native islanders for food purposes; only 400 animals are known to survive.

*Bulmer's flying fox fruit bat;*—(A), (B), (C), (D) not applicable; (E) fruit bats are esteemed as food in the area of Papua New Guinea where this bat occurs, and it is probable that hunting it for food has wiped out this species except in the remotest and most sparcely inhabited areas in the western part of the island.

*Bumblebee bat*—(A) The teak-bamboo forests inhabited by this bat have been heavily logged, and vast areas of potential habitat have been destroyed; less than 160 bats are known to survive; (B), (C), (D), (E) not applicable.

*Singapore roundleaf horseshoe bat*—(A) The very limited, patchy habitat has been heavily timbered in recent years to the extreme detriment of the bat; (B), (C), (D), (E) not applicable.

*Buff-headed marmoset*—(A) Habitat destruction has been very widespread over the restricted range of this animal; (B), (C) not applicable; (D) before the enactment of protective laws, this marmoset, along with numerous other primate species, was exploited for the bio-medical and pet trade which resulted in reduced biological potential for the species' survival; (E) not applicable.

*Preuss's red colobus*—(A) Logging activities within its very restricted range have reduced available habitat drastically; (B), (C), (D) not applicable; (E) the species is widely hunted for food by native peoples.

*Vancouver island marmot*—(A) Ski and other recreational developments have destroyed, and will continue to destroy, essential habitat; logging is also destroying habitat; (B), (C), (D) and (E) not applicable.

*African wild dog*—(A), (B), (C) not applicable; (D) there are no existing regulatory mechanisms to protect it, except in the wildlife parks and reserves; (E) this species is widely regarded as an unwanted predator and is trapped, poisoned, or otherwise killed throughout its range.

*Pakistan sand cat*—(A) not applicable; (B) this cat was heavily exploited by commercial animal dealers from 1967 to 1972 for the pet trade (although this trade has now been controlled, the cat has apparently not been able to recover from the overexploitation); (C), (D), (E) not applicable.

*Giant panda*—(A) Habitat disruption over the centuries has reduced this species' range to only 29,500 sq. $Km^2$ in 6 small mountain ranges; (B), (C), (D) not applicable; (E) the species is, because of its now restricted range, highly vulnerable to such natural calamities as die-off of its preferred food (arrow bamboo), and earthquakes.

**Critical Habitat**

The Endangered Species Act, as amended, requires that to the maximum extent prudent and determinable the Secretary should designate critical habitat at the time a species is determined to be endangered or threatened. This requirement of the Act is not applicable to foreign species, however, and no critical habitat is being determined for the 10 mammals under consideration.

**Available Conservation Measures**

Conservation measures available to foreign species listed as endangered or threatened include the following:

(1) worldwide attention is called to their problems which may result in international efforts to prevent their further decline.

(2) U.S. expertise could be made available (if requested by resident country) to assist in development of management or conservation programs.

(3) limited U.S. funds could be made available (if requested by resident country) for development of management or conservation programs.

(4) the U.S. would strictly regulate import and export, and commercial U.S. trade in these species, thus assuring that any of these activities by persons subject to the jurisdiction of the U.S. do not jeopardize these mammals.

The Act and its implementing regulations found at 50 CFR 17.21 set forth a series of general trade prohibitions and exceptions which apply to all endangered wildlife. With respect to the mammal species listed herein, all trade prohibitions of Section 9(a)(2) of the Act would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale these species in interstate or foreign commerce. It would also be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that was illegally taken. Certain exceptions can apply to agents of the Service.

The Act and 50 CFR Parts 17.22 and 17.23 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. Such permits are available for scientific purposes or to enhance the propagation or survival of the species. Some of the species herein listed as endangered, such as the giant panda, are being intensively investigated by the scientific community for conservation purposes. The Service does not anticipate that this final rule will hinder or interfere with such legitimate conservation activities.

The buff-headed marmoset is on Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Species listed on Appendix I require an export permit from the country of origin as well as an import permit from the Management Authority of CITES in the United States. Preuss's red colobus and the Pakistan sand cat are on Appendix II of CITES, which requires a permit from the country of origin for export. With the possible exception of the giant panda, international trade in any of these 10 mammals, or their parts and products, is expected to be minimal. The Service will review these species to determine whether any of them should be placed on the Annex of the Convention on Nature Protection and Wildlife

Preservation in the Western Hemisphere, which is implemented through Section 8(A)(e) of the Act, and whether they should be considered as candidates for other appropriate agreements.

Requests for copies of the regulations on wildlife, and inquiries regarding them, may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1903).

### National Environmental Policy Act

The Fish and Wildlife Service has determined that Environmental Assessments, as defined by the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to Section 4(a) of the Endangered Species Act of 1973, as amended. The reasons for this determination were published in a **Federal Register** notice (48 FR 49244) of October 25, 1983.

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### Author

The primary author of this final rule is John L. Paradiso, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1975).

### List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture)

### Regulations promulgation

## PART 17—[AMENDED]

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the U.S. Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 17 reads as follows:

**Authority:** Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

### § 17.11 [Amended]

2. Amend 17.11(h) by adding the following in alphabetical order to the List of Endangered and Threatened Wildlife, under mammals:

| Species | | Historic range | Vertebrate population where endangered or threatened | Status | When listed | Critical habitat | Special rules |
|---|---|---|---|---|---|---|---|
| Common name | Scientific name | | | | | | |
| Mammals | | | | | | | |
| * | * | * | * | * | * | | |
| Bat, Bulmer's flying fox fruit. | *Aproteles bulmerae.* | Papua New Guinea | Entire | E | | NA | NA. |
| Bat, bumblebee | *Craseonycteris thonglongyai.* | Thailand | do | E | | NA | NA. |
| Bat, Rodrigues flying fox fruit. | *Pteropus rodricensis.* | Rodrigues Island, Indian Ocean. | do | E | | NA | NA. |
| Bat, Singapore roundleaf horseshoe. | *Hipposideros ridleyi.* | Malaysia | do | E | | NA | NA. |
| Cat, Pakistan sand. | *Felis margarita scheffeli.* | Pakistan | do | E | | NA | NA. |
| Colobus, Preuss's red. | *Colobus badius preussi.* | Cameroon | do | E | | NA | NA. |
| Dog, African wild | *Lycaon pictus* | Sub-Saharan Africa | do | E | | NA | NA. |
| Marmoset, buff-headed. | *Callithrix flaviceps.* | Brazil | do | E | | NA | NA. |
| Marmot, Vancouver Island. | *Marmota Vancouverensis.* | Canada (Vancouver Island). | do | E | | NA | NA. |
| Panda, gaint | *Ailuropoda melanoleuca.* | People's Republic of China. | do | E | | NA | NA. |
| * | * | * | * | * | * | | |

Dated: January 15, 1983.

**J. Craig Potter,**

*Acting Assistant Secretary for Fish and Wildlife and Parks.*

[FR. Doc. 84–1721 Filed 1–20–84; 8:45 am]

**BILLING CODE 4310–55–M**

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**50 CFR Part 17**

## Endangered and Threatened Wildlife and Plants; Final Rule to Determine Torreya taxifolia (Florida torreya) to be an Endangered Species

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.


**SUMMARY:** The Service determines *Torreya taxifolia* (Florida torreya) to be an endangered species pursuant to the Endangered Species Act. This plant is endemic to the Apalachicola River area in Florida and Georgia. It is endangered by a fungal disease, which kills trees before they reach seed-bearing size. This rule provides *Torreya taxifolia* with the protection of the Endangered Species Act of 1973, as amended. The Service will initiate efforts for this species.


**DATES:** The effective date of this rule is February 22, 1984.

**ADDRESSES:** The complete file for this rule is available for inspection, by

appointment, during business hours (7:45 a.m.–4:30 p.m.) at the Service's Endangered Species Field Office, 2747 Art Museum Drive, Jacksonville, Florida 32207.

**FOR FURTHER INFORMATION CONTACT:** Mr. David Wesley, Field Supervisor (904/791–2580) at the above address.

**SUPPLEMENTARY INFORMATION:**

**Background**

An evergreen tree reaching 18 meters tall, *Torreya taxifolia* (Florida torreya) was first discovered in 1835 and formally described in 1838 (Arnott, 1838). The Florida torreya and other endemics of the Apalachicola River system have received much attention from scientists and local residents. The relictual nature of this area accounts for the presence of many unique species (James, 1967). During recent glaciations, species migrated southward by way of the Apalachicola River system, which served as a refugium during cooling periods. The Apalachicola River is the only Deep River system that has its head waters in the southern Appalachian Mountains. With the receding of the glaciers, cool moist conditions persisted on the bluffs and ravines of the Apalachicola River after climatic change rendered the surrounding area much drier and warmer. The entire Apalachicola River bluff system today is an extremely diverse and unique ecosystem, of which *Torreya taxifolia* is a part.

*Torreya taxifolia* is a conifer, with whorled branches and stiff sharp-pointed, needle-like leaves. The trees are conical in overall shape. Dark green, fleshy seeds mature in the midsummer to fall. The leaves of the tree have a strongly pungent or resinous odor when crushed, thus one common name, "stinking cedar."

Section 12 of the Endangered Species Act of 1973 directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. On July 1, 1975, the Director published a notice in the **Federal Register** (40 FR 27823) of his acceptance of the report of the Smithsonian Institution as a petition within the context of Section 4(c)(2) of the Act, and of his intention thereby to review the status of the plant taxa named within. On June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523) to determine approximately 1,700 vascular plant species to be endangered species pursuant to Section 4 of the Act. This list of 1,700 plant taxa was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94–51 and the July 1, 1975, **Federal Register** publication. *Torreya taxifolia* was included in the July 1, 1975, notice of review and the June 16, 1976, proposal.

The Endangered Species Act Amendments of 1978 (Pub. L. 95–632, November 10, 1978) required that all proposals over 2 years old be withdrawn. A 1-year grace period was given to proposals already over 2 years old. On December 10, 1979, the Service published a notice withdrawing the portion of the June 16, 1976, proposal, that had not been subject to final action, along with 4 other proposals that had expired. A 1981 report submitted by the Georgia Plant Program, investigations carried out by Service botanists (Washington Office and Jacksonville Field Office) during the winter of 1981, and a contract completed during 1982 on *Torreya taxifolia* and *Taxus floridana* provided additional biological information. The Service reproposed this species as endangered on April 7, 1983 (48 FR 15168).

**Summary of Comments and Recommendations**

During the public comment period for the proposal to list *Torreya taxifolia*, eight public comments were received. The proposal was supported by Florida's Department of Natural Resources, Game and Fresh Water Fish Commission, and Department of Agriculture and Consumer Services. Georgia's Department of Natural Resources also supported the proposal. The Georgia Department of Agriculture stated that the listing of this species should create no problems in the State. The Jackson County, Florida, Board of County Commissioners supported the proposal. The resource manager for U.S. Army Corps of Engineers lands on which *Torreya taxifolia* occurs commented on the status of this species and made propagation recommendations. The Florida Natural Areas Inventory supported the proposal and provided information on threats to the species from habitat alteration. A plant ecologist made recovery recommendations for *Torreya taxifolia*, and a private individual commented on the historical decline of the species.

All eight comments concurred with the Service's proposed action. No public hearing was requested or held.

**Summary of Factors Affecting the Species**

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) states that the Secretary of the Interior shall determine whether any species is an endangered or a threatened species due to one or more of the five factors described in Section 4(a)(1) of the Act. These factors and their application to *Torreya taxifolia (Florida torreya)* are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range. Torreya taxifolia* occurs in the ravines along the eastern side of the Apalachicola River from Lake Seminole in Georgia to Bristol, Florida (Southeastern Wildlife Services, 1982). One population also occurs on the margin of Dog Pond (Florida) which lies to the west of the Apalachicola River.

The Georgia population contained 27 trees in 1981 and occurs entirely on public land administered by the U.S. Army Corps of Engineers (COE) on the margins of Lake Seminole (Butler, 1981). The construction of Lake Seminole has been reported to have resulted in the loss of habitat and possibly individuals of *Torreya taxifolia* (Milstead, 1978). The resource manager at Lake Seminole, however, feels that the impoundment level was below the elevation on the ravines where *Torreya taxifolia* occurs (Butler, 1981). The resource manager is sensitive to the need for proper management and protection of the species. Proper management and protection will need to continue and should not conflict with the present recreational use of the area.

The Florida populations occur on a State park, a city park, and privately-owned lands. Torreya State Park was established for the protection of *Torreya taxifolia* and the unique bluff habitats and other species associated with the area. A city park in Chattahoochee also provides some protected habitat for this species. The majority of the area occupied by *Torreya taxifolia* is in private ownership, however, where no protective status exists. Past habitat destruction has occurred due to housing developments (Baker and Smith, 1981). Another COE impoundment planned near Blountstown, Florida, is not expected to affect this species because the proposed high water mark is below the elevations at which *Torreya taxifolia* occurs. The steepness of the bluffs and ravines render them somewhat inappropriate for many types of agriculture, forestry, and housing. Damming the ravines for recreational impoundments, however, is a potential

threat to this species. Proper planning for the protection of this species will be necessary in relation to all COE projects and any other future Federal activities.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Not applicable to this species.

C. *Disease or predation.* The major threat facing *Torreya taxifolia* is disease. Since 1962, natural populations have been drastically reduced or eliminated due to a fungal disease (Godfrey, 1962). The fungal disease causes necrosis of the needles and stems and severe defoliation; however, treatment through the application of fungicides seems possible (Alfieri *et al.*, 1967).

All that remains of the species in nature are root sprouts, reaching less than 3 meters in height (Baker and Smith, 1981). Trees formerly reached heights of 18 meters. Cultivated, uninfected, specimens exist in various botanical gardens and can provide seeds and material for future recovery efforts. Through treatment of diseased individuals or breeding resistant strains, *Torreya taxifolia* can possibly be recovered. However, extensive research is needed to determine appropriate disease treatments and investigate the possibilities of breeding trees resistant to the disease.

D. *The inadequacy of existing regulatory mechanisms. Torreya taxifolia* is offered protection under Florida law, Chapter 65–426, Section 855.06, which includes prohibitions concerning taking, transport, and the selling of plants listed under that law. *Torreya taxifolia* is also included under Georgia's Wild Flower Preservation Act of 1973, which prohibits taking from public lands and intrastate transport and sale of certain rare plant species. The Endangered Species Act would offer additional protection for the species through the recovery plan process, the consultation process, and interstate/international trade prohibitions.

E. *Other natural or manmade factors affecting its continued existence.* The very limited range and small size of the populations of this species increase the possibility of loss of all or a significant portion of the species as a result of any accidental or natural catastrophe.

### Critical Habitat

The Act requires that critical habitat be designated at the time of listing, to the maximum extent prudent and determinable. The Service has determined that it would not be prudent to determine critical habitat for *Torreya taxifolia* at this time. Increased publicity of localities would increase the extreme vulnerability of this species illegal takings under Federal or State law. The Federal Act does not prohibit the taking of plants, except on areas like Lake Seminole which are under Federal jurisdiction.

In addition, critical habitat is not identifiable at this time. All mature viable trees are located in botanical gardens and arboreta. The wild trees do not now have good long-term survival prospects. The initial focus of recovery will be to address controlling the disease. After the disease has been overcome, recovery efforts would address reintroduction of the species into the wild, and critical habitat could be designated at that time, if it is found prudent to do so. Taking would be reevaluated as a threat at that time and benefits of critical habitat weighed against possible increased threats. Sites on which the species could receive protection and proper management, such as the Army Corps of Engineers land, the State and city park, and other areas will be considered. It is not curently possible to identify which areas would be selected and, therefore, critical habitat designations would be imprudent at this time.

### Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal and State agencies and private groups and individuals. The Endangered Species Act requires that recovery actions be carried out for all listed species and these are initiated by the Service following listing. The protection required by Federal agencies and taking prohibitions are discussed below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species. If a "may affect" determination is made, the Federal agency must enter into consultation with the Service.

The Act and implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general trade prohibitions and exceptions which apply to all endangered plant species. With respect to *Torreya taxifolia*, all trade prohibitions of Section 9(a)(2) of the Act, implemented by 50 CFR 17.61, will apply. These prohibitions, in part, will make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce.

Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. It is anticipated that few permits will ever be sought or issued since the species is not common commercially, in cultivation, or in the wild.

Section 9(a)(2)(B) of the Act, as amended in 1982, states that it is unlawful to remove and reduce to possession endangered plant species from areas under Federal jurisdiction. The new prohibition now applies to *Torreya taxifolia*, which occurs on land under Federal jurisdiction (U.S. Army Corps of Engineers) in Decatur County, Georgia. Permits for exceptions to this prohibition are available through Sections 10(a) and 4(d) of the Act, following the general approach of 50 CFR 17.62, until revised regulations are promulgated to incorporate the 1982 amendments to the Act. Proposed regulations implementing this new prohibition were published on July 8, 1983 (48 FR 31417), and will be finalized following the public comment period.

Requests for copies of the regulations on plants, and inquiries regarding them, may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1903).

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### Authors

The primary authors of this final rule are Ms. E. LaVerne Smith, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 and Dr. Michael M. Bentzien, U.S. Fish and Wildlife Service, 2747 Art Museum Drive, Jacksonville, Florida 32207.

### List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

### Regulation Promulgation

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the U.S. Code of Federal Regulations, is amended as set forth below:

## PART 17—[AMENDED]

1. The authority citation for Part 17 reads as follows:

**Authority:** Pub. L. 93–205, 87 Stat. 884; Pub. L 94–359, 90 Stat. 911; Pub. L. 95–632, 92–Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

### § 17.12 [Amended]

2. Amend § 17.12(h) by adding the following, in alphabetical order, to the list of Endangered and Threatened Plants:

| Species | | Historic range | Status | When listed | Critical habitat | Special rule |
|---|---|---|---|---|---|---|
| Scientific name | Common name | | | | | |
| • | • | • | • | • | • | |
| Taxaceae—Yew family: | | | | | | |
| *Torreya taxifolia* | Florida torreya | U.S.A. (FL, GA) | E | | na | na. |
| • | • | • | • | • | • | |

Dated: December 2, 1983.

**G. Ray Arnett,**

*Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 84–1722 Filed 1–20–84; 8:45 am]

BILLING CODE 4310–55–M

# Proposed Rules

Federal Register
Vol. 49, No. 15
Monday, January 23, 1984

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.

## FEDERAL DEPOSIT INSURANCE CORPORATION

## FEDERAL HOME LOAN BANK BOARD

### 12 CFR Parts 330, 561 and 564

[Resolution No. 84-15]

### Brokered Deposits, Limitations on Deposit Insurance

**AGENCY:** Federal Deposit Insurance Corporation and Federal Home Loan Bank Board.

**ACTION:** Proposed rulemaking.

**SUMMARY:** On November 1, 1983, the Federal Deposit Insurance Corporation ("FDIC") and the Federal Home Loan Bank Board ("Board") (as operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC") solicited public comments in the **Federal Register** on the issue of deposit brokerage relative to FDIC- and FSLIC-insured institutions. 48 FR 50339. That Advance Notice of Proposed Rulemaking ("Advance Notice") expressed the agencies' concern that the brokering of insured deposits is counterproductive to marketplace discipline in the depository institutions industry and requested comments on the overall practice of deposit brokerage as well as responses to nineteen specific questions on the topic. As the result of an analysis of the information received by the FDIC and the Board on the Advance Notice and other data on brokered deposits assimilated over the past several months, the agencies are proposing amendments to their respective regulations. If adopted, these amendments would limit the insurance coverage afforded to deposits placed by or through a broker with an insured bank or savings associations. The proposed regulations would define deposit brokerage to encompass current business arrangements that the agencies believe facilitate misuses of federal deposit insurance. If the proposed amendments are ultimately adopted as final regulations, the new insurance regulations would apply to deposits placed or renewed on or after October 1, 1984. The FDIC and the Board are interested in receiving comments on these proposed amendments.

**DATE:** Comments must be received by March 8, 1984.

**ADDRESSES:** Please direct comments to:

Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th street, NW., Washington, D.C. 20429. Comments may be delivered to Room 6108 on weekdays between 8:30 a.m. and 5:00 p.m. where they will be available for public inspection.

Director, Information Services Section, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552. Comments will be publicly available at this address.

**FOR FURTHER INFORMATION CONTACT:** Joseph A. DiNuzzo, Senior Attorney, Federal Deposit Insurance Corporation, Legal Division, (202) 389-4171, Room 4126B, 550 17th Street, NW. Washington, D.C. 20429 or Robert H. Ledig, Attorney, (202) 377-7057, or Chistopher P. Bolle, Law Clerk, (202) 377-6472, Federal Home Loan Bank Board, Office of General Counsel, 1700 G Street, NW., Washington, D.C. 20552.

**SUPPLEMENTARY INFORMATION:** On November 1, 1983, the FDIC and the Board issued an Advance Notice of Proposed Rulemaking soliciting comments on the brokering of deposits of FDIC- and FSLIC-insured institutions. (48 FR 50339, November 1, 1983). The Advance Notice outlined the major types of deposit brokerage, discussed the concerns shared by the FDIC and the Board about deposit brokerage and posed a multitude of questions encompassing the nature of those concerns and the possible means of dealing with them. In summary, the Advance Notice stated that: the most troubling aspect of deposit brokering is that of enabling virtually all institutions to attract large volumes of funds from outside their national market area irrespective of the institutions' managerial and financial characteristics; the ability to obtain *de facto* one-hundred percent insurance through the parcelling of funds eliminates the need for the depositor to analyze an institution's likelihood of continued financial viability; the availability of brokered funds to all institutions, irrespective of financial and managerial soundness, reduces market discipline; although deposit brokering can provide a helpful source of liquidity to institutions, ongoing brokering practices make it possible for poorly managed institutions to continue operating beyond the time at which natural market forces would otherwise have precipitated their failure; and this impediment to natural market forces results in increased costs to the FDIC and the FSLIC in the form of either greater insurance payments or higher assistance expenditures if the institutions are subsequently closed because of insolvency. The nineteen questions posed in the Advance Notice focused on whether the public and industry members perceived any significant problems with deposit brokerage and, if so, what steps the agencies should take to remedy those problems.

#### Comments Received by the FDIC

The FDIC received 168 comments on the Advance Notice. Eighty-two comments were from banks, thirty-one from savings and loan associations, twenty from brokers and other members of the financial services industry, sixteen from financial industry trade groups, five from state or municipal governmental entities, four from credit unions, eight from other individuals or entities and two from federal government agencies.

Forty-six (or fifty-six percent) of the comments from banks stated that deposit brokerage presents substantial enough problems to warrant additional regulatory or legislative initiatives by the FDIC and the Board. Three of these comments were from money-center banks and forty-three were from smaller institutions. The comments noted that deposit brokerage harms the depository institutions industry by providing funds to weak or mismanaged institutions. Many stated that deposit brokering presents a potential threat to the soundness of participating institutions. The majority of comments suggesting additional action by the agencies favored increased monitoring of the deposit brokerage activities of all federally insured institutions with special attention paid to troubled banks, particularly banks rated composite 4

and 5 under the Uniform Financial Institutions Rating System. 1 FED. DEPOSIT INS. CORP. LAW, REG., RELATED ACTS (FDIC) 5079. Some recommended that a limit be placed on the percentage of brokered deposits comprising an institution's assets, deposit base or net worth. Others suggested that the agencies eliminate the insurance coverage of all brokered deposits.

Thirty-six (or forty-four percent) of the bankers' comments recommended that no additional action be taken by the agencies to limit the borkering of deposits. Six of these comments were from money-center banks and thirty from smaller entities. They commented that deposit brokerage provides a source of liquidity and investment for depository institutions and enables smaller institutions to compete with bigger banks. Many of the comments stated that greater monitoring efforts should be directed at problem institutions, but that no overall action on deposit brokerage should be taken by the agencies.

Eighteen (or fifty-eight percent) of the thirty-one savings and loan associations who commented on the Advanced Notice favored a maintenance of the status quo. They stated that no additional action by the agencies is required because an adequate monitoring mechanism is already in place. The thirteen other associations (forty-two percent) recommended regulatory or legislative actions similar to those recommended by the majority of bankers who commented.

The American Bankers Association stated that money brokers provide a beneficial service to the industry, but acknowledged that deposit brokerage has caused abuses in that some troubled banks have been sought after and exploited. It voiced strong objection, however, to substantial changes to the regulation of money brokers until the agencies have acquired sufficient information to assess the nature and magnitude of the attendant problems. The Independent Bankers Association criticized deposit brokerage as seriously adverse to the industry and recommended that the agencies either prohibit such deposits or render them ineligible for insurance coverage. The National Council of Savings Institutions commented that additional action by the agencies on brokered deposits should be deferred until a more comprehensive study of the issues by the agencies has been accomplished.

The Office of the Comptroller of the Currency stated that no additional regulatory or legislative action is necessary to deal with deposit brokerage. It commented that the risks caused by this activity can be minimized through existing supervisory remedies. The Securities and Exchange Commission said it had continuing concerns about the consumer-protection issues relative to deposit brokering and that it would be pleased to consult with the FDIC and the Board on a regulatory scheme in this regard.

The deposit brokers who commented on the Advance Notice stated that deposit-placement activities are beneficial to the depository institutions industry because they reverse disintermediation, improve competitive positions of regional banks and thrifts, provide access to long-term deposits, foster secondary-market activity, lessen deposit concentration in money-center banks and provide higher interest rates on deposits for individuals. Some brokers conceded that deposit brokerage could have disadvantageous effects upon institutions, but noted that such situations could be handled by increased regulatory monitoring of weaker banks and savings and loan associations.

Of the five state and local governments who commented on the Advance Notice, one emphasized that any limitation on the insurance coverage of brokered deposits would jeopardize the safety of public deposits. The others expressed strong objection to limiting the insurance coverage of pension fund deposits, but did not comment on deposit brokerage. Two credit unions commented that deposit brokerage is undersirable and should be acted against by the FDIC and the Board. Two others noted that a better monitoring mechanism by the agencies would be sufficient to deal with deposit brokerage problems. The Credit Union National Association stated that the agencies should gather more information on brokered deposits before proposing extensive regulatory and legislative changes.

**Comments Received by the Board**

The Board received seventy-three comments on the Advance Notice. Thirty-five were from savings and loan associations, three from banks, twelve from brokers and other members of the financial services industry, twelve from financial industry trade groups, five from state or municipal governmental entities, three from credit unions, two from federal government entities and one from an individual.

Eight of the comments from savings and loan associations supported the prohibition of, or restriction on, the acceptance of brokered funds by insured institutions. One commenter expressed concern that nationwide money brokers could come to dominate the market for insured accounts, thereby causing many institutions to become dependent on them for funds and also permitting market dynamics to bid up the cost of funds to the detriment of insured institutions. Commenters also suggested that brokers were using FSLIC insurance for a purpose for which it was not intended.

Twenty-seven of the comments from savings and loans opposed actions which would limit the ability of financially and managerially sound institutions to accept brokered funds. Commenters suggested that the agencies focus on the use of funds and the overall funds acquisition policies of institutions rather than on brokered funds alone. Many commenters discussed the benefits of brokered funds such as the opportunity for institutions in capital-deficient areas to obtain funds, and the cost-effective means such deposits provide for an institution to acquire funds of a desired rate and maturity without altering its retail offerings. The three banks which commented expressed similar views.

The United States League of Savings Institutions expressed serious concerns over the current unregulated practices of deposit brokers and concluded that the potential problems outweigh the benefits that might result from permitting the continuation of the current practices. It recommended specific restrictions on the ability of institutions to obtain brokered deposits designed to address the particular problems raised by excessive use of deposit brokerage while preserving the usefulness of brokered deposits in restructuring efforts. The six state and regional savings and loan trade associations which commented expressed the view that financially and managerially should institutions should not be limited in their access to brokered funds.

The deposit brokers and other members of the financial services industry which commented generally opposed any restriction on the acceptance of brokered deposits by sound institutions, while one commenter supported percentage limitations applied to all institutions. The commenters emphasized that it is in a broker's interest to avoid directing customers' funds to institutions which may default. Commenters discussed the economic efficiency of the brokerage function and referred to the extent to which brokerage permits non-money-center institutions to gain access to the national funds market.

Four of the state and local entities which commented stated their opposition to potential changes in the level of insurance coverage available to pension funds and public units. The fifth expressed concern about the use of brokered deposits and stated that if the federal agencies did not take action it would propose legislation to limit the issuance of out-of-state jumbo certificates by banks and savings and loan associations.

A corporate central credit union and a committee of corporate credit union representatives stated their concern about the current lack of risk sensitivity in the placement of deposits, and suggested that either a cost-sharing formula be developed or that brokers be treated as principals for insurance proposes. Two credit unions opposed limitations on the placement of brokered funds with sould institutions. One individual supported a prohibition on the use of brokered funds and stated that institutions should be required to rely on their local markets for deposits.

### Proposals

Over the past several months the FDIC and the Board have collected data on banks and savings and loan associations which are involved with deposit brokerage. The data assimilated thus far indicate that, although brokered deposits comprise a modest percentage of total domestic deposits, a significantly greater proportion of poorly rated institutions use brokered deposits than highly rated institutions. Moreover, the seventy-two commercial banks that failed between February 1982 and mid-October 1983 had substantial brokered deposits. These deposits constituted sixteen percent of the total deposits held by the seventy-two banks. Some of the failed banks relied more heavily on brokered funds. In three instances brokered deposits equalled more than sixty percent of the failed bank's total deposits. In nineteen other cases these deposits equalled between twenty and fifty percent of the failed bank's deposits. The FDIC and the Board are continuing to collect information on deposit brokerage. Based on the data assembled to date and an analysis of the comments received on the Advance Notice, however, the agencies have preliminarily determined that deposit brokerage has a sufficiently adverse effect upon the depository institutions industry to warrant remedial regulatory action. At present the approach deemed most desirable by the FDIC and the Board in addressing the problems inherent in deposit brokerage is that of limiting deposit insurance for such deposits.

In addition to their concern about the effects of deposit brokerage on troubled institutions, the FDIC and the Board are also concerned about the potential which exists for the abuse of brokered funds by insured institutions generally. The use of these deposits has grown dramatically over the past several years and, if not limited in some way, will likely continue to grow at a rapid pace. Furthermore, the FDIC and the Board believe that deposit brokerage represents an outright misuse of the federal deposit insurance system. Deposit insurance was originally intended to establish stability and to promote confidence in the monetary and banking systems by protecting primarily small, relatively unsophisticated depositors in their relationships with banks and savings associations. It was never intended to protect investors seeking the highest yields available in money markets. The FDIC and the Board believe it is essential that the situation be promptly addressed in view of the recent decontrol of interest rates paid by banks and thrifts. Consideration of soundness should enter into the selection of a bank or thrift, not simply the rate paid on deposits.

The agencies believe the deposit insurance alternative would avoid the constant monitoring of all deposit brokerage activity which would only serve to increase the regulatory burden on depository institutions and the supervisory role of the agencies. Alternatively, a blanket prohibition on the use of brokered deposits would be unduly restrictive and would totally eliminate the benefits to insured institutions of brokered deposits. Limiting the insurance coverage of brokered deposits would not defeat the liquidity benefits of brokered deposits for well-run institutions. Such deposits would still be obtainable, but without a "federal guaranty." Investment decisions would be made on the strength or weakness of the involved depository institution, and not on the federal insurance feature of the deposit.

A result of these proposed amendments would be to instill market discipline by preventing the marketing of federal deposit insurance by non-depository entities in a way that the FDIC and the Board believe is outside the scope of the legislative intent underlying the federal deposit insurance scheme.

Despite the insurance limitations which would result from the proposed amendments, brokered deposits would continue to be afforded insurance coverage up to $100,000 for each broker per insured institution. Any deposits in excess of $100,000, however, would not be insured. An analysis of the depository institution's financial and managerial soundness, therefore, would be the prudent course when depositing funds over $100,000. The proposed amendments would apply to basic brokering programs, certificate-of-deposit participation programs, deposit listing services and financing arrangments where an agent or trustee establishes a deposit or member account for the purpose of enabling the institution to finance a prearranged loan with the proceeds in the account.

If adopted, the proposed rules would afford a maximum of $100,000 insurance coverage per insured bank or savings association for the total deposits placed by or through a single deposit broker. The term "deposit broker" would be defined as any person or entity who is engaged in the business of placing deposits for others and an agent or trustee who establishes a deposit or member account in connection with an agreement with the institution to use the proceeds in the account to fund a prearranged loan. The agencies request comment on whether subsidiaries or networks of depository institutions should be included within the definition of "deposit broker" for purposes of the proposed amendments. They also request comments on what treatment should be accorded to institutions owned either directly or indirectly by business entities which would be within the proposed definition of "deposit broker." Also, as proposed, the term "deposit broker" would not include employees of depository institutions. The agencies are concerned, however, that too broad a definition of "employee" would lead to circumvention of the intent behind the proposed amendments. Therefore, the FDIC and the Board are defining an "employee" of an institution as a person who is employed exclusively by that institution, is paid primarily on a salaried basis, does not share his or her compensation with someone who is engaged in the business of brokering deposits, and uses an office facility which exists exclusively for his or her institution/employer. As proposed, the definition of "deposit broker" would not include the normal activities of trust departments of insured institutions. Activities and arrangements with the purpose and effect of circumventing the intent of the proposed amendments, however, could cause such trust departments to be deemed "deposit brokers."

For purposes or calculating the amount of insurance, the broker would

be deemed the "depositor" or "member" in a deposit brokerage situation. This differs from the current FDIC and Board regulations which, if certain requirements are met, deem the customer of the deposit broker to be the "depositor" or "member." The proposed definition includes not only deposit brokerage arrangements where the broker is the holder of an account for a number of principals, but also where the broker directs or otherwise facilitates the transfer of funds of depositors to an institution without itself becoming a holder of an account; thus, the definition would also apply to deposit listing services and similar arrangments.

The FDIC and the Board do not intend to disturb traditional deposit relationships. Accounts held by agents would remain insured up to $100,000 per principal, provided that the agent is not engaged in the business of placing deposits. Thus, arrangements such as a real estate agent's and attorney's escrow accounts would not be affected by the proposed amendments. Comments are welcomed on the question of what types of activities of agents should or should not be deemed to constitute the business of deposit brokerage if the agencies adopt the proposal. Furthermore, the insurance coverage currently available to pension funds, other employee benefit plans and irrevocable trusts (other than the prearranged loan transaction noted above) would not be affected, where the deposits are not placed by or through a deposit broker. Likewise, the insurance coverage of accounts of public units would not be affected, provided that a deposit broker is not employed to place the funds.

Comments are also requested on whether any amendments should be made to the current rules on the insurance of negotiable or bearer-form certificates of deposit. At present, for insurance purposes, the "depositor" of a negotiable or bearer-form deposit is the person holding the deposit on the date the institution is closed because of insolvency, 12 CFR 330.11 and 570.11. The agencies are concerned that such deposits may be used to impede the intent of the proposed amendments. Thus, they are requesting comments on what regulatory steps, if any, should be taken to prevent possible misuses of negotiable or bearer-form certificates of deposit to circumvent the proposed amendments. One option is to require that institutions maintain records on the original purchaser of the deposit. This would permit a determination that the certificate was not purchased by or through a deposit broker.

If the proposed amendments are ultimately adopted as final regulations, the effective date would be October 1, 1984. Thus, any deposits either placed or renewed on or after October 1, 1984, would be subject to the new regulations on insurance coverage. Deposits either placed or renewed prior to October 1, 1984, however, would be subject to the current insurance rules until the scheduled maturities of those deposits. The FDIC and the Board welcome comments on this proposed effective date. Additionally, the agencies are concerned that a few insured institutions may have portfolio structures requiring additional time in which to adjust in order to avoid severe disruption. The agencies also request comments on methods by which such disruptive effects may best be alleviated.

Finally, the FDIC and the Board request comments on any other methods by which the objectives of the two agencies might be otherwise achieved.

**Paperwork Reduction Act**

As proposed, the amendments would not entail any reporting or recordkeeping requirement; therefore, the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520 (1980)) would be inapplicable.

**Initial Regulatory Flexibility Analysis**

Pursuant to Section 3 of the Regulatory Flexibility Act, Pub. L. No. 96–354, 94 Stat. 1164 (Sept. 19, 1980), the FDIC and the Board are providing the following regulatory flexibility analysis:

1. *Reasons, objectives, and legal bases underlying the proposed rules.* These elements have been incorporated elsewhere in the supplementary information regarding the proposal.

2. *Small entities to which the proposed rules would apply.* The rules would apply to insured institutions.

3. *Impact of the proposed rules on small institutions.* As brokered deposits do not yet constitute a significant portion of total deposits of most insured institutions, the proposed rules would not have a significant impact on a substantial number of small entities.

4. *Overlapping or conflicting Federal rules.* There are no federal rules that duplicate, overlap, or conflict with this proposal.

5. *Alternatives to the proposed rules.* The proposal would limit federal deposit insurance on brokered deposits. Other alternatives considered, such as increased monitoring and approval mechanisms and blanket prohibitions on brokered deposits, would be more burdensome to the agencies' regulatees or would eliminate the benefits of a regulated activity, including availability of liquidity.

**List of Subjects**

*13 CFR Part 330*

Banks, Bank deposit insurance, Banking.

*12 CFR Parts 561 and 564*

Banks, Bank deposit insurance, Banking, Savings and loan associations.

In consideration of the foregoing, the FDIC hereby proposes to amend Part 330 of Title 12 of the CFR and the Board hereby proposes to amend Parts 561 and 564 of Title 12 of the CFR as follows:

## PART 330—CLARIFICATION AND DEFINITION OF DEPOSIT INSURANCE COVERAGE

1. The authority citation for Part 330 is as follows:

**Authority:** 12 U.S.C. 1813, 1817, 1821, 1822.

2. It is proposed that § 330.0 be amended by revising its heading, redesignating its first paragraph as paragraph (a) and adding paragraphs (b) and (c) as follows:

**§ 330.0 Definitions.**

(a) For the purpose of this Part 330, the term "insured bank" includes in insured branch of a foreign bank.

(b) For purposes of this Part 330, the term "deposit broker" includes: (1) Any person or entity, other than an insured bank or employee thereof, engaged in the business of either placing or listing for placement deposits of insured banks; and (2) an agent or trustee who establishes a deposit account to facilitate a business arrangement with an insured bank to use the proceeds of the account to fund a prearranged loan.

(c) The term "employee," for purposes of this section only, includes only an employee: (1) Who is employed exclusively by the insured bank for which he or she is soliciting deposits; (2) whose primary compensation is in the form of a salary; (3) who does not share his or her compensation with a deposit borker; and (4) whose office space or place of business is used exclusively for the benefit of his or her insured bank/employer.

3. It is proposed that § 330.2 be amended by revising its heading, removing its introductory text, removing the heading of paragraph (a), and removing paragraphs (b) and (c) as follows:

**§ 330.2 Individual accounts.**

Funds owned by an individual (or by the community between husband and wife of which the individual is a member) and deposited into one or more

deposit accounts in his or her own name shall be insured up to $100,000 in the aggregate.

4. It is proposed that § 330.10 be amended by revising its text as follows:

**§ 330.10 Trust accounts.**

All trust interests for the same beneficiary deposited in deposit accounts established pursuant to valid trust agreements created by the same settlor (gantor) shall be added together and insured up to $100,000 in the aggregate, except time and savings deposits of the same beneficiary which qualify as pension or profit-sharing plans under section 401(d) or 408(a) of the Internal Revenue Code of 1954, as amended. The vested and ascertainable interest (excluding any remainder interest) of each beneficial owner in a time or savings deposit established under either of the above sections, shall be added together and insured to an additional $100,000 maximum for each beneficial owner, notwithstanding the insurance provided in this section to other types of deposit accounts. Except where the trustee is a "deposit broker," as defined in § 330.0(b), the insurance of such trust interests shall be separate from that afforded deposit accounts of the trustee of such trust funds or the settlor or beneficiary of such trust arrangement.

5. It is proposed that § 330.13 be added as follows:

**§ 330.13 Accounts held by or established through intermediaries.**

(a) Except as provided in paragraph (b) of this section, funds owned by a principal and deposited into one or more deposit accounts in the name or names of agents or nominees shall be added to any individual accounts of the principal and insured up to $100,000 in the aggregate.

(b) Nothwithstanding any other provision of this Part, funds deposited into one or more deposit accounts by or through a "deposit broker," as defined in § 330.0(b), shall be added to any other deposits placed by or through that deposit broker and insured up to $100,000 in the aggregate.

(c) Funds held by a guardian, custodian or conservator for the benefit of a ward or for the benefit of a minor under a Uniform Gifts to Minors Act and deposited into one or more accounts in the name of the guardian, custodian or conservator shall be added to any individual accounts of the ward or minor and insured up to $100,000 in the aggregate.

## PART 561—DEFINITIONS

1. The authority citation for Part 561 is as follows:

**Authority:** 12 U.S.C. 1724, 1725, 1726, 1728.

2. It is proposed that § 561.2a be added as follows:

**§ 561.2a Definition of "deposit broker."**

(a) The term "deposit broker" includes: (1) Any person or entity, other than an insured institution or employee thereof, engaged in the business of placing or listing for placement deposits of an insured institution; and (2) an agent or trustee who establishes a member account to facilitate a business arrangement with the institution to use the proceeds of the account to fund a prearranged loan.

(b) The term "employee," for purposes of this section only, includes only an employee: (1) Who is employed exclusively by the institution for which he or she is soliciting deposits; (2) whose primary compensation is in the form of a salary; (3) who does not share his or her compensation with a deposit broker; and (4) whose office space or place of business is used exclusively for the benefit of his or her institution/employer.

## PART 564—SETTLEMENT OF INSURANCE

3. The authority citation for Part 564 is as follows:

**Authority:** 12 U.S.C. 1724, 1725, 1726, 1728.

4. It is proposed that § 564.3 be revised as follows:

**§ 564.3 Individual accounts.**

Funds owned by an individual (or by the husband-wife community of which the individual is a member) and invested in one or more accounts in his or her own name shall be insured up to $100,000 in the aggregate.

**§ 564.10 [Amended]**

5. It is proposed that § 564.10 be amended by adding at the end thereof a sentence as follows:

"* * * Except where the trustee is a "deposit broker," as defined in section 561.2a, the insurance of such trust interests shall be separate from that afforded deposit accounts of the trustee of such trust funds or the settlor or beneficiary of such trust arrangement."

6. It is proposed that § 564.12 be added as follows:

**§ 564.12 Accounts held by or established through intermediaries.**

(a) Except as provided in paragraph (b) of this section, funds owned by a principal and invested in one or more accounts in the name of agents or nominees shall be added to any individual accounts of the principal and insured up to $100,000 in the aggregate.

(b) Notwithstanding any other provision of this Part, funds invested in one or more accounts by or through a "deposit broker," as defined in § 561.2a, shall be added to any other deposit placed by or through that deposit broker and insured up to $100,000 in the aggregate.

(c) A loan servicer who receives loan payments and places or maintains such payments in an insured institution prior to remittance to the lender or other parties entitled to the funds shall, for insurance-of-accounts purposes, be considered an agent of each borrower.

(d) Funds held by a guardian, custodian or conservator for the benefit of a ward or a minor under a Uniform Gifts to Minors Act, and invested in one or more accounts in the name of the guardian, custodian or conservator, shall be added to any individual accounts of the ward or minor and insured up to $100,000 in the aggregate.

By Order of the Board of Directors, January 16, 1984.

Federal Deposit Insurance Corporation.

**Hoyle L. Robinson,**

*Executive Secretary.*

By Order of the Board, January 16, 1984.

Federal Home Loan Bank Board.

**J. J. Finn,**

*Secretary to the Board.*

[FR Doc. 84-1703 Filed 1-20-84; 8:45 am]

BILLING CODE 6714-01-M

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. 83-CE-35-AD]**

### Airworthiness Directives; Pilatus Aircraft, Ltd., and Fairchild-Hiller PC-6 Series Airplanes

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

**ACTION:** Withdrawal of notice of proposed rulemaking.

**SUMMARY:** This action withdraws the Notice of Proposed Rulemaking (NPRM applicable to Docket No. 83-CE-35-AD. This NPRM proposed to adopt an Airworthiness Directive (AD) that would require the replacement of the aileron/flap mount attachment fittings. Subsequent to the issuance of this Notice, additional evaluation indicates that the proposed action is not warranted at this time. Accordingly, the NPRM is hereby withdrawn.

**DATES:** Not applicable.

**FOR FURTHER INFORMATION CONTACT:** Mr. A. Astorga, Aircraft Certification Staff, AEU–100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium, Telephone 513.38.30; or H. C. Belderok, Foreign FAR 23 Section, Federal Aviation Administration, ACE–109, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374–6932.

**SUPPLEMENTARY INFORMATION:** An NPRM applicable to the Pilatus Aircraft Ltd., PC–6 Series airplanes was published in the **Federal Register** on April 11, 1983 (48 FR 15480, 15481), and republished as a Supplemental NPRM to include the Fairchild-Hiller PC–6 Series airplanes on November 1, 1983 (48 FR 50341, 50342).

The Notice was published because the Swiss manufacturer, Pilatus Aircraft, Ltd., issued Service Bulletin (SB) 138, which required the mandatory replacement of the aileron/flap mount attachment fittings, and because the Swiss Federal Office of Civil Aviation (FOA), who has the responsibility and authority to maintain the continued airworthiness of these airplanes in Switzerland, had classified the SB as mandatory. The Service Bulletin was based upon two reports of airplanes with cracked fittings.

The NPRM, therefore, proposed to adopt an AD requiring the mandatory replacement of all the aileron/flap mount attachment fittings on all PC–6 Series airplanes built by Fairchild-Hiller and on all airplanes up to Serial No. 815 on the Pilatus-built airplanes.

Interested parties were afforded an opportunity to comment on the proposed AD. Only one comment was received which agreed that the applicability extends to the Fairchild-Hiller airplanes since it and the Pilatus-built units are structurally identical in this area.

Further evaluation has revealed that Pilatus Aircraft, Ltd., is of the opinion that the cracking of the aileron/flap attachment fittings was probably attributable to fatigue caused by the airplane being subjected to overspeeding, especially those airplanes used intensively in the para/dropping role. Thus, these two reported defects do not meet the Part 39 criteria for the issuance of an AD in that this condition is not likely to exist or develop in the other airplanes, except when operated outside their design limits. This position is supported by the reported fact that Pilatus has inspected the subject attachment fittings on several high-time airplanes and has found them to be completely serviceable.

In view of the factors cited above, the FAA has determined that the proposed action is unwarranted, and the NPRM is being withdrawn. The withdrawal of this Notice does not preclude the FAA from issuing similar notices in the future, nor does it commit the FAA to any course of action.

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

Aviation safety, Aircraft.

**The Withdrawal**

For the reasons stated above, Notice of Proposed Rulemaking, Docket No. 83–CE–35–AD, published in the **Federal Register** on April 11, 1983 (48 FR 15480, 15481), and the Supplemental Notice of Proposed Rulemaking published on November 1, 1983 (48 FR 50341, 50342), are hereby withdrawn.

(Secs. 313(a), 601 and 603 Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and Section 11.85 of the Federal Aviation Regulations (14 CFR 11.85))

**Note.**—This withdrawal cancels a proposed rule which is no longer considered necessary in the interest of air safety. For this reason, and as discussed in the preamble, the FAA has determined that it (1) involves withdrawal of a proposed regulation which is not a major rule under Executive Order 12291 and (2) is not significant pursuant to Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this withdrawal will not have a significant economic impact on a substantial number of small entities. A draft regulatory evaluation has been prepared and has been placed in the public docket covering the proposed rule.

Issued in Kansas City, Missouri, on January 12, 1984.

**Murray E. Smith,**

*Director, Central Region.*

[FR Doc. 84–1757 Filed 1–20–84; 8:45 am]

**BILLING CODE 4910–13–M**

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**14 CFR Part 71**

**[Airspace Docket No. 83–ASW–57]**

## Proposed Alteration of Transition Area and Control Zone: Carlsbad, NM

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Federal Aviation Administration proposes to alter the transition area and control zone at Carlsbad, NM. The intended effect of the proposed action is to provide adequate controlled airspace for aircraft executing standard instrument approach procedures (SIAPs) to the Cavern City Air Terminal. This action is necessary since the FAA proposes to establish an instrument landing system (ILS) to Runway 03 at the airport which will change the designated airspace requirements.

**DATE:** Comments must be received on February 22, 1984.

**ADDRESSES:** Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8 a.m. and 4:30 p.m. The FAA Rules Docket is located in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

**FOR FURTHER INFORMATION CONTACT:** Kenneth L. Stephenson, Airspace and Procedures Branch, ASW–535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101; telephone: (817) 877–2630.

**SUPPLEMENTARY INFORMATION:** .

**History**

Federal Aviation Regulation Part 71, Subparts G 71.181 and F 71.171, as republished in Advisory Circular AC 70–3A dated January 3, 1983, contains the description of transition areas and control zones designated to provide controlled airspace for the benefit of aircraft conducting instrument flight rules (IFR) activity. Alteration of the transition area and control zone at Carlsbad, NM, will necessitate an amendment to these subparts. This amendment will be required at Carlsbad, NM, since there is a proposed change in IFR procedures to the Cavern City Air Terminal. The proposed installation of an ILS to serve Runway 03 will necessitate an amendment to the designated airspace.

**Comments Invited**

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. (Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals.) Communications should identify the airspace docket and be submitted in

triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83–ASW–57." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

### Availability of Nprm

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, or by calling (817) 877–2630. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the office listed above.

### List of Subjects in 14 CFR Part 71

Control zones and/or transition areas, Aviation safety.

### The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

**§ 71.171 [Amended]**

**Carlsbad, NM [Revised]**

Within a 5.5-mile radius of the Cavern City Air Terminal (latitude 32°20'15" N., longitude 104°15'46" W.) and within 1.5 miles each side of the southwest localizer course extending from the 5.5-mile radius area to 6.5 miles southwest of the airport; and within 2.5 miles each side of the Carlsbad VORTAC 335-degree radial extending from the 5.5-mile radius area to 13 miles northwest of the VORTAC. This control zone should be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

**§ 71.181 [Amended]**

**Carlsbad, NM [Revised]**

That airspace extending upwards form 700 feet above the surface within a 9.5-mile radius of the Cavern City Air Terminal (latitude 32°20'15" N., longitude 104°15'46" W.) and within 2.5 miles each side of the southwest localizer course extending from the 9.5-mile radius area to 12.5 miles southwest of the airport.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.61(c))

**Note.**— The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Fort Worth, TX, on January 11, 1984.

**F. E. Whitfield,**

*Acting Director, Southwest Region.*

[FR Doc. 84–1751 Filed 1–20–84; 8:45 am]

BILLING CODE 4910–13–M

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## CONSUMER PRODUCT SAFETY COMMISSION

### 16 CFR Part 1632

### Public Hearing To Provide Opportunity for Oral Presentations Concerning Proposed Amendment of Mattress Flammability Standard

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Notice of public hearing.

**SUMMARY:** The Consumer Product Safety Commission will conduct a public hearing to provide opportunity for oral presentations of data, views, and arguments concerning proposed amendments of the Standard for the Flammability of Mattresses (and Mattress Pads).

**DATES:** The hearing will begin at 10:00 a.m. on February 14, 1984. Requests for interested parties who desire to make presentations should be received by the Office of the Secretary not later than February 7, 1984.

**ADDRESS:** The hearing will be in the third floor conference room, 1111 18th Street, NW., Washington, D.C.

**FOR FURTHER INFORMATION CONTACT:** For further information about the hearing or to request opportunity to make a presentation at the hearing, contact Sheldon Butts, Deputy Secretary, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492–6800.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of December 30, 1983 (48 FR 47502), the Consumer Product Safety Commission published a proposal to amend the Standard for the Flammability of Mattresses (and Mattress Pads) (16 CFR Part 1632). The proposed amendments included provisions to eliminate requirements for production testing of mattresses and mattress pads; to allow substitution of ticking materials without the necessity for additional prototype testing under specified conditions; and to make other changes to improve the clarity and precision of the standard. The proposed amendments are described in detail in the notice of December 30, 1983.

The Commission is conducting this proceeding for amendment of the mattress flammability standard under provisions of section 4 of the Flammable Fabrics Act (FFA, 15 U.S.C. 1193). Section 4(d) of the FFA states that a proceeding for amendment of a flammability standard shall be conducted in accordance with the rulemaking provisions of the Administrative Procedure Act (5 U.S.C. 553), except that interested persons shall also be given opportunity for oral presentations of data, views, and arguments concerning the proposed amendment.

Interested parties who desire to make presentations at this hearing shall call or write Sheldon Butts, Deputy Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, telephone (301) 492–6800, not later than February 7, 1984. Parties desiring to make presentations must submit either the written text or a summary of their presentations to the Office of the Secretary not later than February 7, 1984.

Presentations should be limited to approximately 15 minutes. The Commission reserves the right to impose further time limitations and further restrictions to avoid duplication of presentations.

(15 U.S.C. 1193, 5 U.S.C. 553)

Dated: January 18, 1984.

**Sadye E. Dunn,**

*Secretary, Consumer Product Safety Commission.*

[FR Doc. 84-1783 Filed 1-20-84; 8:45 am]

BILLING CODE 6355-01-M

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### 26 CFR Parts 1, 20, 25, and 301

**[EE-148-81]**

## Individual Retirement Plans, Simplified Employee Pensions, and Qualified Voluntary Employee Contributions

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document contains proposed regulations relating to individual retirement plans, simplified employee pensions, and qualified voluntary employee contributions. Changes to the applicable law were made by the Economic Recovery Tax Act of 1981. The regulations would provide the public with the guidance needed to comply with the Act. The regulations would affect: institutions which sponsor individual retirement plans and simplified employee pensions, employers and individuals who use individual retirement plans and simplified employee pensions for retirement income, employers who maintain plans which accept qualified voluntary employee contributions and employees who make qualified voluntary employee contributions

**DATES:** Written comments and requests for a public hearing must be delivered or mailed by March 23, 1984. The regulations would be generally effective for taxable years beginning after December 31, 1981.

**ADDRESS:** Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (EE-148-81), Washington, D. C. 20224.

**FOR FURTHER INFORMATION CONTACT:** William D. Gibbs of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224. (Attention: CC:LR:T) (202-566-3430)(not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

### Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1), the Estate Tax Regulations (26 CFR Part 20), the Gift Tax Regulations (26 CFR Part 25), and the Procedure and Adminstration Regulations (26 CFR Part 301) under sections 219, 408, 409, 415, 2039, 2517, and 6652 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to sections 311 (except subsection (b)) and 314(b) of the Economic Recovery Tax Act of 1981 (95 Stat. 274, 286). These regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

### Individual Retirement Plans

Section 219, as amended by the Economic Recovery Tax Act of 1981, allows an individual a deduction of up to the lessser of $2,000 or compensation includible in gross income for contributions to an individual retirement plan. Unlike old section 219, an individual is allowed this deduction whether or not he is an "active participant" in an employer's plan. The deduction for individual retirement plan contributions is reduced, however, by amounts which the employee contributes to an employer's plan and treats as qualified voluntary employee contributions. The remainder of the individual retirement plan rules are similar to those under prior law.

### Spousal Individual Retirement Accounts

Code section 220 was deleted by the Economic Recovery Tax Act of 1981. In its place is new section 219 (c), which allows an individual and his nonworking spouse to contribute up to the lesser of compensation includible in the working spouse's gross income or $2,250 to individual retirement accounts. The spouses must file a joint return to obtain this additional $250 deduction. No deduction is allowed if the spouse for whose benefit the individual retirement plan is maintained has attained age 70½ before the close of the taxable year.

There is no requirement, as under old law, that equal amounts be contributed to the individual retirement accounts of both spouses. However, no more than $2,000 may be contributed to the individual retirement account of either spouse.

### Simplified Employee Pensions

The Economic Recovery Tax Act of 1981 increased the maximum deduction for contributions to simplified employee pensions to the lesser of 15% of compensation from the employer maintaining the simplified employee pension arrangement or the amount contributed by the employer to the simplified employee pension and included in gross income (but not in excess of $15,000). An employee may also contribute and deduct the lesser of $2,000 or compensation includible in gross income regardless of the employer's contribution to the simplified employee pension.

### Qualified Voluntary Employee Contributions

Section 219, as amended by the Economic Recovery Tax Act of 1981, allows an individual a deduction for qualified voluntary employee contributions (QVEC's). QVEC's are voluntary contributions made by an individual as an employee under an employer's plan. The employer's plan must allow employees to make contributions which may be treated as QVEC's.

The maximum amount which can be deducted as a QVEC is the lesser of $2,000 or the compensation includible in gross income from the employer which maintains the plan which accepts the QVEC's.

Proposed § 1.219(a)-5(a) sets forth the type of plans which can accept qualified voluntary employee contributions.

Proposed § 1.219(a)-5(c) sets forth the rules a plan must follow to receive qualified voluntary employee contributions.

Additional rules for QVEC's are set forth in proposed § 1.219(a)-5 (d), (e), and (f).

The reporting rules for qualified voluntary employee contributions are in proposed § 1.219(a)-5(g). This provision gives the Commissioner discretionary authority to modify the reporting requirements for these contributions. Any such modification of the reporting requirements would be subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1980.

### Other Amendments

Conforming and technical amendments made by the Economic Recovery Tax Act of 1981 have been made to the regulations under Code sections 408, 409, 415, 2039, 2517, and 6652.

Although the Treasury Department stopped selling retirement bonds in early 1982, the regulations contain references to Code sections 405 and 409. These references apply to retirement bonds sold through early 1982 and to retirement bonds that may be sold subsequently.

These proposed regulations do not reflect amendments made to the Code by the Tax Equity and Fiscal

Responsibility Act of 1982. These proposed regulations reflect changes in the applicable statutory provisions made by the Technical Corrections Act of 1982.

**Executive Order 12291 and Regulatory Flexibility Act**

The Commissioner has determined that this proposed regulation is not a major regulation for purposes of Executive Order 12291. Accordingly, a regulatory impact analysis is not required.

Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

**Comments and Requests for a Public Hearing**

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

The collection of information requirements contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act of 1980. Comments on these requirements should be sent to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Office for Internal Revenue Service, New Executive Office Building, Washington, D.C. 20503. The Internal Revenue Service requests that persons submitting comments on these requirements to OMB also send copies of those comments to the Service.

**Drafting Information**

The principal author of these proposed regulations is William D. Gibbs of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

**List of Subjects**

*26 CFR 1.61–1—1.281–4*

Income taxes, Taxable income, Deductions, Exemptions.

*26 CFR 1.401–0—1.425–1*

Income taxes, Employee benefit plan, Pensions, Stock options, Individual retirement accounts, Employee stock ownership plans.

*26 CFR Part 20*

Estate taxes.

*26 CFR Part 25*

Gift taxes.

*26 CFR Part 301*

Administrative practice and procedure, Bankruptcy, Courts, Crime, Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Investigations, Law enforcement, Penalties, Pensions, Statistics, Taxes, Disclosure of information, Filing requirements.

**Proposed Amendments to the Regulations**

The proposed amendments to 26 CFR Parts 1, 20, 25, and 301 are as follows:

**Income Tax Regulations**

**PART 1—[AMENDED]**

**Paragraph 1.** There are added after proposed § 1.219–3, 46 FR 36202 (1981), the following new sections 1.219(a)–1 through 1.219(a)–6:

**§ 1.219(a)–1 Deduction for contributions to individual retirement plans and employer plans under the Economic Recovery Tax Act of 1981.**

(a) *In general.* Under section 219, as amended by the Economic Recovery Tax Act of 1981, an individual is allowed a deduction from gross income for amounts paid on his behalf to an individual retirement plan or to certain employer retirement plans. The following table indicates the location of the rules for deductions on behalf of individuals to individual retirement plans or employer plans.

§ 1.219(a)–2. Individual retirement plans.
§ 1.219(a)–3. Spousal individual retirement accounts.
§ 1.219(a)–4. Simplified employee pensions.
§ 1.219(a)–5. Employer plans.
§ 1.219(a)–6. Divorced individuals.

(b) *Definitions.* The following is a list of terms and their definitions to be used for purposes of this section and §§ 1.219(a)–2 through 1.219(a)–6:

(1) *Individual retirement plan.* The term "individual retirement plan" means an individual retirement account described in section 408(a), an individual retirement annuity described in section 408(b), and a retirement bond described in section 409.

(2) *Simplified employee pension.* The term "simplified employee pension" has the meaning set forth in § 1.408–7(a).

(3) *Compensation.* The term "compensation" means wages, salaries, professional fees, or other amounts derived from or received for personal service actually rendered (including, but not limited to, commissions paid salemen, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips, and bonuses), but does not include amounts derived from or received as earnings or profits from property (including, but not limited to, interest and dividends) or amounts not includible in gross income such as amounts excluded under section 911. Compensation includes earned income, as defined in section 401(c)(2), reduced by amounts deductible under sections 405. Compensation does not include amounts received as deferred compensation, including any pension or annuity payment. Compensation does not include unemployment compensation within the meaning of section 85(c).

(4) *Qualified voluntary employee contribution.* The term "qualified voluntary employee contribution" means any employee contribution which is not a mandatory contribution within the meaning of section 411(c)(2)(C) made by an individual as an employee under a qualified employer plan or government plan, which plan allows an employee to make such contributions, and which the individual has not designated as a contribution other than a qualified voluntary employee contribution. Thus, if employee contributions are required as a condition of plan participation, they are mandatory contributions within the meaning of section 411(c)(2)(C) and cannot be treated as qualified voluntary employee contributions.

(5) *Qualified retirement contribution.* The term "qualified retirement contribution" means any amount paid in cash for the taxable year by or on behalf of an individual for his benefit to an individual retirement plan and any qualified voluntary employee contribution paid in cash by the individual for the taxable year.

(6) *Deductible employee contribution.* The term "deductible employee contribution" means any qualified

voluntary employee contribution made after December 31, 1981, in a taxable year beginning after such date and allowable as a deduction under section 219(a) for such taxable year.

(7) *Qualified employer plan.* The term "qualified employer plan" means—

(i) A plan described in section 401(a) which includes a trust exempt from tax under section 501(a),

(ii) An annuity plan described in section 403(a),

(iii) A qualified bond purchase plan described in section 405(a), and

(iv) A plan under which amounts are contributed by an individual's employer for an annuity contract described in section 403(b).

(8) *Government plan.* The term "government plan" means any retirement plan, whether or not qualified, established and maintained for its employees by the United States, by a State or political subdivision thereof, or by an agency or instrumentality of any of the foregoing.

(c) *Effective date.* This section and §§ 1.219(a)–2 through 1.219(a)–6 are effective for taxable years of individuals beginning after December 31, 1981.

**§ 1.219(a)–2 Deduction for contributions to individuals retirement plans under the Economic Recovery Tax Act of 1981.**

(a) *In general.* Subject to the limitations and restrictions of paragraph (b) and the special rules of paragraph (c)(3) of this section, there shall be allowed a deduction under section 62 from gross income of amounts paid for the taxable year of an individual by or on behalf of such individual to an individual retirement plan. The deduction described in the preceding sentence shall be allowed only to the individual on whose behalf such individual retirement plan is maintained and only in the case of a contribution of cash. No deduction is allowable under this section for a contribution of property other than cash. In the case of a retirement bond, no deduction is allowed if the bond is redeemed within 12 months of its issue date.

(b) *Limitations and restrictions*—(1) *Maximum deduction.* The amount allowable as a deduction for contributions to an individual retirement plan to an individual for any taxable year cannot exceed the lesser of—

(i) $2,000, or

(ii) An amount equal to the compensation includible in the individual's gross income for the taxable year,

reduced by the amount of the individual's qualified voluntary employee contributions for the taxable year.

(2) *Contributions after age 70½.* No deduction is allowable for contributions to an individual retirement plan to an individual for the taxable year of the individual if he has attained the age of 70½ before the close of such taxable year.

(3) *Rollover contributions.* No deduction is allowable under § 1.219(a)–2(a) for any taxable year of an individual with respect to a rollover contribution described in section 402(a)(5), 402(a)(7), 403(a)(4), 403(b)(8), 405(d)(3), 408(d)(3), or 409(b)(3)(C).

(4) *Amounts contributed under endowment contracts.* (i) For any taxable year, no deduction is allowable under § 1.219(a)–2(a) for amounts paid under an endowment contract described in § 1.408–3(e) which is allocable under subdivision (ii) of this subparagraph to the cost of life insurance.

(ii) For any taxable year, the cost of current life insurance protection under an endowment contract described in paragraph (b)(4)(i) of this section is the product of the net premium cost, as determined by the Commissioner, and the excess, if any, of the death benefit payable under the contract during the policy year beginning in the taxable year over the cash value of the contract at the end of such policy year.

(c) *Special rules*—(1) *Separate deduction for each individual.* The maximum deduction allowable for contributions to an individual retirement plan is computed separately for each individual. Thus, if a husband and wife each has compensation of $15,000 for the taxable year, the maximum amount allowable as a deduction on their joint return is $4,000. See § 1.219(a)–3 for the maximum deduction for a spousal individual retirement plan when one spouse has no compensation.

(2) *Community property.* Section 219 is to be applied without regard to any community property laws. Thus, if, for example, a husband and wife, live in a community property jurisdiction, the husband has compensation of $30,000 for the taxable year, and the wife has no compensation for the taxable year, then the maximum amount allowable as a deduction for contributions to an individual retirement plan, other than a spousal individual retirement plan, is $2,000.

(3) *Employer contributions.* For purposes of this chapter, any amount paid by an employer to an individual retirement plan of an employee (other than a self-employed individual who is an employee within the meaning of section 401(c)(1)) constitutes the payment of compensation to the employee. The payment is includible in the employee's gross income, whether or not a deduction for such payment is allowable under section 219 to this employee. An employer will be entitled to a deduction for compensation paid to an employee for amounts the employer contributes on the employee's behalf to an individual retirement plan if such deduction is otherwise allowable under section 162. See § 1.404(h)–1 for certain limitations on this deduction in the case of employer contributions to a simplified employee pension.

(4) *Year of inclusion in income.* Any amount paid by an employer to an individual retirement plan (including an individual retirement account or individual retirement annuity maintained as part of a simplified employee pension arrangement) shall be included in the gross income of the employee for the taxable year for which the contribution was made.

(5) *Time when contributions deemed made.* A taxpayer shall be deemed to have made a contribution on the last day of the preceding taxable year if the contribution is made on account of the taxable year which includes such last day and is made not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof). A contribution made not later than the time prescribed by law for filing the return for a taxable year (including extensions thereof) shall be treated as made on account of such taxable year if it is irrevocably specified in writing to the trustee, insurance company, or custodian that the amounts contributed are for such taxable year.

(d) *Excess contributions treated as contribution made during subsequent year for which there is an unused limitation*—(1) *In general.* This paragraph sets forth rules for the possible deduction of excess contributions made to an individual retirement plan for the taxable years following the taxable year of the excess contributions. If for a taxable year subsequent to the taxable year for which the excess contribution was made, the maximum amount allowable as a deduction for contributions to an individual retirement plan exceeds the amount contributed, then the taxpayer, whether or not a deduction is actually claimed, shall be treated as having made an additional contribution for the taxable year in an amount equal to the lesser of—

(i) The amount of such excess, or

(ii) The amount of the excess contributions for such taxable year (determined under section 4973(b)(2) without regard to subparagraph (C) thereof).

(2) *Amount contributed.* For purposes of this paragraph, the amount contributed—

(i) Shall be determined without regard to this paragraph, and

(ii) Shall not include any rollover contribution.

(3) *Special rule where excess deduction was allowed for closed year.* Proper reduction shall be made in the amount allowable as a deduction by reason of this paragraph for any amount allowed as a deduction for contributions to an individual retirement plan for a prior taxable year for which the period for assessing a deficiency has expired if the amount so allowed exceeds the amount which should have been allowed for such prior taxable year.

(4) *Excise tax consequences.* See section 4973 and the regulations thereunder for the excise tax applicable to excess contributions made to individual retirement plans.

(5) *Examples.* The provisions of this paragraph may be illustrated by the following examples. (Assume in each example, unless otherwise stated, that T is less than age 70½ and is not married.)

*Example (1).* (i) T, a calendar-year taxpayer, earns $1,500 in compensation includible in gross income for 1982. On December 1, 1982, T establishes an individual retirement account (IRA) and contributes $2,000 to the account T does not withdraw any money from the IRA after the initial contribution. Under section 219(b)(1), the maximum amount that T can deduct for 1982 is $1,500. T has an excess contribution for 1982 of $500.

(ii) For 1983, T has compensation includible in gross income of $12,000. T makes a $1,000 contribution to his IRA for 1983.

(iii) Although T made only a $1,000 contribution to his IRA for 1983, under the rules contained in this paragraph, T is treated as having made an additional contribution of $500 for 1983 and will be allowed to deduct $1,500 as his 1983 IRA contribution.

*Example (2).* (i) For 1982, the facts are the same as in *Example (1).*

(ii) For 1983, T has compensation includible in gross income of $12,000. T makes a $2,000 contribution to his IRA for 1983.

(iii) T will be allowed a $2,000 deduction for 1983 (the amount of his contribution). T will not be allowed a deduction for the $500 excess contribution made in 1982 because the maximum amount allowable for 1983 does not exceed the amount contributed.

*Example (3).* (i) For 1982, the facts are the same as in *Example (1).*

(ii) For 1983, T has compensation includible in gross income of $12,000. T makes a $1,800 contribution to his IRA for 1983.

(iii) For 1983, T will be allowed to deduct his contribution of $1,800 and $200 of the excess contribution made for 1982. He will not be allowed to deduct the remaining $300 of the excess contribution made for 1982 because his deduction for 1983 would then exceed $2,000, his allowable deduction for 1983.

(iv) For 1984, T has compensation includible in gross income of $15,000. T makes a $1,300 contribution to his IRA for 1984.

(v) T will be allowed to deduct both his $1,300 contribution for 1984 and the remaining $300 contribution made for 1982.

*Example (4).* (i) For 1982, the facts are the same as in *Example (1).*

(ii) For 1983, T has compensation includible in gross income of $12,000. T makes a $1,000 contribution to his IRA for 1983. T is allowed to deduct the $500 excess contribution for 1983 but fails to do so on his return. Consequently, T deducts only $1,000 for 1983.

(iii) Under no circumstances will T be allowed to deduct the $500 excess contribution made for 1982 for any taxable year after 1983 because T is treated as having made the contribution for 1983.

*Example (5).* (i) For 1982, the facts are the same as in *Example (1).*

(ii) For 1983, T has no compensation includible in gross income.

(iii) T will not be allowed to deduct for 1983 the $500 excess contribution for 1982 because the maximum amount allowable as a deduction under section 219(b)(1) is $0.

**§ 1.219(a)–3 Deduction for retirement savings for certain married individuals.**

(a) *In general.* Subject to the limitations and restrictions of paragraphs (c) and (d) and the special rules of paragraph (e) of this section, there shall be allowed a deduction under section 62 from gross income of amounts paid for the taxable year of an individual by or on behalf of such individual for the benefit of his spouse of an individual retirement plan. The amounts contributed to an individual retirement plan by or on behalf of an individual for the benefit of his spouse shall be deductible only by such individual and only in the case of a contribution of cash. No deduction is allowable under this section for a contribution of property other than cash. In the case of an individual retirement bond, no deduction is allowed if the bond is redeemed within 12 months of its issue date.

(b) *Definition of compensation.* For purposes of this section, the term "compensation" has the meaning set forth in § 1.219(a)–1(b)(3).

(c) *Maximum deduction.* The amount allowable as a deduction under this section to an individual for any taxable year may not exceed the smallest of—

(1) $2,000,

(2) An amount equal to the compensation includible in the individual's gross income for the taxable year less the amount allowed as a deduction under section 219(a) (determined without regard to contributions to a simplified employee pension allowed under section 219(b)(2)), § 1.219(a)–2 and § 1.219(a)–5 for the taxable year, or

(3) $2,250 less the amount allowed as a deduction under section 219(a) (determined without regard to contributions to a simplified employee pension allowed under section 219(b)(2)), § 1.219(a)–2 and § 1.219(a)–5 for the taxable year.

(d) *Limitations and restrictions*—(1) *Requirement to file joint return.* No deduction is allowable under this section for a taxable year unless the individual and his spouse file a joint return under section 6013 for the taxable year.

(2) *Employed spouses.* No deduction is allowable under this section if the spouse of the individual has any compensation for the taxable year of such spouse ending with or within the taxable year of the individual. For purposes of this subparagraph, compensation has the meaning set forth in § 1.219(a)–1(b)(3), except that compensation shall include amounts excluded under section 911.

(3) *Contributions after age 70½.* No deduction is allowable under this section with respect to any payment which is made for a taxable year of an individual if the individual for whose benefit the individual retirement plan is maintained has attained age 70½ before the close of such taxable year.

(4) *Recontributed amounts.* No deduction is allowable under this section for any taxable year of an individual with respect to a rollover contribution described in section 402(a)(5), 402(a)(7), 403(a)(4), 403(b)(8), 405(d)(3), 408(d)(3), or 409(b)(3)(C).

(5) *Amounts contributed under endowment contracts.* The rules for endowment contracts under this section are the same as the provisions for such contracts under § 1.219(a)–2(b)(4).

(e) *Special rules*—(1) *Community property.* This section is to be applied without regard to any community property laws.

(2) *Time when contributions deemed made.* The time when contributions are deemed made is determined under section 219(f)(3). See § 1.219(a)–2 (c)(5).

**§ 1.219(a)–4 Deduction for contributions to simplified employee pensions.**

(a) *General rule*—(1) *In general.* Under section 219(b)(2), if an employer contribution is made on behalf of an employee to a simplified employee pension described in section 408(k), the limitations of this section, and not section 219(b)(1) and § 1.219(a)–2, shall apply for purposes of computing the maximum allowable deduction with respect to that contribution for that individual employee.

(2) *Employer limitation.* The maximum deduction under section 219(b)(2) for an employee with respect to an employer contribution to the employee's simplified employee pension under that employer's arrangement cannot exceed an amount equal to the lesser of—

(i) 15 percent of the employee's compensation from that employer (determined without regard to the employer contribution to the simplified employee pension) includible in the employee's gross income for the taxable year, or

(ii) The amount contributed by that employer to the employee's simplified employee pension and included in gross income (but not in excess of $15,000).

(3) *Special rules*—(i) *Compensation.* Compensation referred to in paragraph (a)(2)(i) has the same meaning as under § 1.219(a)–1(b)(3) except that it includes only the compensation from the employer making the contribution to the simplified employee pension. Thus, if an individual earns $50,000 from employer A and $20,000 from employer B and employer B contributes $4,000 to a simplified employee pension on behalf of the individual, the maximum amount the individual will be able to deduct under section 219(b)(2) is 15 percent of $20,000, or $3,000.

(ii) *Special rule for officers, shareholders, and owner-employees.* In the case of an employee who is an officer, shareholder, or owner-employee described in section 408(k)(3) with respect to a particular employer, the $15,000 amount referred to in paragraph (a)(2)(ii) shall be reduced by the amount of tax taken into account with respect to such individual under section 408(k)(3)(D).

(iii) *More than one employer arrangement.* Except as provided in paragraph (c), below, the maximum deduction under paragraph (a)(2) for an individual who receives simplified employee pension contributions under two or more employers' simplified employee pension arrangements cannot exceed the sum of the maximum deduction limitations computed separately for that individual under each such employer's arrangement.

(iv) *Section 408 rules.* Under section 408(j), the limitations under section 408 (a)(1) and (b)(2)(B) (§ 1.408–2(b)(1) and § 1.408–3(b)(2)), shall be applied separately with respect to each employer's contributions to an individual's simplified employee pension.

(4) *Additional deduction for individual retirement plan and qualified voluntary employee contribution.* The deduction under this paragraph is in addition to any deduction allowed under section 219(a) to the individual for qualified retirement contributions.

(b) *Contributions to simplified employee pensions after age 70½.* The denial of deductions for contributions after age 70½ contained in section 219(d)(1) and § 1.219(a)–2(b)(2) shall not apply with respect to employer contributions to a simplified employee pension.

(c) *Multiple employer, etc. limitations*—(1) *Section 414 (b), (c) and (m) employers.* In the case of a controlled group of employers within the meaning of section 414 (b) or (c) or employers aggregated under section 414(m), the maximum deduction limitation for an employee under paragraph (a)(2) shall be computed by treating such employers as one employer maintaining a single simplified employee pension arrangement and by treating the compensation of that employee from such employers as if from one employer. Thus, for example, for a particular employee the 15 percent limitation on compensation would be determined with regard to the compensation from all employers within such group. Further, the maximum deduction with respect to contributions made by employers included within such group could not exceed $15,000.

(2) *Self-employed individuals.* In the case of an employee who is a self-employed individual within the meaning of section 401(c)(1) with respect to more than one trade or business, the maximum deduction limitation for such an employee under paragraph (a)(2) shall not exceed the lesser of the sum of such limitation applied separately with respect to the simplified employee pension arrangement of each trade or business or such limitation determined by treating such trades or businesses as if they constituted a single employer.

(d) *Examples.* The provisions of this section may be illustrated by the following examples:

*Example (1).* Corporation X is a calendar-year, cash basis taxpayer. It adopts a simplified employee pension agreement in 1982 and wishes to contribute the maximum amount on behalf of each employee for 1982. Individual E is a calendar-year taxpayer who is employed solely by Corporation X in 1982. Beginning in June, 1982, Corporation X pays $100 each month into a simplified employee pension maintained on behalf of E. X makes a total payment to E's simplified employee pension during the year of $700. E's other compensation from X for the year totals $15,000. The maximum amount which E will be allowed to deduct as a simplified employee pension contribution is 15% of $15,000, or $2,250. Therefore, X may make an additional contribution for 1982 to E's simplified employee pension of $1,550. X makes this additional contribution to E's simplified employee pension in February of 1983. E's total compensation includible in gross income for 1982 is $15,000+$2,250 or $17,250.

*Example (2).* (i) Corporation G is a calendar-year taxpayer which adopts a simplified employee pension agreement for 1982. It does not maintain an integrated plan as defined in section 408(k)(3)(E). It wishes to contribute 15% of compensation on behalf of each employee reduced by its tax under section 3111(a). The corporation has 4 employees, A, B, C, and D. D is a shareholder. The compensation for these employees for 1982 is as follows:

A=$10,000
B=$20,000
C=$30,000
D=$120,000

(ii) The amount of money which the corporation will be allowed to contribute on behalf of each employee under this allocation formula and the amount of the employer contribution each employee will be allowed to deduct is set forth in the following table:

| Employee | Compensation | Lesser of $15,000 or 15 pct of compensation | 3111(a) [1] tax | SEP [2] Contribution | Sec. 219(b)(2) deduction |
|---|---|---|---|---|---|
| A | $10,000 | $1,500 | $540.00 | $960.00 | $960.00 |
| B | 20,000 | 3,000 | 1,080.00 | 1,920.00 | 1,920.00 |
| C | 30,000 | 4,500 | 1,620.00 | 2,880.00 | 2,880.00 |
| D | 120,000 | 15,000 | 1,749.60 | 13,250.40 | 13,250.40 |

[1] The section 3111(a) tax is computed by multiplying compensation up to the taxable wage base (32,400 for 1982) by the tax rate (5.40 pct for 1982).
[2] Simplified Employee Pension.

*Example (3).* Corporations A and B are calender year taxpayers. Corporations A and B are not aggregated employers under section 414 (b), (c) or (m). Individual M is employed full-time by Corporation A and part-time by Corporation B. Corporation A adopts a simplified employee pension agreement for calendar year 1982 and agrees to contribute 15% of compensation for each participant. M is a participant under Corporation A's simplified employee pension agreement and earns $15,000 for 1982 from Corporation A before A's contribution to his simplified employee pension. M also earns $5,000 as a part-time employee of Corporation B for 1982. Corporation A contributes $2,500 to M's simplified employee pension. The maximum amount that M will be allowed to deduct under section 219(b)(2) for 1982 is 15% of $15,000 or $2,250. In addition, M would be allowed to deduct the remaining $250 under section 219(a) for qualified retirement contributions.

*Example (4).* Individual P is employed by Corporation H and Corporation O. Corporations H and O are not aggregated employers under section 414 (b), (c) or (m). Both Corporation H and Corporation O maintain a simplified employee pension arrangement and contribute 15 percent of compensation on behalf of each employee, up to a maximum of $15,000. P earns $100,000 from Corporation H and $120,000 from Corporation O. Corporation H and O each

contribute $15,000 under its simplified employee pension arrangement to an individual retirement account maintained on behalf of P. P will be allowed to deduct $30,000 for employer contributions to simplified employee pensions because each employer has a simplified employee pension arrangement and the SEP contributions by Corporation H and O do not exceed the applicable $15,000—15 percent limitation with respect to compensation received from each employer. In addition, P would be allowed to deduct $2,000 under section 219(a) for qualified retirement contributions.

**§ 1.219(a)-5 Deduction for employee contributions to employer plans.**

(a) *Deduction allowed.* In the case of an individual, there is allowed as a deduction amounts contributed in cash to a qualified employer plan or government plan (as defined, respectively, in paragraphs (b)(7) and (b)(8) of § 1.219(a)—1) and designated as qualified voluntary employee contributions. If an employee transfers an amount of cash from one account in a plan to the qualified voluntary employee contribution account, such transfer is a distribution for purposes of sections 72, 402 and 403, and the amounts are considered recontributed as qualified voluntary employee contributions. No deduction will be allowed for a contribution of property other than cash.

(b) *Limitations*—(1) *Maximum amount of deduction.* The amount allowable as a deduction under paragraph (a) to any individual for any taxable year shall not exceed the lesser of $2,000 or an amount equal to the compensation (from the employer who maintains the plan) includible in the individual's gross income for such taxable year.

(2) *Contributions after age 70½.* No deduction is allowable for contributions under paragraph (a) to an individual for the taxable year of the individual if he has attained the age of 70½ before the close of such taxable year.

(3) *Rollover contributions.* No deduction is allowable under paragraph (a) for any taxable year of an individual with respect to a rollover contribution described in section 402(a)(5), 402(a)(7), 403(a)(4), 403(b)(8), 405(d)(3), 408(d)(3), or 409(b)(3)(C).

(c) *Rules for plans accepting qualified voluntary employee contributions*—(1) *Plan provision, etc.* (i) No plan may receive qualified voluntary employee contributions unless the plan document provides for acceptance of voluntary contributions. No plan may receive qualified voluntary employee contributions unless either the plan document provides for acceptance of qualified voluntary employee contributions or the employer or the plan administrator manifests an intent to accept such contributions. Such intention must be communicated to the employees. Any manner of communication that satisfies § 1.7476–2(c)(1) shall satisfy the requirements of this subparagraph.

(ii) If the plan document provides for the acceptance of voluntary contributions, but does not specifically provide for acceptance of qualified voluntary employee contributions, the plan qualification limitation on voluntary contributions (the limit of 10 percent of the employee's cumulative compensation less prior voluntary contributions) would apply to both qualified voluntary employee contributions and other voluntary contributions. On the other hand, if the plan document provides for acceptance of both qualified voluntary employee contributions and other voluntary contributions, the plan qualification limitation on voluntary contributions would apply only to the contributions other than the qualified voluntary employee contributions.

(2) *Plans accepting only qualified voluntary employee contributions.* A qualified pension plan or stock bonus plan may be established that provides only for qualifed voluntary employee contributions. Similarly, a government plan may be established that provides only for qualified voluntary employee contributions. A plan that provides only for qualified voluntary employee contributions would not satisfy the qualification requirements for a profit-sharing plan.

(3) *Recordkeeping provisions.* Separate accounting for qualified voluntary employee contributions that are deductible under this section is not required as a condition for receiving qualified voluntary employee contributions. However, failure to properly account for such contributions may result in adverse tax consequences to employees upon subsequent plan distributions and reporting and recordkeeping penalties for employers. See section 72(o) for rules for accounting for such contributions.

(4) *Status as employee.* An amount will not be considered as a qualified voluntary employee contribution on behalf of an individual unless the individual is an employee of the employer at some time during the calendar year for which the voluntary contribution is made. See section 415(c) concerning the effect of a nondeductible voluntary employee contribution on plan qualification.

(5) *Contribution before receipt of compensation.* A plan may allow an individual to make a qualified voluntary employee contribution greater than the amount he has received in compensation from the employer at the time the contribution is made. However, see paragraph (f) of this section.

(d) *Designations, procedures, etc.*—(1) *Plan procedures.* (i) A plan which accepts qualified voluntary employee contributions may adopt procedures by which an employee can designate the character of the employee's voluntary contributions as either qualified voluntary employee contributions or other employee contributions. Such procedures may, but need not, be in the plan document.

(ii) In the absence of such plan procedures, all voluntary employee contributions shall be deemed to be qualified voluntary employee contributions unless the employee notifies the employer that the contributions are not qualified voluntary employee contributions. Such notification must be received by April 15 following the calendar year for which such contributions were made. If such notification is not received, contributions are deemed to be qualified voluntary employee contributions for the prior year.

(2) *Characterization procedures, etc.* (i) The plan procedures may allow an employee to elect whether or not an employee contribution is to be treated as a qualified voluntary employee contribution or as other voluntary contributions. This election can be required either prior to or after the contribution is made. If a contribution may be treated under such procedures as a qualified voluntary employee contribution or other voluntary contribution for a calendar year and the employee has not by April 15 of the subsequent calendar year designated the character of the contribution, the contribution must be treated as a qualified voluntary employee contribution for the calendar year. An employer may allow the election to be irrevocable or revocable. A procedure allowing revocable elections may limit the time within which an election may be revoked. The revocation of an election after April 15 following the calendar year for which the contribution was made is deemed to be ineffective in changing the character of employee contributions.

(ii) For purposes of this section, if the plan procedures allow employees to make contributions on account of the immediately preceding calendar year, a taxpayer shall be deemed to have made a qualified voluntary employee contribution to such plan on the last day of the preceding calendar year if the contribution is on account of such year

and is made by April 15 of the calendar year of such earlier time as provided by the plan procedure.

(e) *Nondiscrimination requirements*—(1) *General rule.* Plans subject to the nondiscrimination requirements of section 401(a)(4) which accept qualified voluntary employee contributions must permit such contributions in a nondiscriminatory manner in order to satisfy section 401(a)(4). If a plan permits participants to make qualified voluntary employee contributions, the opportunity to make such contributions must be reasonably available to a nondiscriminatory group of employees. The availability standard will be satisfied if a nondiscriminatory group of employees is eligible to make qualified voluntary employee contributions under the terms of the plan and if a nondiscriminatory group of employees actually has the opportunity to make qualified voluntary employee contributions when plan restrictions are taken into account.

(2) *Eligible employees.* A nondiscriminatory group of employees is eligible to make qualified voluntary employee contribution under the terms of the plan if the group either meets the percentage requirements of section 410(b)(1)(A) or comprises a classification of employees that does not discriminate in favor of employees who are officers, shareholders, or highly compensated, as provided in section 410(b)(1)(B).

(3) *Plan restrictions.* In some cases, an employee may not be permitted to make qualified voluntary employee contributions until a plan restriction (such as making a certain level of mandatory employee contributions) is satisfied. In this case, it is necessary to determine whether a nondiscriminatory group of employees actually has the opportunity to make qualified voluntary employee contributions. For this purpose, only employees who have satisfied the plan restriction will be considered to have the opportunity to make deductible contributions. Thus, for example, if a plan requires an employee to make mandatory contributions of 6 percent of compensation in order to make qualified voluntary employee contributions and if only a small percentage of employees make the 6 percent mandatory contributions, then the group of employees who have the opportunity to make qualified voluntary employee contributions may not satisfy either test under section 410(b). A similar rule is applicable to integrated plans: Employees who are not permitted to make qualified voluntary employee contributions to such a plan because they earn less than the integration level amount will be considered as employees who do not have the opportunity to make qualified voluntary employee contributions.

(4) *Permissible contributions.* If the availability standards are met, and if the qualified voluntary employee contributions permitted are not higher, as a percentage of compensation, for officers, shareholders or highly compensated employees than for other participants, the qualified voluntary employee contribution feature will meet the requirement that contributions or benefits not discriminate in favor of employees who are officers, shareholders, or highly compensated. This is so because the contributions are made by the employee, not the employer.

(5) *Acceptable contributions.* A plan may accept qualified voluntary employee contributions in an amount less than the maximum deduction allowable to an individual.

(f) *Excess qualified voluntary employee contributions.* Voluntary employee contributions which exceed the amount allowable as a deduction under paragraph (b) of this section will be treated as nondeductible voluntary employee contributions to the plan. See § 1.415–6(b)(8).

(g) *Reports*—(1) *Requirements.* Each employer who maintains a plan which accepts qualified voluntary employee contributions must furnish to each employee—

(i) A report showing the amount of qualified voluntary employee contributions the employee made for the calendar year, and

(ii) A report showing the amount of withdrawals made by the employee of qualified voluntary employee contributions during the calendar year.

(2) *Times.* (i) The report required by paragraph (g)(1)(i) of this section must be furnished by the later of January 31 following the year for which the contributions was made or the time the contribution is made.

(ii) The report required by paragraph (g)(1)(ii) of this section must be furnished by January 31 following the year of withdrawal.

(3) *Authority for additional reports.* The Commissioner may require additional reports to be given to individuals or to be filed with the Service. Such reports shall be furnished at the time and in the manner that the Commissioner specifies.

(4) *Authority to modify reporting requirements.* The Commissioner may, in his discretion, modify the reporting requirements of this paragraph. Such modification may include: the matters to be reported, the forms to be used for the reports, the time when the reports must be filed or furnished, who must receive the reports, the substitution of the plan administrator for the employer as the person required to file or furnish the reports, and the deletion of some or all of the reporting requirements. The Commissioner may, in his discretion, relieve employers from making the reports required by section 219(f)(4) and this paragraph (g). This discretion includes the ability to relieve categories of employers (but not individual employers) from furnishing or filing any report required by section 219(f)(4) and this paragraph (g).

(5) *Effective date.* This paragraph shall apply to reports for calendar years after 1982.

**§ 1.219(a)–6 Alternative deduction for divorced individuals.**

(a) *In general.* A divorced individual may use the provisions of this section rather than § 1.219(a)–2 in computing the maximum amount he may deduct as a contribution to an individual retirement plan. A divorced individual is not required to use the provisions of this section; he may use the provisions of § 1.219(a)–2 in computing the maximum amount he may deduct as a contribution to an individual retirement plan.

(b) *Individuals who may use this section.* An individual may compute the deduction for a contribution to an individual retirement plan under this section if—

(1) An individual retirement plan was established for the benefit of the individual at least five years before the beginning of the calendar year in which the decree of divorce or separate maintenance was issued, and

(2) For at least three of the former spouse's most recent five taxable years ending before the taxable year in which the decree was issued, such former spouse was allowed a deduction under section 219(c) (or the corresponding provisons of prior law) for contributions to such individual retirement plan.

(c) *Limitations*—(1) *Amount of deduction.* An individual who computes his deduction for contributions to an individual retirement plan under this section may deduct the smallest of—

(i) The amount contributed to the individual retirement plan for the taxable year,

(ii) $1,125, or

(iii) The sum of the amount of compensation includible in the individual's gross income for the taxable year and any qualifying alimony

received by the individual during the taxable year.

(2) *Contributions after age 70½.* No deduction is allowable for contributions to an individual retirement plan to an individual for the taxable year of the individual if he has attained the age of 70½ before the close of such taxable year.

(3) *Rollover contributions.* No deduction is allowable under this section for any taxable year of an individual with respect to a rollover contribution described in section 402(a)(5), 402(a)(7), 403(a)(4), 403(b)(8), 405(d)(3), 408(d)(3), or 409(b)(3)(C).

(d) *Qualifying alimony.* For purposes of this section, the term "qualifying alimony" means amounts includible in the individual's gross income under section 71(a)(1) (relating to a decree of divorce or separate maintenance).

**Par. 2.** Section 1.408–2 is amended by revising paragraph (b)(1) to read as follows:

**§ 1.408–2 Individual retirement accounts.**

* * * * *

(b) * * *

(1) *Amount of acceptable contributions.* Except in the case of a contribution to a simplified employee pension described in section 408(k) and a rollover contribution described in section 408(d)(3), 402(a)(5), 402(a)(7), 403(a)(4), 403(b)(8), 405(d)(3), or 409(b)(3)(C), the trust instrument must provide that contributions may not be accepted by the trustee for the taxable year in excess of $2,000 on behalf of any individual for whom the trust is maintained. An individual retirement account maintained as a simplified employee pension may provide for the receipt of up to the limits specified in section 408(j) for a calendar year.

* * * * *

**Par. 3.** Section 1.408–3 is amended by revising paragraph (b)(2) to read as follows:

**§ 1.408–3 Individual retirement annuities.**

* * * * *

(b) * * *

(2) *Annual premium.* Except in the case of a contribution to a simplified employee pension described in section 408(k), the annual premium on behalf of any individual for the annuity cannot exceed $2,000. Any refund of premiums must be applied before the close of the calendar year following the year of the refund toward the payment of future premiums or the purchase of additional benefits. An individual retirement annuity maintained as a simplified employee pension may provide for an annual premium of up to the limits specified in section 408(j).

* * * * *

**Par. 4.** There is added after proposed § 1.408–9, 46 FR 36209 (1981), the following new section 1.408–10:

**§ 1.408–10 Investment in collectibles.**

(a) *In general.* The acquisition by an individual retirement account or by an individually-directed account under a plan described in section 401(a) of any collectible shall be treated (for purposes of section 402 and 408) as a distribution from such account in an amount equal to the cost to such account of such collectible.

(b) *Collectible defined.* For purposes of this section, the term "collectible" means—

(1) And work or art,

(2) Any rug or antique,

(3) Any metal or gem,

(4) Any stamp or coin,

(5) Any alcoholic beverage,

(6) Any musical instrument,

(7) Any historical objects (documents, clothes, etc.), or

(8) Any other tangible personal property which the Commissioner determines is a "collectible" for purposes of this section.

(c) *Individually-directed account.* For purposes of this section, the term "individually-directed account" means an account under a plan that provides for individual accounts and that has the effect of permitting a plan participant to invest or control the manner in which the account will be invested.

(d) *Acquisition.* For purposes of this section, the term acquisition includes purchase, exchange, contribution, or any method by which an individual retirement account or individually-directed account may directly or indirectly acquire a collectible.

(e) *Cost.* For purposes of this section, cost means fair market value.

(f) *Premature withdrawal penalty.* The ten percent penalty described in sections 72(m)(5) and 408(f)(1) shall apply in the case of a deemed distribution from an individual retirement account described in paragraph (a) of this section.

(g) *Amounts subsequently distributed.* When a collectible is actually distributed from an individual retirement account or an individually-directed account, any amounts included in gross income because of this section shall not be included in gross income at the time when the collectible is actually distributed.

(h) *Effective date.* This section applies to property acquired after December 31, 1981, in taxable years ending after such date.

**Par 5.** Section 1.409–1 is amended by revising paragraph (b)(2)(i) to read as follows:

**§ 1.409–1 Retirement bonds.**

* * * * *

(b) * * *

(2) *Exceptions.* (i) If a retirement bond is redeemed within 12 months after the issue date, the proceeds are excluded from gross income if no deduction is allowed under section 219 on account of the purchase of such bond. For definition of issue date, see 31 CFR 346.1(c). The rule in this subdivision (i) shall not apply to the extent that the bond was purchased with a rollover contribution described in section 402)a)(5), 402(a)(7), 403(a)(4), 403(b)(8), 405(d)(3), 408(d)(3) or 409(b)(3)(C).

* * * * *

**§ 1.415–1 [Amended]**

**Par. 6.** Section 1.415–1 is amended by removing paragraph (c) and paragraph (f)(3).

**§ 1.415–2 [Amended]**

**Par. 7.** Section 1.415–2 is amended by removing paragraph (b)(8).

**Par. 8.** Section 1.415–6 is amended by:

(1) Revising paragraph (b)(3) to read as set forth below, (2) removing paragraph (b)(7)(iv), and (3) adding a new paragraph (b)(8) to read as set forth below.

**§ 1.415–6 Limitation for defined contribution plans.**

* * * * *

(b) *Annual additions.* * * *

(3) *Employee contributions.* For purposes of subparagraph (1)(ii) of this paragraph, the term "annual additions" includes, to the extent employee contributions would otherwise be taken into account under this section as an annual addition, mandatory employee contributions (as defined in section 411(c)(2)(C) and the regulations thereunder) as well as voluntary employee contributions. The term "annual additions" does not include—

(i) Rollover contributions (as defined in section 402(a)(5), 403(a)(4), 403(b)(8), 405(d)(3), 408(d)(3) and 409(b)(3)(C)),

(ii) Repayments of loans made to a participant from the plan,

(iii) Repayments of amounts described in section 411(a)(7)(B) (in accordance with section 411(a)(7)(C)) and section 411(a)(3)(D) (see § 1.411(a)(7)(d)(6)(iii)(B)),

(iv) The direct transfer of employee contributions from one qualified plan to another,

(v) Employee contributions to a simplified employee pension allowable as a deduction under section 219(a), or

(vi) Deductible employee contributions within the meaning of section 72(o)(5).

However, the Commissioner may in an appropriate case, considering all of the facts and circumstances, treat transactions between the plan and the employee or certain allocations to participants' accounts as giving rise to annual additions.

* * * * *

(8) *Qualified voluntary employee contributions.* This subparagraph provides rules for qualified voluntary employee contributions that are eligible for the deduction under section 219(a). This subparagraph is applicable only if the total of such contributions for the year is not in excess of $2,000. If such contributions are not deductible under section 219, and result in an annual addition that causes the section 415 limits to be exceeded, they will not be treated as annual additions to the extent that the portion of the contribution exceeding the limitation (and earnings thereon) is returned to the employee as soon as administratively feasible after the employer knows or has reason to know that such contributions are not deductible employee contributions within the meaning of section 72(o)(5).

* * * * *

**§ 1.415-7 [Amended]**

**Par. 9.** Section 1.415-7 is amended by:

(1) Removing paragraph (c)(2)(iii), (2) redesignating paragraph (c)(2)(iv) as paragraph (c)(2)(iii), and (3) removing paragraph (i).

**Estate Tax Regulations**

**PART 20—[AMENDED]**

**Par. 10.** Section 20.2039-2 is amended by adding a new subdivision (ix) to paragraph (c)(1) to read as follows:

**§ 20.2039-2 Annuities under "qualified plans" and section 403(b) annuity contracts.**

* * * * *

(c) *Amounts excludable from the gross estate.*

(1) * * *

(ix) Any deductible employee contributions (within the meaning of section 72(o)(5)) are considered amounts contributed by the employer.

* * * * *

**Par. 11.** Section 20.2039-4 is amended by adding a new paragraph (h) to read as follows:

**§ 20.2039-4 Lump sum distributions from "qualified plans;" decedents dying after December 31, 1978.**

* * * * *

(h) *Accumulated deductible employee contributions.* For purposes of this section, a lump sum distribution includes an amount attributable to accumulated deductible employee contributions (as defined in section 72(o)(5)(B)) in any qualified plan taken into account for purposes of determining whether any distribution from that qualified plan is a lump sum distribution as determined under paragraph (b) of this section. Thus, amounts attributable to accumulated deductible employee contributions in a qualified plan under which amounts are payable in a lump sum distribution are not excludible from the decedent's gross estate under § 20.2039-2, unless the recipient makes the section 402(a)/403(c) taxation election with respect to a lump sum distribution payable from that qualified plan.

**Gift Tax Regulations**

**PART 25—[AMENDED]**

**Par. 12.** Section 25.2517-1 is amended by adding a new subdivision (viii) to paragraph (c)(1) to read as follows:

**§ 25.2517-1 Employees' annuities.**

* * * * *

(c) *Limitation on amount excludable from gift.*

(1) * * *

(viii) Any deductible employee contributions (within the meaning of section 72(o)(5)) are considered amounts contributed by the employer.

* * * * *

**Procedure and Administration Regulations**

**PART 301—[AMENDED]**

**Par. 13.** There is added after § 301.6652-3 the following new section:

**§ 301.6652-4 Failure to file information with respect to qualified voluntary employee contributions.**

(a) *Failure to make annual reports to employees.* In the case of a failure to make an annual report required by § 1.219(a)-5(g) which contains the information required by such section on the date prescribed therefor, there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person failing to make such annual report an amount equal to $25 for each participant with respect to when there was a failure to make such report, multiplied by the number of years during which such failure continues.

(b) *Limitation.* The total amount imposed under this section on any person shall not exceed $10,000 with respect to any calendar year.

(Sec. 7805 of the Internal Revenue Code of 1954, 68A Stat. 917) (26 U.S.C. 7805))

**Roscoe L. Egger, Jr.,**

*Commissioner of Internal Revenue.*

[FR Doc. 84-1786 Filed 1-18-84; 1:28 pm]

BILLING CODE 4830-01-M

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**26 CFR Part 1**

**Information Returns of Brokers**

*Correction*

In FR Doc. 83-34850 beginning on page 646 in the issue of Thursday, January 5, 1984, make the following corrections.

1. On page 646, second column, under **DATES**, last line, "February 4," should read "February 6,"; third column, last line from the bottom, "that" should read "the".

2. On page 648, second column, § 1.6045-1, paragraph (b), *Example 12*, fifth line, "old" should read "gold".

BILLING CODE 1505-01-M

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

**[PP 3E2913/P315; OPP-FRL 2494-2]**

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

*Correction*

In FR Doc. 83-33769 beginning on page 56416 in the issue of Wednesday, December 21, 1983, make the following correction:

On page 56417, third column, in § 180.349(a), in the table, "0.002" should read "0.02".

BILLING CODE 1505-01-M

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**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Ch. I**

**[Gen. Docket No. 83-989]**

**Enforcement of Prohibitions Against the Use of Common Carriers for the Transmission of Obscene Materials; Order Extending Time for Filing Comments and Reply Comments**

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** This action by the General Counsel on delegated authority grants an extension of time for filing comments in response to the Commission's *Further Notice of Inquiry and Notice of Proposed Rule Making in Gen. Docket No. 83–989, Enforcement of Prohibitions Against the Use of Common Carriers for the Transmission of Obscene Materials,* in order to afford the public reasonable notice and opportunity to file comments.

**DATES:** Comments must be filed on or before February 13, 1984; reply comments must be filed on or before March 1, 1984.

**ADDRESS:** Federal Communications Commission, Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:** Sharon B. Kelley or Holly Berland, Office of General Counsel, (202) 632–6990.

## Order Extending Time For Filing Comments

In the matter of enforcement of prohibitions against the use of Common Carriers for the transmission of obscene materials (Gen. Docket No. 83–989).

Adopted: January 18, 1984.
Released: January 19, 1984.

1. On December 14, 1983, the Commission adopted a *Further Notice of Inquiry and Notice of Proposed Rule Making* in the above-captioned proceeding, 49 Fed. Reg. 2124, published January 18, 1984. The dates initially established for filing comments and reply comments were January 23, 1984 and March 1, 1984, respectively. Due to delay in publication in the **Federal Register,** we are hereby extending the time for the filing of comments. This action will afford the public reasonable notice and opportunity to comment. The March 1, 1984 deadline for filing reply comments remains in effect.

2. Accordingly, pursuant to authority delegated in 47 CFR § 0.251(b), it is hereby ordered that comments in the above-captioned proceeding are due on or before February 8, 1984.

3. This action is taken pursuant to Sections 4(i), and 5(c)(1) and 403 of the Communications Act of 1934, as amended, and § 0.251 of the Commission's rules.

Federal Communications Commission.

**Richard J. Shiben,**

*Associate General Counsel.*

[FR Doc. 84–1810 Filed 1–20–84; 8:45 am]
BILLING CODE 6712–01–M

# Notices

Federal Register
Vol. 49, No. 15
Monday, January 23, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

### Availability of Surplus Commodities

**AGENCY:** Food and Nutrition Service, USDA.

**ACTION:** Notice.

**SUMMARY:** This notice announces that the Department of Agriculture will make available additional quantities of surplus cheese, butter, nonfat dry milk, honey and corn meal to requesting State agencies for distribution to eligible recipients. The foods being made available by this announcement are in addition to those already made available by the Department under other authorities including the special surplus distribution program which was first authorized in December 1981 under section 1114 of the Agriculture and Food Act of 1981, and those made available since April 1983 under section 202 of the Temporary Emergency Food Assistance Act of 1983 (Title II of Pub. L. 98–8).

**FOR FURTHER INFORMATION CONTACT:** Gwena Kay Tibbits, Chief, Program Administration Branch, Food Distribution Division, Food and Nutrition Service, Park Office Center, Alexandria, Virginia 22302, Telephone (703) 756–3660.

**EFFECTIVE DATE:** October 1, 1983.

**SUPPLEMENTARY INFORMATION:** This action, which implements mandatory provisions of Pub. L. 98–92, which amended the Temporary Emergency Food Assistance Act of 1983, has been reviewed under Executive Order 12291 and Secretary's Memorandum No. 1512. It has been classified as "nonmajor," because it meets none of the three criteria in the Executive Order; the action will not have an annual effect on the economy of $100 million or more, will not cause a major increase in costs, and will not have a significant impact on competition, employment, productivity, innovation, or the ability of U.S. enterprises to compete.

The action has also been reviewed with regard to the requirements of Pub. L. 96–354, the Regulatory Flexibility Act of 1980. Robert E. Leard, Administrator, Food and Nutrition Service, has determined that it will not have a significant economic impact on a substantial number of small entities. The purpose of the action is to notify States of the types and quantities of foods to be made available through Title II of Public L. 98–8, as amended by Pub. L. 98–92, during Fiscal Year 1984.

This notice imposes no new reporting or recordkeeping provisions that are subject to Office of Management and Budget review.

The Department anticipates that the following commodities and amounts will be made available during Fiscal Year 1984 to agencies of State governments which request them for distribution to eligible recipients:

Cheese—420 million pounds
Butter—144 million pounds GAB
Nonfat Dry Milk—78 million pounds
Honey—60 million pounds
Corn Meal—36 million pounds
Flour—40 million pounds

These foods are being offered under the provisions of Pub. L. 98–8, as amended by Pub. L. 98–92, which requires that the Department publish in the **Federal Register** no later than October 1, 1983, an estimate of the types and quantities of foods that the Secretary of Agriculture anticipates are likely to be made available during Fiscal Year 1984, and prior to Fiscal Year 1985, an estimate of the types and quantities of foods that he estimates are likely to be made available during that fiscal year. The legislation expires September 30, 1985. The actual types and quantities of commodities made available by the Department may differ from these estimates. The foods made available under this notice will be targeted to needy persons, including low-income and unemployed persons.

State agencies participating in the distribution of surplus foods under Title II of Pub. L. 98–8, as amended by Pub. L. 98–92, will be required to enter into an agreement with the Department embodying the terms and conditions under which the foods are being provided, in accordance with interim rules which were published December 16, 1983 (48 FR 55988–55993). A copy of the agreement may be obtained from the appropriate Regional Administrator, Food and Nutrition Service.

(Catalog of Federal Domestic Assistance No. 10.550)

**Authority:** Sec. 210(c), Pub. L. 98–8, as amended.

Dated: January 12, 1984.

**Robert E. Leard,**

*Administrator,*

[FR Doc. 84–1784 Filed 1–20–84; 8:45 am]

BILLING CODE 3410–30–M

## Packers and Stockyards Administration

### Posted Stockyards

Pursuant to the authority delegated under the Packers and Stockyards Act, 1981, as amended (7 U.S.C. 181 *et seq.*), it was ascertained that the livestock markets named below were stockyards within the definition of that term contained in section 302 of the Act, as amended (7 U.S.C. 202), and notice was given to the owners and to the public by posting notices at the stockyards as required by said section 302, on respective dates specified below.

| Facility No., name and location of stockyard | Date of posting |
|---|---|
| NY–163 Jack Wood's Livestock and Auction Service Cincinnatus, New York. | Dec. 6, 1982. |
| UT–116 Basin Livestock Market, Inc., Roosevelt, Utah. | Jan. 3, 1984. |

Done at Washington, D.C., this 19th day of January 1984.

**Jack W. Brinckmeyer,**

*Chief, Financial Protection Branch, Livestock Marketing Division.*

[FR Doc. 84–1777 Filed 1–20–84; 8:45 am]

BILLING CODE 3410–02–M

### Proposed Posting of Stockyard

The Packers and Stockyards Administration, United States Department of Agriculture, has information that the livestock market named below is a stockyard as defined in section 302 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 202), and should be made subject to the provisions of the Act.

MO–259 Sarcoxie Community Sales, Inc., Sarcoxie, Missouri

Notice is hereby given that pursuant to authority under the Packers and Stockyards Act, as amended (7 U.S.C. 181 *et seq.*), it is proposed to designate the stockyard named above as a posted stockyard subject to the provisions of the Act as provided in section 302 thereof.

Any person who wishes to submit written data, views, or arguments concerning the proposed designation, may do so by filing them with the Chief, Financial Protection Branch, Packers and Stockyards Administration, United States Department of Agriculture, Washington, D.C. 20250, by February 7, 1984.

All written submissions made pursuant to this notice shall be made available for public inspection in the office of the Chief of the Financial Protection Branch during normal business hours.

Done at Washington, D.C., this 19th day of January 1984.

**Jack W. Brinckmeyer,**

*Chief, Financial Protection Branch, Livestock Marketing Division.*

[FR Doc. 84-1778 Filed 01-20-84; 8:45 am]

BILLING CODE 3410-02-M

## Soil Conservation Service

### Haines Point and Messick Roads, Critical Area Treatment RC&D Measure, Maryland; Finding of No Significant Impact

**AGENCY:** Soil Conservation Service, USDA.

**ACTION:** Notice of a finding of no significant impact.

**SUMMARY:** Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Haines Point and Messick Roads Critical Area Treatment RC&D Measure, Somerset County, Maryland.

**FOR FURTHER INFORMATION CONTACT:** Mr. Gerald R. Calhoun, State Conservationist, Soil Conservation Service, 4321 Hartwick Road, College Park, Maryland 20740, telephone 301-344-4180.

**SUPPLEMENTARY INFORMATION:** The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Gerald R. Calhoun, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan to contol erosion along 550 feet of shoreline on Deal Island. The planned works of improvement include installation of 550 feet of bulkhead on the shoreline, placement of fill behind the structure, and grading and seeding of the disturbed area.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and various Federal, State, and local agencies and interested parties. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Gerald R. Calhoun. A limited number of copies of the FONSI are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A-95 regarding State and local Clearinghouse review of Federal and federally assisted programs and projects is applicable.)

**Gerald R. Calhoun,**

*State Conservationist.*

January 13, 1984.

[FR Doc. 84-1794 Filed 1-20-84; 8:45 am]

BILLING CODE 3410-16-M

### Van Ettan Creek Water Quality Management RC&D Measure, Michigan; Finding of No Significant Impact

**AGENCY:** Soil Conservation Service, USDA.

**ACTION:** Notice of finding of no siginficant impact.

**SUMMARY:** Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Evironmental Quality Guidelines, (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Van Ettan Creek RC&D Measure, Alcona County, Michigan.

**FOR FURTHER INFORMATION CONTACT:** Mr. Homer R. Hilner, State Conservationist, Soil Conservation Service, 1405 South Harrison Road, East Lansing, Michigan 48823, telephone 517-337-6702.

**SUPPLEMENTARY INFORMATION:** The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. A contact has been made with the State Historical Preservation Officer and concludes that it will have no effect on any cultural resources either eligible for or listed on the National Register of Historic Places. The State Archaeologist will be contacted if any land disturbance associated with this project and archaeological sites, features, or materials are encountered during actual construction. As a result of these findings, Mr. Homer R. Hilner, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

This mean concerns a plan for the installation of water quality management measures. The planned works of improvement include the following items: livestock fencing, cattle, and equipment crossings, rock rip-rap, waterways, diversions, liverstock watering facilities, animal waste system, erosion control structure, shaping, seeding, and shrub planting. Total construction cost is estimated to be $129,000; of which RC&D funds will pay 100%.

Sixteen local residents of the village of Mikado are treating their septic waste problems on an individual basis, Cost will be an estimated $3,000 each, or a total of $48,000. This will be accomplish with local funds.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Homer R. Hilner. The FONSI has been sent to various federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.901, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A-95 regarding state and local clearinghouse review of federal and federally assisted programs and projects is applicable)

Dated: January 13, 1984.

**Homer R. Hilner,**

*State Conservationist.*

[FR Doc. 84-1793 Filed 1-20-84; 8:45 am]

BILLING CODE 3410-16-M

## DEPARTMENT OF COMMERCE

### International Trade Administration

### Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee; Open Meeting

A meeting of the Computer Peripherals, Components, and Related Test Equipment Technical Advisory Committee will be held February 7, 1984, at 9:30 a.m., Herbert C. Hoover Building, Room B841, 14th Street and Constitution Avenue, NW., Washington, D.C. The Committee advises the Office of Export Administration with respect to technical questions which affect the level of export controls applicable to computer peripherals, components and related test equipment or technology.

**General Session**

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. A review of the TAC Chairmen's meeting.
4. Discussion and action on TAC membership and technical skills.
5. Discussion of the Committee's role in responding to Part 379 of the Export Administration Regulations.
6. Review and discussion of the critical technology data list.
7. Review and adoption of the Committee's annual plan.
8. Action items underway.
9. Action items due at next meeting.

The meeting will be open to the public with a limited number of seats available. For further information or copies of the minutes contact Margaret Cornejo, (202) 377-2583.

Dated: January 17, 1984.

**Milton M. Baltas,**

*Director of Technical Programs, Office of Export Administration.*

[FR Doc. 84-1768 Filed 1-20-84; 8:45 am]

BILLING CODE 3510-DT-M

### Patent and Trademark Office

### Notice of Public Briefing on Patent Maintenance Fee Payment Procedure

The Patent and Trademark Office is in the process of designing and implementing a system for receiving and recording maintenance fees which are required for patents based on applications filed on and after December 12, 1980. Provisions relating to maintenance fees are found in both Public Laws 96-517 and 97-247. A proposed rule change notice is also being prepared.

It is considered to be extremely desirable to have a close coordination between the procedures and records maintained in the Patent and Trademark Office and those maintained by organizations and individuals responsible for paying maintenance fees including service organizations.

Accordingly, the Patent and Trademark Office is presenting a public briefing of its maintenance fee payment plans on February 22, 1984 at 1:00 pm at the Crystal City Marriott Hotel, 1999 Jefferson Davis Highway (U.S. Rt. 1), Arlington, Virginia 22202.

Any questions concerning the briefing should be addressed to R. Franklin Burnett at (703) 557-3054.

Dated: January 17, 1984.

**Gerald J. Mossinghoff,**

*Commissioner of Patents and Trademarks.*

[FR Doc. 84-1780 Filed 1-20-84; 8:45 am]

BILLING CODE 3510-16-M

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Request for Public Comment on Bilateral Textile Consultations With the Government of Japan to Review Trade in Categories 314, 604, and 644

January 18, 1984.

**ACTION:** On January 13, 1984 the Government of the United States requested consultations with the Government of Japan with respect to Categories 314 (poplin and broadcloth), 604 (yarn wholly of non-continuous filament), and 644 (women's, girls' and infants' suits). This request was made on the basis of the Agreement of August 17, 1979, as amended and extended, between the Governments of the United States and Japan relating to trade in cotton, wool, and man-made fiber textiles and textile products.

The purpose of this notice is to advise the public that, if no solution is agreed upon in consultations beween the two governments, the Committee for the Implementation of Textile Agreements may request the Government of Japan to limit exports in Categories 314, 604 and 644, produced or manufactured in Japan and exported to the United States during the twelve-month period which began on January 1, 1984 and extends through December 31, 1984 to the following levels:

| Category | Twelve-mo. level |
|---|---|
| 314 | 12,600,047 square yards. |
| 604 | 6,637,241 pounds. |
| 644 | 15,635 dozen. |

Summary market disruption statements concerning each of these categories follow this notice.

Anyone wishing to comment or provide data or information regarding the treatment of these categories under the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement with the Government of Japan, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in these categories, is invited to submit such comments or information in ten copies to Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Since the exact timing of the consultations is not yet certain comments should be submitted promptly. Comments of information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel., Room 3100, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

**Ronald I. Levin,**

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

#### Category 314—Cotton Poplin and Broadcloth

U.S. imports of Category 314 from Japan amounted to 10.5 million square yards during the year ending October 1983. This represents an increase of 43.9 percent over the imports a year earlier. Japan is the second largest supplier of Category 314, accounting for 21.2 percent of the total category imports during the January–October 1983 period. Imports from other major suppliers are subject to restraints under their bilateral

textile agreements with the United States.

Domestic production of Category 314 trended downward from 1978 through 1981 from 100.1 million square yards to 64.3 million. Some recovery occurred in 1982; however, production remained at a depressed level, below that of any other year of the decade except 1980 and 1981.

Imports of Category 314 were 36.4 million square yards in 1982, up 18 percent from 1981. Imports continued to expand in 1983, increasing 43 percent during the first ten months compared with a year earlier.

The ratio of imports to domestic production was 48.1 percent in 1981; 49.6 percent in 1982; and 54.7 percent during the first half of 1983. It is anticipated that the ratio will be between 55.0 and 60.0 percent in 1983 due to the substantial increase in imports.

**Category 604—Other MMF Yarn Wholly of Non-Continuous Filament**

U.S. imports of Category 604 from Japan, during the first ten months of 1983, were 4.7 million pounds, up 32.1 percent from the same period in 1982. Japan was the largest supplier of Category 604, accounting for 19 percent of the imports. These imports from Japan were entered at duty-paid values below the U.S. producer prices for comparable yarns. Imports from Japan of Category 604 were concentrated in two types, plied acrylic yarns and fine count polyester yarns.

U.S. production of plied acrylic yarn declined from 44.8 million pounds in 1981 to 38.7 million in 1982. Production of fine count polyester yarns declined from 6.4 million pounds in 1981 to 4.6 million in 1982. Imports of plied acrylic yarn from all sources increased from 13.8 million pounds in 1981 to 15.4 million in 1982. Imports for the first ten months of 1983 were 18.2 million pounds. Imports of fine count polyester yarn increased from 1.7 million pounds in 1981 to 2.0 million in 1982. Imports for the first ten months of 1983 were 2.1 million pounds. The import to production ratio for plied acrylic yarns was 51.9 percent during the January–September 1983 period and that for fine count polyester yarn was 35.9 percent for the January–August 1983 period.

**Category 644—Women's, Girls' and Infants' MMF Suits**

U.S. imports from Japan of Category 644 amounted to 13,071 dozen during the year ending October 1983, up 502.9 percent from a year earlier. These imports entered at duty-paid landed values below the U.S. producer prices for comparable garments.

Domestic production of Category 644 was 878,000 dozen in 1982, down 22 percent from 1981. U.S. imports from all sources were 178,000 dozen in 1981, 241,000 dozen in 1982, and 334,000 dozen during the first ten months of 1983. The ratio of imports to domestic production increased from 15.8 percent in 1981 to 27.4 percent in 1982 and is likely to exceed 40 percent in 1983.

[FR Doc. 84-1759 Filed 1-20-84; 8:45 am]
BILLING CODE 3510-DR-M

## Announcing Import Restraint Levels for Certain Cotton, Wool and Man-Made Fiber Textile Products from Macau Under a New Bilateral Agreement

January 18, 1984.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below the the Commissioner of Customs to be effective on January 24, 1984. For further information contact Gordana Slijepcevic, International Trade Specialist (202/377–4212).

**Background**

The new Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 29, 1983 and January 9, 1984 between the Governments of the United States and Macau provides import limits for, among other categories, Categories 333/334/335, 338, 339, 340, 341, 347/348, 445/446, 633/634/635, 638/639, 640, 641, 645/646 and 647/648 during the agreement year which began on January 1, 1984 and extends through December 31, 1984. The agreement also contains a consultation mechanism for categories not subject to specific limits and for which levels may be established during the agreement year.

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), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), and December 30, 1983 (48 FR 57584).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

**Ronald I. Levin,**

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

**Committee for the Implementation of Textile Agreements**

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: 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 Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 29, 1983 and January 9, 1984, between the Governments of the United States and Macau, and in accordance with the provisions in Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 24, 1984, entry into the United States for consumption and withdrawal from warehouse for comsumption of cotton, wool and man-made fiber textiles and textile products in the following categories, produced or manufactured in Macau and exported during 1984, in excess of the indicated levels of restraint:

| Category | Twelve-month level of restraint |
|---|---|
| 333/334/335 | 111,470 dozen of which not more than 57,349 dozen shall be in Category 333/335. |
| 338 | 146,247 dozen. |
| 339 | 622,246 dozen. |
| 340 | 140,187 dozen. |
| 341 | 90,418 dozen. |
| 347/348 | 333,900 dozen. |
| 445/446 | 70,672 dozen. |
| 633/634/635 | 239,904 dozen. |
| 638/639 | 12,014,535 square yards equivalent. |
| 640 | 50,778 dozen. |
| 641 | 84,048 dozen. |
| 645/646 | 126,445 dozen. |
| 647/648 | 255,080 dozen. |

In carrying out this directive, entries of cotton, wool and man-made fiber textile and textiles products in the foregoing categories, except Categories 638/639, 640, and 645/646, produced or manufactured in Macau, which have been exported to the United States on and after Janaury 1, 1983 and extending through December 31, 1983, shall, to the extend of any unfilled balances, be charged against the levels of restraint established for such goods during that twelve-month period. In the event the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

The levels set forth above are subject to adjustment in the future according to the provisions of the bilateral agreement of December 29, 1983 and January 9, 1984, which provide, in part, that: (1) within the aggregate and applicable group limits, specific limits may be exceeded by designated percentages; (2) these same levels may be increased for

carryforward and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement, referred to above, will be made to you by letter.

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), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), and December 30, 1983, (48 FR 57584).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The action taken with respect to the Government of Macau and with respect to imports of cotton, wool and man-made fiber textile products from Macau have 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 foreing affairs exception to the rule-making provisions of 5 U.S.C. 533. This letter will be published in the **Federal Register.**

Sincerely,

Ronald I. Levin,

*Acting Chairman, Committee for the Implementation of Taxtile Agreements.*

[FR Doc. 84-1760 Filed 1-20-84; 8:45 am]

BILLING CODE 3510-DR-M

## DEPARTMENT OF DEFENSE

### Department of the Army

### Finding of No Significant Impact; Proposed BZ Demilitarization Facility; Pine Bluff Arsenal

Finding of No Significant Impact on the Construction and Operation of a Proposed BZ Demilitarization Facility at Pine Bluff Arsenal, Pine Bluff, Arkansas. An environmental assessment (EA) has been prepared for the planned construction and operation of a demilitarization facility to be built on the Pine Bluff Arsenal (PBA), Pine Bluff, Arkansas. The proposed facility is to be used for the destruction of the Army's existing stockpile of chemical warfare agent BZ (3-quinuclidinyl benizlate, an incapacitating agent), BZ-filled munitions and BZ-contaminated residues.

The inventory consists of approximately 2280 drums of BZ and BZ-contaminated solid and liquid residues and approximately 1500 BZ-filled munitions. The munitions consist of M43 bomb clusters and M44 generator clusters containing BZ combined with pyrotechnic mixturer. The BZ and BZ-filled munitions inventory has become obsolete; the munitions are a potential safety hazard and are expensive to maintain in their present condition. The Government has mandated the destruction of the entire inventory in a safe and environmentally acceptable manner. The proposed disposal process would be by incineration and would require approximately 18 months.

The proposed action was selected after extensive study of several demilitarization concepts involving various degrees of munitions disassembly and destruction processes. Two location alternatives involving long distance transport of the inventory were examined: the Rocky Mountain Arsenal outside of Denver, Colorado, and the Chemical Agent Munitions Disposal System at Tooele Army Depot, Utah. Modification of an existing facility at PBA was also assessed. The proposed alternative appeared to be optimum based on comparisons of personnel safety, environmental consequences, process reliability, state-of-the-art technology, process simplicity, clean-up requirements, and cost.

The EA discusses the construction and operation of the proposed facility and the associated environmental impacts. This evaluation indicates that the proposed action is not expected to significantly affect the quality of the human environment, does not set a precedent for other U.S Army actions, and, therefore, does not necessitate the preparation of an Environmental Impact Statement.

The Finding of No Significant Impact was based on several considerations, all of which are discussed in the EA. Under projected normal and upset operating conditions for the proposed BZ demilitarization facility, no exceedances of Federal or State air quality standards are predicted to occur. Under conservative, worst-case stack releases of BZ (alarm level 0.2. $mg/m^3$), no exceedances of the general population exposure limits established by the U.S. Army Surgeon General (0.1 $ug/m^3$) would be expected. An analysis of the maximum credible event, the functioning of one M43 during movement of munitions within the Arsenal, showed no potentially significant off-post exposure to human populations. There would be no process wastewater discharge from the proposed facility. Solid waste materials would be disposed of in landfills located on the arsenal. In the event that some of the wastes are classified as hazardous, disposal of those wastes would be in the PBA hazardous waste landfill. Little or no impact on local transportation, socioeconomic parameters or infrastructures, ambient noise levels, or historical/cultural resources would be likely since the proposed facility construction and operation would occur on a Government owned installation currently dedicated to military activities.

Copies of the Environmental Assessment may be obtained from the Commander, Pine Bluff Arsenal, ATTN: SMCPB-IN, Pine Bluff, AR 71611, or the Commander, U.S. Army Toxic and Hazardous Materials Agency, ATTN: DRXTH-ES, Aberdeen Proving Ground, MD 21010.

Dated: January 18, 1984.

**Lewis D. Walker,**

*Deputy for Environment, Safety and Occupational Health OASA (IL&FM).*

[FR Doc. 84-1739 Filed 1-19-84; 8:45 am]

BILLING CODE 3710-92-M

### Army Science Board; Closed Meeting

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 the committee: Army Science Board (ASB).

Dates of meeting: Tuesday and Wednesday, 7 and 8 February 1984.

Times: 0830-1700 hours (Closed).

Place: Fort Bragg, North Carolina.

**Agenda**

The Army Science Board Ad Hoc Subgroup on Light Equipment will meet for classified briefings and discussions. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The Army Science Board Administrative Officer, Sally A. Warner, may be contacted for further information at (202) 695-3039 or 697-9703.

**Maria P. Winters,**

*Acting Administrative Officer.*

[FR Doc. 84-1827 Filed 1-20-84; 8:45 am]

BILLING CODE 3710-08-M

### Army Science Board; Closed Meeting

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 the committee: Army Science Board (ASB).

Date of meeting: Thursday, February 9, 1984.

Times: 0930-1700 hours (Closed).

Place: U.S. Army Research Institute of Environmental Medicine, Natick, Massachusetts.

Agenda

The Army Science Board Ad Hoc Subgroup on Combat Medical Support will meet for classified briefings and discussions on physiological responses to climate stress, clothing design to protect in extreme climates, and physical fitness assessment investigations. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The Army Science Board Administrative Officer, Sally A. Warner, may be contacted for further information at (202) 695–3039 or 697–9703.

Maria P. Winters,

*Acting Administrative Officer.*

[FR Doc. 84–1826 Filed 1–20–84; 8:45 am]

BILLING CODE 3710–08–M

## Corps of Engineers, Department of the Army

### Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Proposed Lock and Dam 11 Hydropower Project, Mississippi River at Dubuque, Iowa

**AGENCY:** U.S. Army Corps of Engineers, DOD.

**ACTION:** Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

**SUMMARY:** 1. *Description of Proposed Action.* The development of hydropower on the Mississippi River has been initiated as a response to the changing energy situation and would utilize a renewable energy source, a more economic energy source, and environmentally cleaner energy source. A reconnaissance study, Completed in February 1982, indicated the hydropower at Lock and Dam 11 would be economically feasible. Therefore, further investigation and planning at the Final Feasibility Report level have started.

The proposed project consists of the installation of a low-head run-of-the-river hydropower facility utilizing standard adjustable blade turbines. Up to about 15–20 MW of power may be feasible at the proposed facility.

2. *Alternatives for the Proposed Action.* Two locational alternatives, in addition to the No Federal Action alternative, will be discussed in detail in the DEIS. The first alternative consists of installing a raisable powerhouse containing three 3.0 meter tubular turbines per bay in the taintor gate bays closest to the lock. The second alternative consists of locating a powerhouse in the non-overflow section of the dam near the area of O'Leary's Lake on the Wisconsin side of the river.

3. *Public Involvement.* Numerous meetings have been held during 1983 for the purpose of identifying and discussing areas of concern for either Federal or non-Federal development of hydropower at Lock and Dam 11. Federal and State agencies, organizations and individuals have attended these meetings.

The EIS, in both draft and final format, will be sent to Federal, State, and local government agencies, as well as private groups and individuals, for their comments and views.

Coordination is being maintained between the Rock Island District, Corps of Engineers, and interested agencies and parties during preparation of the DEIS. All interested parties may become involved by writing to the District address below.

4. *Particular Elements to be Included in the Draft EIS.* Issues to be analyzed in detail in the DEIS include:

a. Changes to the fishery and recreational area located at O'Leary's Lake with addition of a hydropower facility in the non-overflow section.

b. Changes in the flow patterns, velocities and deposition of sediment with addition of a hydropower facility at either location.

c. Impacts on aquatic resources, especially those concerning fish movement, mortality and spawning habitat with the addition of a hydropower facility at either location.

d. Impacts to endangered species and cultural resources for either alternative.

e. Effects of dredging and material disposal with the addition of a hydropower facility in the non-overflow section.

The DEIS will also address the following policies: National Historic Preservation Act, 16 U.S.C. 470a, et seq.; Endangered Species Act, 16 U.S.C. 1531, et seq.; Fish and Wildlife Coordination Act, 16 U.S.C. 661 et seq.; National Environmental Policy Act, 42 U.S.C. 4321, et seq.; Rivers and Harbors Act, 33 U.S.C. 403, et seq.; Clean Water Act (Federal Water Pollution Control Act), 33 U.S.C. 1251, et seq.; along with Executive Order 11988, Flood Plain Management, 24 May 1977, Executive Order 11990, Protection of Wetlands, 24 May 1977, and CEQ Memorandum of 1 August 1980: Analysis of Impacts on Prime or Unique Agricultural Lands in Implementing the National Environmental Policy Act. In compliance with the Clean Water Act, a Section 404(b)(1) Evaluation Report will be prepared.

5. *Estimated Release Date.* The Draft EIS is scheduled to be released in June 1984.

**ADDRESS:** Questions about the proposed action and the DEIS should be directed to: Bernard P. Slofer, Colonel, Corps of Engineers, District Engineer, U.S. Army Engineer District, Rock Island, Clock Tower Building, Rock Island, Illinois 61201.

Dated: January 12, 1984.

Arthur E. Miller,

*Deputy District Engineer, Corps of Engineers.*

[FR Doc. 84–1669 Filed 1–20–84; 8:45 am]

BILLING CODE 3710–HV–M

## Department of the Navy

### Performance of Commercial Activities: Announcement of Program Cost Studies

Department of the Navy intends to conduct OMB Circular A–76 (48 FR 37110, August 16, 1983) cost studies of various functions at listed activities commencing 27 February 1984. Cost study process is rigorous, time-consuming procedure and, depending upon size of functions involved, can take several months to several years to complete. Since studies not yet begun, specifications not yet prepared. When bids/proposals desired, appropriate advertisements will be placed. No consolidated bidders' list being maintained since solicitations will be processed by various contracting offices throughout U.S.

*Naval Air Reserve, Alameda, CA*
- Motor Vehicle Operation

*Naval Amphibious Base, Coronado, CA*
- Recreational Library Services
- Storage and Warehousing
- Data Processing Services

*Long Beach Naval Shipyard, Long Beach, CA*
- Central Plan Files
- Repair and Calibration of Test, Measurement and Diagnostic Equipment (TMDE), Mechanical, Electrical and Electronic
- CESE/RR/Other Vehicle Maintenance
- Motor Vehicle Operations
- Material Control Center—Public Works
- Public Works Shop Stores
- Supply Material Identification
- Supply Material List Screening
- Supply Receiving
- Timekeeping

*Naval Ship Weapon Systems Engineering Station, Port Hueneme, CA*

Storage and Warehousing
Word Processing
Reference Library
Operation of ADP Equipment
*Pacific Missile Test Center, Point Mugu, CA*
Other Maintenance and Repair, Buildings and Structures, and Administrative Telephone
*Naval Station, San Diego, CA*
Recreational Library Services
Motor Vehicle Operation
Punch Card Processing Services
Training—Police Academy
Word Processing Center
Audiovisual Library
Storage and Warehousing
*Fleet Combat Training Center, Pacific, San Diego, CA*
Software Services for Tactical Computers and Automated Test Equipment
*Navy Manpower & Material Analysis Center, San Diego, CA*
Administrative Support Services
Data Processing Services
System Design, Development and Programming Services
*Naval Education & Training Support Center, Pacific, San Diego, CA*
Development and Maintenance of Applications Software
*Naval Station, Treasure Island, San Francisco, CA*
Recreational Library Services
Storage and Warehousing—Receipts
Storage and Warehousing—Shipping
Storage and Warehousing—Care, Rewarehousing and Support of Material
Supply Operations
Operation of Bulk Liquid Storage
Audiovisual Services—Still Photography
*Mare Island Naval Shipyard, Vallejo, CA*
Supply Receiving, Motor Vehicle Operations, Public Works Shop Stores, Supply Material Identification, and Supply Material List Screening
CESE/RR/Other Vehicle Maintenance and Motor Pool Operations
Mechanical/Electrical/Electronic Repair and Calibration
Timekeeping
Central Plan Files
*Naval Submarine Base, New London, CT*
Administrative Mail Service
Library
*Naval Air Station, Jacksonville, FL*
Recreational Library Services
*Naval Air Station, Whiting Field, Milton, FL*
Recreational Library
*Shore Intermediate Maintenance Activity, Pearl Harbor, HI*
Word Processing Centers
*Naval Submarine Training Center, Pacific, Pearl Harbor, HI*
ADP Systems Design
Administrative Support
Buildings and Structures
*Pearl Harbor Naval Shipyard, Pearl Harbor, HI*
Other ADP Support
Timekeeping
*Naval Weapons Support Center, Crane, IN*
Architect and Engineering Services
*Naval Ordnance Station, Louisville, KY*
Technical Documents Repository
Communications Center
*Naval Security Group Activity, Winter Harbor, ME*
Recreational Library Services
*Naval Ordnance Station, Indian Head, MD*
Electrical Plant and Systems
Heating Plants and Systems
Water Plants and Systems
Sewage and Waste Plant Systems
Buildings and Structures
Grounds and Surfaced Areas
Communications Centers
Other Communications and Electronics
Preparation and Disposal of Excess and Surplus Property
Word Processing Centers
Reference Libraries
Other Administrative Support
*Naval Air Station, Meridian, MS*
Recreational Library
*Naval Home, Gulfport, MS*
Other Health Services
*Portsmouth Naval Shipyard, Portsmouth, NH*
Motor Vehicle Operations
Timekeeping
*Naval Weapons Station, Earle, NJ*
Calibration Laboratory Department
*Naval Station, New York, Brooklyn, NY*
Punch Card Processing Services
Communications Center
Storage and Warehousing
*Navy Publications and Forms Center, Philadelphia, PA*
System Design, Development and Programming Services
*Naval Station, Philadelphia, PA*
Library Services
Storage and Warehousing (Receipt)
Communications Center
Buildings and Structures
*Naval Air Station, Willow Grove, PA*
Training Devices and Audiovisual Equipment
*Philadelphia Naval Shipyard, Philadelphia, PA*
Central Plan Files
Mechanical Test, Measuring and Diagnostic Equipment Repair
Electrical/Electronic Test Equipment Repair and Calibration Service
Propeller Center
Public Works Material Control Centers
Public Works Shop Stores
Supply Material Identification and Screening
Receiving
*Naval Education and Training Center, Newport, RI*
Library
*Naval Weapons Station, Charleston, SC*
Recreational Library Services
*Charleston Naval Shipyard, Charleston, SC*
Central Plan Files
Electronic, Electrical, Mechanical Calibration and Repair Facility
Motor Vehicle Operations
CESE/RR/MHE/WHE/Other Vehicle Maintenance
Supply Receiving
Public Works—Shop Stores, MCC
Supply Material List Screening and Supply Material Identification
Timekeeping
*Naval Air Station, Chase Field, Beeville, TX*
Recreational library
*Naval Air Station, Dallas, TX*
Other Maintenance and/or Repair of Equipment
*Naval Air Station, Kingsville, TX*
Recreational Library Services
*Naval Space Surveillance System, Dahlgren, VA*
Administrative Support Services
*Norfolk Naval Shipyard, Norfolk, VA*
Central Plan Files
Mechanical TMDE Repair/Calibration
Electronic Test Equipment Repair/Calibration
CESE/RR/Other Motor Vehicle Maintenance
Construction Equipment Operations
Timekeeping
*Naval Air Station, Norfolk, VA*
COMNAVAIRLANT Ground Support Pool
Collateral Equipment
*Naval Station, Norfolk, VA*
Library
Navy Motion Picture Exchange
Collateral Equipment
Word Processing
*Naval Air Station, Oceana, VA*
Printing and Reproduction
Air Transportation Services (Transient Line/Air Cargo)
*Fleet Combat Training Center, Atlantic, VA Beach, VA*
Recreational Library
*Naval Weapons Station, Yorktown, VA*
Recreational Library Services
*Naval Security Group Detachment, Sugar Grove, WV*
Custodial Services
*Puget Sound Naval Shipyard, Bremerton, WA*
Central Plan (Drawings) Files
Mechanical TMDE/Electrical/

Electronic Repair/Calibration Service
CESE/RR/WHE/MHE/Other Vehicle Maintenance
Motor Pool Operations
Material Control Center/Shop Stores for Public Works
Supply Material Identification
Supply Material List Screening
Timekeeping

B. W. Cook,

*Captain, Navy Head, Commercial Retail/ Activities Branch.*

December 21, 1983.

[FR Doc. 84-1292 Filed 1-19-84; 8:45 am]

BILLING CODE 3810-AE-M

## Naval Research Advisory Committee; Closed Meeting

*Correction*

In FR Doc. 84-824 appearing on page 1548 in the issue of Thursday, January 12, 1984, in the second column, second line from the top insert "closed to" after "be".

BILLING CODE 1505-01-M

## DEPARTMENT OF ENERGY

### Bonneville Power Administration

### Proposed Legal Interpretation of Section 7(b)(2) of the Pacific Northwest Electric Power Planning and Conservation Act; Request for Comments

**AGENCY:** Bonneville Power Administration (BPA), DOE.

**ACTION:** Notice; Request for Comments.

*BPA File No:* 7(b)(2)-84.

**SUMMARY:** Bonneville Power Administration (BPA) proposes to interpret section 7(b)(2) of the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act), 16 U.S.C. 839e(b)(2). When establishing rates to be effective after July 1, 1985, projected amounts charged by BPA for firm power for the general requirements of public body, cooperative, and Federal agency customers may not exceed in total an amount, as determined by the Administrator, based on certain specific assumptions set forth in section 7(b)(2). The proposed statutory interpretation resolves only the basic legal questions necessary to implement section 7(b)(2). This interpretation is the first of three tasks to be undertaken by BPA in developing section 7(b)(2) ratemaking methodologies. In the second task, BPA is continuing in the development of necessary computer models in consultation with customer groups and other interested parties. This work will culminate in the presentation of a documented computer model in March of 1984. As the third task, BPA will incorporate the statutory interpretation and the computer models in a discussion of actual methodologies required for implementing section 7(b)(2). BPA intends that these methodologies will serve as a draft of relevant portions of the 1985 initial rate proposal. However, inplementation of section 7(b)(2) will not occur intil BPA's 1985 wholesale power rate proceeding, conducted pursuant to section 7(i) of the Northwest Power Act, 16 U.S.C. 839e(i).

Responsible Officials: John A. Cameron, Jr., Assistant General Counsel, is the official responsible for this statutory interpretation. Ms. Shirley R. Melton, Director, Division of Rates, is the official responsible for implementing section 7(b)(2) in the 1985 BPA rate adjustment proceeding.

**DATES:** Written comments on resolution of all legal issues necessary to implement section 7(b)(2) will be accepted until February 15, 1984. Written replies to the first round of comments will be accepted thereafter until February 29, 1984.

**ADDRESSES:** Written comments should be submitted to the Public Involvement Manager, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212.

**FOR FURTHER INFORMATION CONTACT:** Ms. Kathleen S. Johnson, Public Involvement Office, at the above address, 503-230-3478: Oregon callers outside Portland may use the toll-free number 800-452-8429; callers in California, Idaho, Montana, Nevada, Utah, Wyoming, and Washington may use 800-547-6048. Information may also be obtained from:

Mr. George E. Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 N.E. Irving Street, Portland, Oregon 97208, 503-230-4551.

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 East Seventh Street, Eugene, Oregon 97401, 503-687-6952.

Mr. Ronald H. Wilkerson, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509-456-2518.

Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509-662-4377, extension 379.

Mr. George E. Eskridge, Montana Dsitrict Manager, 800 Kensington, Missoula, Montana 59801, 406-329-3860.

Mr. Richard D. Casad, Puget Sound Area Manager, Room 250, 415 First Avenue North, Seattle, Washington, 98109, 206-442-4130.

Mr. Thomas Wagenhoffer, Snake River Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509-525-5500, extension 701.

Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208-523-2706.

Mr. Frederic D. Rettenmund, Boise District Manager, Owyhee Plaza, Suite 245, 1109 Main St., Boise, Idaho 83707, 208-334-9138.

**SUPPLEMENTARY INFORMATION:**

### I. Background

*A. Relevant Statutory Provisions*

Section 7 of the Northwest Power Act, 16 U.S.C. 839e, contains a number of directives that the BPA Administrator must consider in establishing rates for the sale of electric energy and capacity and for the transmission of non-Federal power. It is BPA's intention to interpret the Northwest Power Act so that all provisions work in harmony, not to interpret the statute piecemeal. In particular, all statutory interpretations must be consistent with the criteria of section 7(a)(2), which govern approval of BPA rates by the Federal Energy Regulatory Commission.

In addition to the Northwest Power Act, BPA is also governed by the Bonneville Project Act, 16 U.S.C. 832, et seq., the Federal Columbia River Transmission System Act, 16 U.S.C. 838, et seq. and the Flood Control Act of 1944, 16 U.S.C. 825, et seq. These statutes require BPA to set rates, in accordance with sound business principles, at levels sufficient to recover BPA's total system costs, including repayment of the Federal treasury investment in the Federal Columbia River Power and Transmission System. All statutory provisions concerning the timely recovery of BPA's revenue requirement are relevant to the interpretation of any provision of the Northwest Power Act.

Under section 7(b)(2) of the Northwest Power Act, 16 U.S.C. 839e(b)(2), after July 1, 1985, rates charged for firm power sold to public body, cooperative, and Federal agency customers (exclusive of amounts charged those customers for costs specified in section 7(g) of the Northwest Power Act) may not exceed in total, as determined by the Administrator, such customers' power costs for general requirements, if specified assumptions are made. Section 7(b)(2) specifies that in determining public body and cooperative customers' power costs during any year after July 1,

1985, and the ensuing four years, the Administrator should assume:

"(A) the public body and cooperative customers' general requirements had included during such five-year-period the direct service industrial customer loads which are—

(i) served by the Administrator, and

(ii) located within or adjacent to the geographic service boundaries of such public bodies and cooperatives;

(B) public body, cooperative, and Federal agency customers were served, during five-year period, with Federal base system resources not obligated to other entities under contracts existing as of the effective date of this Act (during the remaining term of such contracts) excluding obligations to direct service industrial customer loads included in subparagraph (A) of this paragraph;

(C) no purchase or sales by the Administrator as provided in section 5(c) were made during such five-year period;

(D) all resources that would have been required, during such five-year period, to meet remaining general requirements of the public body, cooperative and Federal agency customers (other than requirements met by the available Federal base system resources determined under paragraph (B) of this paragraph) were—

(i) purchased from such customers by the Administrator pursuant to section 6, or

(ii) not committed to load pursuant to section 5(b), and were the least expensive resources owned or purchased by public bodies or cooperatives; and any additional needed resources were obtained at the average cost of all other new resources acquired by the Administrator; and

(E) the quantifiable monetary savings, during such five-year period, to public body, cooperative and Federal agency customers resulting from—

(i) reduced public body and cooperative financing costs as applied to the total amount of resources, other than Federal base system resources, identified under subparagraph (D) of this paragraph, and

(ii) reserve benefits as a result of the Administrator's actions under this Act.

were not achieved." 16 U.S.C. 839e(b)(2).

*B. Scope of Interpretation*

This interpretation resolves only the basic issues necessary to implement section 7(b)(2), utilizing principles of statutory construction. Implementation of section 7(b)(2), and any resultant cost reallocation under section 7(b)(3), will be resolved informally through meetings with customers and other interested parties or during BPA wholesale rate proceedings for periods beginning on July 1, 1985.

*C. Public Comment Procedures*

PBA seeks comments from the public on the legal issues and definitions contained in this notice, or other legal issues which the public believes are relevant to this statutory interpretation. All comments and reply comments should be directed to the Public Involvement Manager at the address listed in the addresses section of this section. Written comments received by the Public Involvement Manager by February 15, 1984, will be reproduced and mailed to those who request copies. Requests for copies of comments may be made by telephone or in writing. Toll-free telephone numbers are listed in the addresses section of this notice. Mailings will take place subsequent to February 15, although requests may be made prior to that date. Written replies to this first round of comments will be accepted until February 29, 1984. BPA will develop its final interpretation based in part on original comments and reply comments. The final interpretation should be published in the **Federal Register** in March of 1984.

**II. Proposed Interpretation**

*A. Definitions*

This section contains definitions applicable to section 7(b)(2). Terms identified in the Northwest Power Act have the same meaning in this interpretation, unless further defined.

1. *7(b)(2) customers:* those firm power customers of BPA that are listed in section 7(b)(2) of the Northwest Power Act as subject to the rate test, viz, public bodies, cooperatives, and Federal agencies.

2. *Within or adjacent1:* relating to direct service industrial (DSI) customer loads determined in accordance with section 7(b)(2)(A) to be geographically within or adjacent to the service territories of 7(b)(2) customers.

3. *Forecast DSI loads:* those loads of direct service industries that are forecast to be served by BPA, during any future period, pursuant to section 5(d)(1) of the Northwest Power Act.

4. *Relevant rate case:* the wholesale power rate adjustment proceeding being conducted at the time the projections for section 7(b)(2) are made, and in which any adjustment to rates in accordance with section 7(b)(2) may be reflected.

5. *7(b)(2) case:* the entire process of projection rates for the relevant five-year period under the provisions of section 7(b)(2) of the Northwest Power Act, including specific data, assumptions, and results.

6. *Program case:* the entire process of projecting rates to be charged in the future under the provisions of the Northwest Power Act other than section 7(b)(2), including specific data, assumptions, and results.

7. *Relevant five-year period:* the test year of the relevant rate case, plus the ensuing four years.

8. *7(b)(2) general requirements:* for the purpose of this methodology, the public body, cooperative and Federal agency customers' electric power assumed to be purchased from BPA in the 7(b)(2) case. General requirements only include power purchased from BPA under section 5(b) of the Northwest Power Act; section 5(c) purchases from BPA are not included.

9. *Applicable 7(g) costs:* the costs identified in section 7(g) of the Northwest Power Act that are also listed in section 7(b)(2), viz, conservation, resource and conservation credits, experimental resources and uncontrollable events.

*B. General Approach to Interpreting Section 7(b)(2)*

Section 7(b)(2), read in isolation from the rest of the Northwest Power Act, assures that 7(b)(2) customers are charged no more for their general requirements after July 1, 1985, than they would have been charged if five assumptions were to be realized. These assumptions direct BPA to hypothesize power supply arrangements between itself and its customers that are quite different from reality. Implementation of section 7(b)(2) is by nature an exercise in speculation. However, the reasonableness of methodologies used to implement section 7(b)(2) will be tested in the relevant rate case.

The statute states that after July 1, 1985, the 7(b)(2) customers' power costs "may not exceed * * * as determined by the Administrator" the power costs for general requirements based on the enumerated assumptions. 16 U.S.C. 839e(b)(2). This language is a clear grant of discretion to the Administrator to determine the manner in which the statute is implemented.

The Administrator proposes to exercise his discretionary authority in the following manner. Assumptions specified in section 7(b)(2) and any unavoidable consequences, or secondary effects, of those assumptions will be considered to determine 7(b)(2) customers' power costs in the 7(b)(2) case. Assumptions not specified by the statute will not be considered. This general approach will avoid the modeling of a hypothetical world that attempts to reflect what would have occurred if the Northwest Power Act had not been enacted. Yet, it will give appropriate weight to potential significant secondary effects on power costs in the 7(b)(2) case. To accurately determine power costs in the 7(b)(2) case, it is necessary to incorporate secondary impacts of the rate test assumptions.

The legislative history of the Northwest Power Act supports limiting the assumptions of the 7(b)(2) case to those specified in the statute. The House Committee on Interstate and Foreign Commerce Report accompanying S. 885 (the bill that became the Northwest Power Act) states that, "[t]he assumptions to be made by the Administrator in establishing this ceiling are specifically set forth." H. Rep. No. 976–I, 96th Cong., 2d Sess., at 68 (1980). Similarly, the Report of the House Committee on Interior and Insular Affairs states, "[s]ubsection 7(b)(2) establishes a 'rate ceiling' for BPA's preference customers, and specifies the method of calculating this ceiling * * *." H. Rep. No. 976–II, 96th Cong., 2d Sess., at 52 (1980).

Legislative history also supports including the unavoidable secondary effects of the assumptions specifically set forth in the Northwest Power Act. Appendix B to the Report of the Senate Committee on Energy and Natural Resources states, in addition to costs specifically described in sections 7(b)(2)(B) and (D), the Administrator is to consider "[a]ny other general system operating costs, including reserves * * *." Appendix B at 58.

Thus, secondary effects, such as the elasticity effects of different electricity prices in the program case and the 7(b)(2) case, should be included in section 7(b)(2) methodologies. Implicit in the reason for section 7(b)(2) is that electricity prices may be different under the assumptions contained in section 7(b)(2). Therefore, it is appropriate to reflect the effects of these different price projections in load forecasts used for the two cases. Ignoring these price effects would require adopting a new assumption, not specified in the statute, that the price elasticity of electricity demand for the 7(b)(2) customers is zero. Such an assumption is theoretically and empirically unjustified and would be inconsistent with the structure of the models used to develop load forecasts for the relevant rate case. This notice should not be taken as an exhaustive discussion of secondary effects. Elasticity is simply an example.

BPA will conscientiously follow the requirements of section 7(b)(2) to perform the "rate test" for its public body, cooperative and Federal agency customers. If the results of the rate test indicate that BPA must recover costs in excess of those allowed under section 7(b)(2), BPA will implement the section 7(b)(3) supplemental rate charge provision for that purpose. BPA's concern is that it might not be feasible to recover all, or some, of the reallocated costs "through supplemental rate charges for all other power sold by the Administrator to all customers." Should this occur, BPA would be forced to resolve a possible conflict among sections 7(b)(2), 7(b)(3), and 7(a).

Section 7(a) of the Northwest Power Act requires that BPA rates recover the costs of the electric power and transmission systems, including the repayment of Federal Treasury investments in those systems. Section 7(a) reaffirms a long-standing obligation, previously articulated in the Bonneville Project Act and the Federal Columbia River Transmission System Act. Section 7(b) must be applied in a manner which enables BPA to set rates at levels sufficient to recover costs, otherwise the rates will not receive confirmation and approval. See, section 7(a)(2) of the Northwest Power Act, 16 U.S.C. 839e(a)(2).

The legislative history of the Northwest Power Act also supports application of section 7(b) in a manner consistent with BPA's primary statutory obligation that its rates recover costs. The House Interior Committee report states:

> Section 7 of the legislation sets out the requirements BPA must follow when fixing rates for the power sold its customers under this legislation. Subject to the general requirement (contained in section 7(a)) that BPA must continue to set its rates so that its total revenues continue to recover its total costs, BPA is required by the legislation to establish the following rates: [report continues by setting out rate structure of the Act]. H. Rep. No. 976–II, 96th Cong., 2d Sess., at 36.

*C. Specific Statutory Interpretations*

1. *Applicable 7(g) costs should be excluded from the program case, but not from the 7(b)(2) case.* The projected amounts to be charged 7(b)(2) customers for their firm power general requirements will include the costs of conservation, resource and conservation credits, experimental resources and uncontrollable events, regardless of the implementation of section 7(b)(2). The statute states that "* * * the projected amounts to be charged for firm power for the combined general requirements of public body, cooperative and Federal agency customers, exclusive of amounts charged such customers under subsection (g) for the costs of conservation, resource and conservation credits, experimental resources and uncontrollable events, may not exceed in total, * * * an amount equal to the power costs for general requirements of such customers if the Administrator assumes * * *." Section 7(b)(2) is explicit in excluding the applicable 7(g) costs from the program case before comparison is made with the 7(b)(2) case.

Since Section 7(g) costs are specifically excluded from the program case, but not excluded from the 7(b)(2) case, it would be inappropriate to subtract section 7(g) costs from the 7(b)(2) case for purpose of comparison with the program case. If Congress intended the power costs in the 7(b)(2) case to be exclusive of conservation costs and other section 7(g) costs, language to that effect would have been included in the provisions.

In order to ensure that the proper price elasticity effects are reflected in the load forecasts for the program case, the projection of loads for the program case should be based on power costs that include the applicable 7(g) costs. The final program case power costs should then be reduced by the applicable 7(g) costs for comparison with the 7(b)(2) case power costs.

2. *Pertinent DSI loads are to be included in 7(b)(2) customer loads for the entire five-year test period.* Section 7(b)(2)(A) states that BPA is to assume that "the public body and cooperative customers' general requirements had included during such five-year period the direct service industrial customer loads are (i) served by the Administrator, and (ii) are located within or adjacent to the geographic service boundaries of such public bodies and cooperatives * * *." The plain meaning of this language indicates that the 7(b)(2) customers' loads are assumed to include the DSI loads within or adjacent to the 7(b)(2) customers' service territories for the entire five-year test period.

An alternative interpretation would require the assumption that relevant DSI loads were transferred to 7(b)(2) customers at the expiration dates of DSI power sales contracts in effect on December 5, 1980. However, there is nothing in this statutory assumption that requires, or even permits, BPA to "phase" DSI loads into 7(b)(2) customers' general requirements over time. BPA does not propose to introduce speculation into this assumption where none is required by the statute.

Legislative history supports this interpretation of the statute. In the analysis of the section 7(b)(2) directives contained in Appendix B to the Senate Report, S. Rep. No. 272, 96th Cong. 1st Sess., at 65–79 (1979), forecasted DSI loads were transferred from BPA to 7(b)(2) customers for the entire test period, regardless of contracts in effect as of the effective date of the Northwest Power Act. In the projections contained

in Appendix B, calculations of public agency loads for the 7(b)(2) case included a full 85 percent of projected DSI loads beginning in 1980. Although Appendix B is not conclusive evidence of legislative intent, S. Rep. 272, supra, at 58, it was "an important part of the common understanding about how the costs of resources would be distributed as a result of [the Northwest Power Act]." S. Rep. 272, at 31. Appendix B is a useful tool for statutory construction where it does not conflict with the language of the statute.

3. *All DSI loads assumed to be placed on 7(b)(2) customers will be treated as firm.* Section 7(b)(2)(A) states that BPA is to assume "that the public body and cooperative customers' general requirements had included during such five-year period the direct service industrial customers loads * * *." BPA must determine the nature of service assumed to be provided by the public bodies and cooperatives to the relevant DSI loads.

The DSI loads served by BPA include three quartiles that are firm loads and one quartile (the first quartile) that BPA does not plan or acquire resources to serve. The language of the statute makes no direct reference to the quality of service the Administrator is to assume the 7(b)(2) customers provide. However, the language does lead to a strong inference that Congress intended all DSI loads to be tested as firm.

Section 7(b)(2)(A) requires BPA to assume that the loads of relevant DSIs are included in the 7(b)(2) customers' "general requirements," a term defined by section 7(b)(4) of the Northwest Power Act as limited to electric power purchased from the Administrator under section 5(b) of the Act. Section 5(b) deals exclusively with firm power.

The legislative history of the Northwest Power Act supports interpreting the statute to require 7(b)(2) customers' firm power general requirements in the 7(b)(2) case to include all DSI loads served by the Administrator, including DSI loads that under the program case BPA does not plan or acquire resources to serve. In Appendix B to the Senate Report, all four quartiles of DSI loads were treated as firm when assigned to public agency customers in the 7(b)(2) case. Once again, Appendix B resolves a statutory ambiguity.

4. *BPA will use Appendix B to determine DSI loads within or adjacent to the geographic service boundaries of public bodies and cooperatives.* Section 7(b)(2)(A) states that the Administrator is to assume that during the relevant five-year period, "the public body and cooperative customers' general requirements had included * * * the direct service industrial customer loads which are * * * located within or adjacent to the geographic service boundaries of such public bodies and cooperatives * * *." 16 U.S.C. 839e(b)(2)(A). It is not apparent from the statute how BPA is to resolve the question of which DSIs are "within or adjacent to" public body and cooperative customers' boundaries. Therefore, BPA must look to legislative history to resolve the ambiguity.

The legislative history of the Northwest Power Act indicates that the determination of which DSIs are "within or adjacent" to public body and cooperative customers' boundaries was made in Appendix B. S. Rep. No. 272, 96th Cong., 1st Sess., Appendix B, at 66. Appendix B includes a table listing the DSIs "within BPA preference customers' service areas," DSIs "adjacent to BPA preference customers' service areas" and those DSIs that "could not readily be served by BPA preference customers." Id.

The "within or adjacent" table in the numerical analysis in Appendix B, is accompanied by a narrative explanation which states that the loads for establishing resource requirements under section 7(b)(2) will include "DSI total loads within or adjacent to the service territory of the public bodies and cooperatives. (85 percent of existing DSI's as shown in the attached table)." Appendix B at 58. The detailed nature of the "within or adjacent" table and, the narrative explanation in Appendix B convinces BPA that Congress intended the Appendix B table to be used in resolving which DSIs are "within or adjacent" to the service territory of public body and cooperative customers. This legislative history resolves the ambiguity, in section 7(b)(2)(A). The Appendix B table will only be changed if service to those DSI customers changes, such as the termination of BPA service to a DSI industrial plant.

There is nothing in the statute that would require BPA to undertake a new determination of which DSI loads were within or adjacent to 7(b)(2) customer service territories. A determination of DSI's "within" relevant service territories poses little problem; however, adjacency may not be capable of resolution without protracted, argumentative hearings. Should "adjacent" be defined as within one mile of a relevant service territory, two miles, or fifteen miles? Are "air miles" determinative, or should terrain be considered? What effect should size of the DSI load have on the question? It may be economic to extend service to a large DSI load, but not to a small one. BPA rate cases should not become forums for competing testimony by construction engineers, surveyors, and architects. Congress could not have intended such a result, and wisely provided the BPA Administrator discretionary authority to implement section 7(b)(2) in a reasonable manner.

Making a new determination of "within or adjacent" DSI loads would also force BPA to decide matters of state utility law in which the agency has no expertise. Since the DSIs are already interconnected with the Pacific Northwest transmission grid, determination of the public or private utility to provide new service to a given DSI would likely be a matter of resolving questions of state law and regulations. Where two or more utilities are in a position to serve a customer, most states have utility laws to govern the outcome. BPA does not propose to interpret the state laws of Oregon, Washington, Idaho, and Montana as part of section 7(b)(2) implementation.

5. *Determination of "Federal base system resources not obligated to other entities" necessitates reference to the contracts of pertinent DSIs.* Section 7(b)(2)(B) states that the Administrator is to assume that 7(b)(2) customers were served by FBS resources "not obligated to other entities under contracts existing as of the effective date of this Act (during the remaining term of such contracts) excluding obligations to direct service industrial customer loads included in [Section 7(b)(2)(A)]." Unlike the assumption relating to DSI loads served by public body and cooperative customers, section 7(b)(2)(B) requires BPA to make two factual determinations; (1) What is the level of FBS resources, and (2) what level of FBS resources is obligated for service to other entities over all, or a portion, of the relevant five-year period.

The first determination is necessary because the FBS included resources purchased by BPA under long-term contracts. Expiration of these contracts will likely cause a change in the size of the FBS during the relevent five-year period.

The second determination concerns BPA power sale contracts existing as of the effective date of the Northwest Power Act. When these contractual obligations on FBS resources are removed through expiration of the relevant contracts, the size of FBS resources available to 7(b)(2) customers would increase. In the 7(b)(2) case, particular attention must be given to DSI loads not "within or adjacent to the geographic service boundaries" of 7(b)(2) customers, which will be

assumed to transfer to private utilities as of the expiration dates of the DSI contracts in effect on December 5, 1980.

Legislative history supports the interpretation that DSI loads should shift to 7(b)(2) customers without regard to existing DSI contracts, while the size of FBS resources should depend on DSI contract expiration dates. Section 7(b)(2)(B) initially stated that the Administrator was to assume that 7(b)(2) customers were served by FBS resources, "less firm power contractual commitments as of the date of this Act," to DSIs, "not located within or adjacent * * *." S. 885, Amendment No. 134, 96th Cong., 1st Sess. (April 15, 1979); H.R. 4150, 96th Cong., 1st Sess. (May 21, 1979). The Senate Committee on Energy and Natural Resources amended S. 885 to incorporate language substantively, identical to section 7(b)(2)(B) as enacted. Thus, a directed legislative effort was put forth to incorporate language shifting DSI loads to the IOUs only after expiration of the DSI contracts. This same effort is absent from the development of section 7(b)(2)(A).

6. *Section 7(b)(2)(D) is clear in identifying assumptions regarding additional resources to be acquired by BPA.* Section 7(b)(2)(D) describes the manner in which additional resources are assumed to be acquired to meet the 7(b)(2) customers' loads when FBS resources are exhausted. Three types of additional resources are available in the 7(b)(2) case. The first type of resource is described in section 7(b)(2)(D)(i) as being those that were "purchased from such customers by the Administrator pursuant to section 6." These are the resources actually acquired by BPA from the 7(b)(2) customers in the program case. Section 7(b)(2)(D)(ii) describes the second type of resource as those "not committed to load pursuant to section 5(b)." These are resources owned or purchased by the 7(b)(2) customers that are not dedicated to their own loads. Together, these two provisions result in a list of resources which were developed by 7(b)(2) customers and which are assumed to be available to meet regional 7(b)(2) customer needs.

The remainder of secton 7(b)(2)(D) outlines how this list of resources is to be used to serve the 7(b)(2) customers' loads and describes the third type of resources available to meet these loads. BPA is first to assume for the 7(b)(2) case that any required additional resources "were the least expensive resources owned or purchased by public bodies or cooperatives." This implies that 7(b)(2)(D) (i) and (ii) resources would be stacked in order of cost and pulled from that stack to meet 7(b)(2) customers' loads in order of least to greatest cost. Should these resources be insufficient to satisfy the general requirements of 7(b)(2) customers, section 7(b)(2)(D) provides the assumption that "* * * any additional needed resources were obtained at the average cost of all other new resources acquired by the Administrator." This third resource type would consist of generic resources of whatever size is required to serve the 7(b)(2) customers' remaining loads, the costs of which would be determined by the average cost of all new resources acquired by BPA from non 7(b)(2) customers during the relevant five-year period.

Issued in Portland, Oreg., on January 17, 1984.

**Robert E. Ratcliffe,**

*Acting Administrator.*

[FR Doc. 84-1864 Filed 1-20-84; 8:45 am]

**BILLING CODE 6450-01-M**

## Proposed Sale of Nonfirm Energy to Utilities for Irrigation Loads and Request for Comments

**AGENCY:** Bonneville Power Administration (BPA), DOE.

**ACTION:** Notice and Request for Comments. *BPA File No.:* IRR-2.

**SUMMARY:** The Bonneville Power Administration has determined that it may have large amounts of nonfirm energy available through April 1984, in addition to firm power for all its existing obligations. BPA has authority to dispose of this excess energy.

Northwest irrigated agriculture is suffering from depressed markets and increased costs of operation, including increased electricity costs. Electricity sales in the spring for irrigation have declined in recent years.

BPA proposes a pilot project in which it would offer nonfirm energy on an experimental basis to non-generating Northwest publicly and cooperatively owned utilities for their irrigation loads in March and April 1984. BPA would consider extending the offer to other Northwest agriculture and help reverse the downward slide in spring energy sales to irrigators.

BPA requests comments on this proposal.

**DATES:** Comments on this proposal will be accepted by mail or telephone. Comments must be received by the BPA Public Involvement office no later than February 3, 1984.

**ADDRESSES:** Submit comments to Ms. Donna L. Geiger, Public Involvement Manager, P.O. Box 12999, Portland, Oregon 97212.

**FOR FURTHER INFORMATION CONTACT:** Ms. Donna L. Geiger, Bureau of Land Management, at the above address, 503-230-3478. Oregon callers outside of Portland may use 800-452-8429. Callers in California, Idaho, Montana, Nevada, Utah, Washington, and Wyoming may use 800-547-6048. Information may also be obtained from:

Mr. George Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 N.E. Irving Street, Portland, Oregon 97232, 503-230-4551.

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 E. 7th Avenue, Eugene, Oregon, 97401, 503-687-6952.

Mr. Ronald H. Wilkerson, Upper Columbia Area Manager, Room 561, W. 920 Riverside Avenue, Spokane, Washington 99201, 509-456-2518.

Mr. George E. Eskridge, Montana Distriot Manager, 800 Kensington, Missoula, Montana 59801, 406-329-3860.

Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509-662-4377, extension 379.

Mr. Richard D. Casad, Puget Sound Area Manager, 415 First Avenue North, Room 250, Seattle, Washington 98109, 206-442-4130.

Mr. Thomas V. Wagenhoffer, Snake River Area Manager, 101 W. Poplar, Walla Walla, Washington 99362, 509-525-5500, extenson 701.

Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Fall, Idaho 83401, 208-523-2706.

Mr. Frederic D. Rettenmund, Boise District Manager, 1109 Main Street, Owyhee Plaza, Suite 245, Boise, Idaho 83707, 208-334-9137.

**SUPPLEMENTARY INFORMATION:**

### Background

In the spring of 1982 and 1983, BPA had substantial amounts of nonfirm energy available for sale. Simultaneously, Northwest energy sales for irrigation loads in the spring declined due to increase production costs and depressed agricultural markets.

Recognizing these problems, and desiring to increase energy sales while assisting the Northwest farming economy, on April 20, 1983, BPA offered utilities a contract for nonfirm energy to serve incremental irrigation loads. This contract was offered following public comment on a BPA proposal published in the **Federal Register** on April 7, 1983 (48 FR 15178).

Twenty-seven utilities signed that contract. BPA published a notice of the results of the offer on August 24, 1983

(48 FR 38533). Copies of these notices and related public comments are available from the BPA Public Involvement office.

Under the 1983 program, nonfirm energy was made available to utilities on a point-of-delivery basis for all irrigation sales over and above the utilities' estimated firm irrigation loans. Estimated firm irrigation loads were deemed to be 80 percent of the previous year's actual usage unless a utility could demonstrate it should be otherwise.

As may be expected with a new program, problems were experienced. These included administrative difficulties in establishing estimated firm sales and inadequate mechanisms to insure that irrigators using incremental energy would actually receive the financial benefits. Further, precipitation during the spring irrigation season was above normal.

**II. Current PBA Proposal**

Recognizing the need to further refine the program, BPA, irrigators, and utility representatives have explored alternative nonfirm irrigation sales mechanisms. BPA now proposes a pilot project to test the use of nonfirm energy to increase sales of Federal energy for irrigation loads. Under this pilot project, nonfirm energy would be available for all irrigation loads of non-generating publicly and cooperatively owned Northwest utilities during BPA's March and April 1984 billing periods. This effort will afford BPA an opportunity to learn much about Northwest irrigation loads in terms of price elasticity, load shifting, impact of nonfirm energy availability on crop selection, and consumer acceptance. This information will help BPA design any future programs to assist irrigated agriculture and increase BPA energy sales. The pilot is also expected to provide low-cost energy to regional irrigators to enable them to increase yield. Irrigators would share in the benefits of a good water year by realizing a lower cost of production per unit of energy consumed.

To help avoid revenue loss to BPA, retail utilities participating in the pilot project would be required to structure their markup to encourage sales higher than would be expected absent the program. BPA believes this program will generate sufficient additional revenues to offset revenues normally received from energy sales for irrigation loads at firm rates in the March and April billing periods.

BPA will conduct extensive data gathering and analysis of the results of the pilot project. Participating utilities will be required to submit monthly irrigation-load and other data. If this short-term pilot program proves successful, it may serve as the basis for further nonfirm energy sales contracts for irrigation loads.

**III. Power Situation**

BPA's proposed short-term offer of nonfirm energy for irrigation loads is contingent on nonfirm energy being available through March and April 1984. Based on January 1984 snow surveys, it appears significant amounts of nonfirm energy will be available. But the final determination whether to sell nonfirm irrigation energy will ultimately be based on analysis of February 1, 1984, snow pack measurements. If nonfirm energy is determined to be unavailable, the offer of nonfirm sale for irrigation will not be made.

**IV. Irrigation Load**

Spring retail Northwest irrigation sales have declined in recent years. BPA has estimated that spring 1984 irrigation sales level may follow this pattern absent this proposal.

BPA does not expect this program to cause any appreciable increase in the amount of acreage brought under irrigation. Some switching to more water-intensive crops may occur. However, the proposal should bring about increased water usage to boost crop yield, resulting in greater irrigation energy sales than would otherwise occur.

**V. Proposed Terms of Sale**

Under the pilot project, if nonfirm energy is available, PBA's Northwest publicly and cooperatively owned utility customers would be offered energy at nonfirm prices to serve irrigation load for their March and April 1984 billing periods. The offer would be made to utilities without substantial generating resources. PBA would consider allowing participation by other customer utilities on request.

Utility markup will be limited to assure significant price reduction to irrigators while providing utilities an incentive to encourage irrigators to take advantage of the nonfirm offer. Limited markup will allow at least partial recovery of utility distribution and administrative costs. Limiting markup on a utility-by-utility basis rather than by using a regional average is intended to permit equitable treatment of local factors influencing retail rates including variations in average wholesale electricity prices, consumer density, and plant investment.

Each irrigator who receives nonfirm energy under the pilot project would receive benefits directly in the form of lower retail prices. Benefits to individual irrigators would not be contingent upon the level of participation by other irrigators.

**VI. Rate**

BPA proposes to sell energy for irrigation loads under its existing NF–83 rate schedule for nonfirm energy, at the Contract Rate of 13.9 mills per kilowatthour.

**VII. National Environmental Policy Act Compliance**

BPA will complete procedures to comply with the National Environmental Policy Act before deciding to proceed with the proposal.

**VIII. Comments Requested**

BPA wishes to make this offer for irrigation loads as soon as possible, so that irrigators can adjust their operating schedules in response to the offer. BPA therefore requests that those who wish to comment on this proposal do so immediately. Comments must be received by February 3, 1984. BPA intends to offer the contract for the pilot project to utilities with irrigation loads on February 7, 1984.

BPA will decide whether or not to go forward with the pilot project this year following February 10, 1984, when February snowpack reports have been analyzed to determine whether nonfirm energy will be available. If BPA determines that nonfirm energy will not be available, any contracts already executed will be null and void. BPA would then consider running the pilot project in 1985.

If February snowpack reports indicate nonfirm energy will be available for the pilot project, any signed pilot project contracts will be effective on the beginning of the March billing period for each participating utility. The March billing period begins on different dates ranging from February 15 to March 1 at different utilities. BPA's offer will remain open through February 28, 1984.

Copies of the proposed contract for the pilot project are available from the BPA Public Involvement office at the address and telephone number listed in the addresses section of this notice.

Issued in Portland, Oreg., on January 16, 1984.

**Robert E. Ratcliffe,**

*Acting Administrator.*

[FR Doc. 84–1865 Filed 1–20–84: 8:45 am]

BILLING CODE 6450–01–M

## Energy Information Administration

## Publication of Alternative Fuel Price Ceilings and Incremental Price Threshold for High Cost Natural Gas

The Natural Gas Policy Act of 1978 (NGPA) (Pub. L. 95–621) signed into law on November 9, 1978, mandated a new framework for the regulation of most facets of the natural gas industry. In general, under Title II of the NGPA, interstate natural gas pipeline companies are required to pass through certain portions of their acquisition costs for natural gas to industrial users in the form of a surcharge. The statute requires that the ultimate cost of gas to the industrial facility should not exceed the cost of the fuel oil which the facility could use as an alternative.

Pursuant to Title II of the NGPA, Section 204(e), the Energy Information Administration (EIA) herewith publishes for the Federal Energy Regulatory Commission (FERC) computed natural gas ceiling prices and the high cost gas incremental pricing threshold which are to be effective February 1, 1984. These prices are based on the prices of alternative fuels.

**FOR FURTHER INFORMATION CONTACT:** Leroy Brown, Jr., Energy Information Administration, 1000 Independence Avenue, S.W., Room BE–034, Washington, D.C. 20585, Telephone: (202) 252–6077.

### Section I

As required by FERC Order No. 50, computed prices are shown for the 48 contiguous States. The District of Columbia's ceiling is included with the ceiling for the State of Maryland. FERC, by an Interim Rule issued on March 2, 1981, in Docket No. RM79–21, revised the methodology for calculating the monthly alternative fuel price ceilings for State regions. Under the revised methodology, the applicable alternative fuel price ceiling published for each of the contiguous States shall be the lower of the alternative fuel price ceiling for the State or the alternative fuel price ceiling for the multistate region in which the State is located.

The price ceiling is expressed in dollars per million British Thermal Units (BTU's). The method used to determine the price ceilings is described in Section III.

| State | Dollars per million Btu's |
|---|---|
| Alabama | 3.95 |
| Arizona[1] | 4.09 |
| Arkansas[1] | 3.85 |
| California | 4.07 |
| Colorado[2] | 4.02 |
| Connecticut | 4.39 |
| Delaware[1] | 4.27 |
| Florida | 4.05 |
| Georgia[1] | 4.23 |
| Idaho[2] | 4.02 |
| Illinois[1] | 4.21 |
| Indiana | 3.94 |
| Iowa[1] | 4.20 |
| Kansas | 4.11 |
| Kentucky[1] | 4.21 |
| Louisiana[1] | 3.85 |
| Maine | 4.40 |
| Maryland[1] | 4.27 |
| Massachusetts | 4.40 |
| Michigan[1] | 4.21 |
| Minnesota | 4.20 |
| Mississippi[1] | 4.23 |
| Missouri[1] | 4.20 |
| Montana[2] | 4.02 |
| Nebraska[1] | 4.20 |
| Nevada[1] | 4.09 |
| New Hampshire[1] | 4.41 |
| New Jersey[1] | 4.27 |
| New Mexico | 3.57 |
| New York | 4.25 |
| North Carolina[1] | 4.23 |
| North Dakota[1] | 4.20 |
| Ohio | 4.16 |
| Oklahoma[1] | 3.85 |
| Oregon | 4.07 |
| Pennsylvania[1] | 4.27 |
| Rhode Island[1] | 4.41 |
| South Carolina[1] | 4.23 |
| South Dakota[1] | 4.20 |
| Tennessee | 4.20 |
| Texas[1] | 3.85 |
| Utah[2] | 4.02 |
| Vermont[1] | 4.41 |
| Virginia[1] | 4.23 |
| Washington[1] | 4.09 |
| West Virginia[1] | 4.21 |
| Wisconsin[1] | 4.21 |
| Wyomning[2] | 4.02 |

[1] Region based price as required by FERC Interim Rule, issued on March 2, 1981, in Docket No. RM–79–21.
[2] Region based price computed as the weighted average price of Regions E, F, G, and H.

### Section II. Incremental Pricing Threshold for High Cost Natural Gas

The EIA has determined that the volume-weighted average price for No. 2 distillate fuel oil landed in the greater New York City Metropolitan area during November 1983 was $33.77 per barrel. In order to establish the incremental pricing threshold for high cost natural gas, as identified in the NGPA, Title II, Section 203(a)(7), this price was multiplied by 1.3 and converted to its equivalent in millions of BTU's by dividing by 5.8. Therefore, the incremental pricing threshold for high cost natural gas, effective February 1, 1984, is $7.57 per million BTU's.

### Section III. Method Used To Compute Price Ceilings

The FERC, by Order No. 50, issued on September 29, 1979, in Docket No. RM79–21, established the basis for determining the price ceilings required by the NGPA. FERC also, by Order No. 167, issued in Docket No. RM81–27 on July 24, 1981, made permanent the rule that established that only the price paid for No. 6 high sulfur content residual fuel oil would be used to determine the price ceilings. In addition, the FERC, by Order No. 181, issued on October 6, 1981, in Docket No. RM81–28, established that price ceilings should be published for only the 48 contiguous States on a permanent basis.

*A. Data Collected*

The following data were required from all companies identified by the EIA as sellers of No. 6 high sulfur content (greater than 1 percent sulfur content by weight) residual fuel oil: For each selling price, the number of gallons sold to large industrial users in the months of September 1983, October 1983, and November 1983.[1] All reports of volume sold and price were identified by the State into which the oil was sold.

*B. Method Used to Determine Alternative Price Ceilings*

(1) *Calculation of Volume-Weighted Average Price.* The prices which will become effective February 1, 1984 (shown in Section I), are based on the reported price of No. 6 high sulfur content residual fuel oil, for each of the 48 contiguous States, for each of the 3 months, September 1983, October 1983, and November 1983. Reported prices for sales in September 1983 were adjusted by the percent change in the nationwide volume-weighted average price from September 1983 to November 1983. Prices for October 1983 were similarly adjusted by the percent change in the nationwide volume-weighted average price from October 1983 to November 1983. The volume-weighted 3-month average of the adjusted September 1983 and October 1983, and the reported November 1983 prices were then computed for each State.

(2) *Adjustment for Price Variation.* States were grouped into the regions identified by the FERC (see Section III.C.). Using the adjusted prices and associated volumes reported in a region during the 3-month period, the volume-weighted standard deviation of prices was calculated for each region. The volume-weighted 3-month average price (as calculated in Section III.B.(1) above) for each State was adjusted downward by two times this standard deviation for the region to form the adjusted weighted average price for the State.

(3) *Calculation of Ceiling Price.* The lowest selling price within the State was determined for each month of the 3-month period (after adjusting up or down by the percent change in oil prices

[1] Large Industrial User—A person/firm which purchases No. 6 fuel oil in quantities of 4,000 gallons or greater for consumption in a business, including the space heating of the business premises. Electric utilities, governmental bodies (Federal, State, or Local), and the military are excluded.

at the national level as discussed in Section III.B(1) above). The products of the adjusted low price for each month times the State's total reported sales volume for each month were summed over the 3-month period for each State and divided by the State's total sales volume during the 3 months to determine the State's average low price. The adjusted weighted average price (as calculated in Section III.B.(2)) was compared to this average low price, and the higher of the values was selected as the base for determining the alternative fuel price ceiling for each State. For those States which had no reported sales during one or more months of the 3-month period, the appropriate regional volume-weighted alternative fuel price was computed and used in combination with the available State data to calculate the State alternative fuel price ceiling base. The State's alternative fuel price ceiling base was compared to the alternative fuel price ceiling base for the multistate region in which the State is located and the lower of these two prices was selected as the final alternative fuel price ceiling base for the State. The appropriate lag adjustment factor (as discussed in Section III.B.4) was then applied to the alternative fuel price ceiling base. The alternative fuel price (expressed in dollars per gallon) was multiplied by 42 and divided by 6.3 to estimate the alternative fuel price ceiling for the State (expressed in dollars per million BTU's).

There were insufficient sales reported in Region G for the months of September, October, and November 1983. The alternative fuel price ceilings for the States in Region G were determined by calculating the volume-weighted average price ceilings for Region E, Region F, Region G, and Region H.

(4) *Lag Adjustment.* The EIA has implemented a procedure to partially compensate for the two-month lag between the end of the month for which data are collected and the beginning of the month for which ceiling prices become effective. It was determined that *Platt's Oilgram Price Report* publication provides timely information relative to the subject. The prices found in *Platt's Oilgram Price Report* publication are given for each trading day in the form of high and low prices for No. 6 residual oil in 20 cities throughout the United States. The low posted prices for No. 6 residual oil in these cities were used to calculate a national and a regional lag adjustment factor. The national lag adjustment factor was obtained by calculating a weighted average price for No. 6 high sulfur residual fuel oil for the ten trading days ending January 16, 1984, and dividing that price by the corresponding weighted average price computed from prices published by Platt's for the month of November 1983. A regional lag adjustment factor was similarly calculated for four regions. These are: one for FERC Regions A and B combined; one for FERC Region C; one for FERC Regions D, E, and G combined; and one for FERC Regions F and H combined. The lower of the national or regional lag factor was then applied to the alternative fuel price ceiling for each State in a given region as calculated in Section III.B.(3).

*Listing of States by Region*

States were grouped by the FERC to form eight distinct regions as follows:

| | |
|---|---|
| **Region A** | |
| Connecticut | New Hampshire |
| Maine | Rhode Island |
| Massachusetts | Vermont |
| **Region B** | |
| Delaware | New York |
| Maryland | Pennsylvania |
| New Jersey | |
| **Region C** | |
| Alabama | North Carolina |
| Florida | South Carolina |
| Georiga | Tennessee |
| Mississippi | Virginia |
| **Region D** | |
| Illinois | Ohio |
| Indiana | West Virginia |
| Kentucky | Wisconsin |
| Michigan | |
| **Region E** | |
| Iowa | Nebraska |
| Kansas | North Dakota |
| Missouri | South Dakota |
| Minnesota | |
| **Region F** | |
| Arkansas | Oklahoma |
| Louisiana | Texas |
| New Mexico | |
| **Region G** | |
| Colorado | Utah |
| Idaho | Wyoming |
| Montana | |
| **Region H** | |
| Arizona | Oregon |
| California | Washington |
| Nevada | |

Issued in Washington, D.C., January 19, 1984.

**Albert H. Linden, Jr.,**

*Deputy Administrator, Energy Information Administration.*

[FR Doc. 84-1863 Filed 1-20-84; 8:45 am]

BILLING CODE 6450-01-M

## Federal Energy Regulatory Commisssion

**[Docket No. CP4-128-000]**

## Equitable Gas Company; Application

January 17, 1984.

Take notice that on December 12, 1983, Equitable Gas Company (Equitable), 420 Boulevard of the Allies, Pittsburgh, Pennsylvania 15219, filed in Docket No. CP84-128-000 an application pursuant to Section 7(c) of the Natural Gas Act for certificate of public convenience and necessity authorizing the sale for resale in interstate commerce to Beckwith Machinery Company (Beckwith) of up to 1,300 Mcf of natural gas per month for a period of two years, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Equitable states that the gas to be sold to Beckwith would be compressed by Beckwith and resold as compressed natural gas for use as motor fuel. Equitable proposes to sell the gas at its Pennsylvania Public Utility Commission approved commercial tariff rate. Equitable therefore seeks waiver of the requirement that a separate tariff for this sale be filed with the Federal Energy Regulatory Commission.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 7, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing threrein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this

application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission omits own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Equitable to appear or be represented at the hearing.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-1725 Filed 1-20-84; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. CP84-120-000]**

## Florida Gas Transmission Application

January 17, 1984.

Take notice that on December 9, 1983, Florida Gas Transmission Company (FGT), P.O. Box 44, Winter Park, Florida 32790, filed in Docket No. CP84-120-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the acquisition and operation of Amoco Production Company's (Amoco) Foley Pipeline and the transportation of gas sold by Amoco to Florida Power and Light Company (FP&L) through the Foley Pipeline, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

FGT proposes to acquire Amoco's Foley Pipeline, consisting of 32 miles of 6-inch pipeline dehydration facilities, extending from Foley Field, Baldwin County, Alabama, and terminating at a point of interconnection with the facilities of United Gas Pipe Line Company (United) also in Baldwin County, Alabama. FGT would purchase Amoco's Foley Pipeline and appurtenant facilities for $500,000, it is asserted.

FGT also proposes to transport up to but not in excess of 15 billion Btu of gas per day for the account of Amoco. It is stated that FGT would charge Amoco 11.8 cents per million Btu through December 31, 1983 and 17.5 cents per million Btu thereafter, for the transportation service. FGT would transport the gas through the acquired Foley Pipeline and redeliver equivalent volumes of natural gas to Amoco at an existing point of interconnection with United's facilities in Baldwin County, Alabama, it is explained.

FGT states that by order issued August 19, 1983, in Docket No. CP82-87-002, United was authorized to establish an additional delivery point in order to enable Amoco to make emergency deliveries of natural gas to the Utilities Board of the City of Foley, Alabama, for United's account. FGT asserts that it would honor the United-Amoco agreement and requests authorization to deliver gas to the City of Foley for United's account under the terms of the August 19, 1983, certificate.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 7, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for FGT to appear or be represented at the hearing.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-1726 Filed 1-20-84; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. ER84-199-000]**

## Lockhart Power Company; Tariff Change

January 17, 1984.

The filing Company submits the following:

Take notice that Lockhart Power (Lockhart) on January 10, 1984, tendered for filing a proposed two step increase in its FERC Electric Service Tariff Rate Schedule Resale. The first, or "Interim", change would increase revenues from jurisdictional sales and service by $633,815 based on the 12-month period ending November 30, 1983. The second or "Proposed" change would increase revenues from jurisdictional sales and service by $724,349, included the "Interim" increase, based on the 12-month period ending November 30, 1983.

The reason for the proposed increase is primarily to reflect the Company's increased cost of purchased power which will occur if Duke Power Company is permitted to increase its wholesale rates as filed on December 28, 1983. With this increased cost of purchased power and certain other cost increases, the Company would not be able to earn a reasonable return on its investment without adjusting its own resale rates to reflect these increased costs.

Lockhart requests an effective date of March 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been served upon the City of Union, South Carolina, Lockhart's sole jurisdictional customer. A copy of the filing has also been mailed to the South Carolina Public Service Commission.

Any person desiring to be heard or to protest said application 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 February 1, 1984. 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 application are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-1727 Filed 1-20-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-147-000]

## Natural Gas Pipeline Company of America; Request Under Blanket Authorization

January 17, 1984.

Take notice that on December 23, 1983, Natural Gas Pipeline Company of America (Natural), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP84-147-000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205), that Natural proposes to transport natural gas for United States Steel Corporation (US Steel) under the authorization issued in Docket No. CP82-402-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Natural states that it proposes to transport up to a maximum of 50,000 Mcf of natural gas per day for US Steel from White County, Arkansas, to Cameron Parish, Louisiana, for which it would charge a transportation fee of 19.4 cents per million Btu of gas received for transportation, based upon Natural's cost of onshore transmission in docket No. RP 83-68, plus an added incentive charge (AIC) of 2.5 cents per million Btu of gas received for transportation through January 31, 1985. Natural would also retain eight-tenths of one percent of volumes received in White County for unaccounted for gas and fuel and other uses of gas during daily pipeline operations, it is explained. Natural states that it commenced this service on November 14, 1983, pursuant to § 157.209(e)(1) of the Regulations, for a 120-day period that terminates on March 2, 1984. Natural proposes to continue the transportation service from March 3, 1984, through June 30, 1985, under the proposal in the subject docket.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-1728 Filed 1-20-84; 8:45 am]

BILLING CODE 6717-01-M

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[Docket No. ER82-803-000]

## New York State Electric & Gas Corporation; Refund Report

January 17, 1984.

Take notice that on December 21, 1983, New York State Electic & Gas Corporation (NYSEG) submitted for filing its Refund Report pursuant to a November 25, 1983 Commission Letter Order.

Any person desiring to be heard or to portest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before January 27, 1984. 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. 84-1729 Filed 1-20-84; 8:45 am]

BILLING CODE 6717-01-M

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[Docket No. ER84-198-000]

## Puget Sound Power & Light Company; Filing

January 17, 1984.

The filing Company submits the following:

Take notice that on January 6, 1984, Puget Sound Power & Light Company (Puget) tendered for filing the following documents relating to Puget's Residential Purchase and Sale Agreement with the Bonneville Power Administration (BPA):

1. Puget's Motion for Consolidation of all of Puget's ASC Proceedings and for Expedited Review Including Independent Audit, Settlement Conference, and Setting for Hearing.

2. Memorandum in support of Puget's Average System Cost Determination for the Exchange period beginning August 2, 1983 and in support of Motion for Consolidation.

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 February 1, 1984. 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. 84-1730 Filed 1-20-84; 8:45 am]

BILLING CODE 6717-01-M

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[Docket Nos. ER80-607-001, ER80-608, ER80-609, ER80-610, ER80-611 and ER80-660-001]

## Southwestern Electric Power Company; Refund Report

January 17, 1984.

Take notice that on December 19, 1983, Southwestern Electric Power Company (SWEPCO) submitted for filing its Refund Report pursuant to a November 16, 1983 Commission Letter Order.

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 January 27, 1984. 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. 84-1731 Filed 1-20-84; 8:45 am]

BILLING CODE 6717-01-M

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[Docket No. CP84-131-000]

## Tennessee Gas Pipeline Company, a Division of Tenneco Inc.; Request Under Blanket Authorization

January 17, 1984.

Take notice that on December 14, 1983, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), Tenneco Building, Houston, Texas 77002, filed in Docket No. CP84-131-000 a request, pursuant to Section 157.205 of the Regulations under the Natural Gas Act, that Tennessee proposes to reassign natural gas volumes between two delivery points of its customer, Nashville Gas Company (Nashville), under the authorization issued in Docket No. CP82-413-000 pursuant to Section 7 of the Natural Gas Act, all as more fully

set forth in the request on file with the Commission and open to public inspection.

It is stated that the reassignment of gas volumes, as shown below, will not increase or decrease the sum total of the daily and/or annual volumes Nashville is entitled to purchase from Tennessee and, consequently, no impact on peak day and/or annual deliveries to Nashville.

| Delivery point | Maximum daily quantity (Mcf) | |
|---|---|---|
| | Present [1] | Proposed [2] |
| Nashville No. 1 (Emergency sale) | 0 | 0 |
| Nashville No. 2 | 151,689 | 150,775 |
| Ashland City | 2,886 | 3,800 |
| Total | 154,575 | 154,575 |

[1] Pursuant to separate gas sales agreements dated March 30, 1981, under Rate Schedule G-1 superseded to reflect Tennessee Natural Gas Lines, Inc.'s (Tennessee Natural) name change to Nashville Gas Company and the reassignment of gas volumes between delivery points.
[2] Pursuant to a combined gas sales agreement dated November 1, 1983, under Rate Schedule G-1

Tennessee states that the reassignment is not prohibited by its currently effective G-1 rate schedule and that it has sufficient capacity to accomplish the deliveries, as proposed, without detriment or disadvantage to any of Tennessee's other customers. It is further stated that no change is contemplated for the use of such gas, as it would continue to be delivered for Nashville's system supply for resale.

Tennessee submits that, pursuant to Nashville's request, Tennessee agreed to the reassignment of gas volumes between delivery points in order to avoid gas sale contract overrun in the Ashland City service area.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 39 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,
*Secretary.*

[FR Doc. 84-1732, Filed 1-20-84; 8:45 am]
BILLING CODE 6717-01-M

**[Docket No. CP84-132-000]**

## Tennessee Gas Pipeline Company, a Division of Tenneco Inc. et al.; Application

January 17, 1984.

Take notice that on December 18, 1983, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001 and Columbia Gulf Transmission Company (Columbia Gulf), P.O. Box 683, Houston, Texas 77001, filed in Docket No. CP84-132-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Natural Gas Pipeline Company of America (Natural), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state they have contracted to transport for Natural on a firm basis up to 65,000 Mcf of natural gas per day[1] (32,500 Mcf by Tennessee and 32,500 Mcf by Columbia Gulf) from receipt points at the interconnection of Applicants' jointly-owned South Pass Project 77 facilities and pipelines extending from South Pass Block 78 and West Delta Block 109, offshore Louisiana, to the terminus of the Project 77 facilities in Plaquemines Parish, Louisiana.

Applicants state that Natural would pay Tennessee and Columbia Gulf a monthly demand charge of $88,156 and $89,775, respectively, as well as 8.92 cents and 9.99 cents per Mcf for gas volumes transported in excess of the contract demand quantity. In addition, it is stated that Natural would provide to Tennessee 1.20 percent of their respective volumes received for transportation for lost or unaccounted-for volumes. It is further explained that Natural would also provide Applicants a *pro rata* share of volumes of gas used as fuel in the Project 77 facilities.

It is asserted that the proposed service would be beneficial to Natural since it would provide transportation of Natural's gas without Natural's having to construct and operate duplicative facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 7, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed or if the Commission of its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,
*Secretary.*

[FR Doc. 84-1733 Filed 1-20-84; 8:45 am]
BILLING CODE 6717-01-M

[1] Quantities of gas in excess of 65,000 Mcf per day would be transported on a best-efforts basis.

**[Docket No. CP84-133-000]**

## Tennessee Gas Pipeline Company, a Division of Tenneco Inc. et al.; Application

January 17, 1984.

Take notice that on December 15, 1983, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston Texas 77001, and Columbia Gulf Transmission Company (Columbia Gulf), P.O. Box 683, Houston, Texas 77001, filed in Docket No. CP84-133-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Southern Natural Gas Company (Southern), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state they have contracted to transport for Southern on a firm basis up to 24,000 Mcf of natural gas per day [1] (12,000 Mcf by Tennessee and 12,000 Mcf by Columbia Gulf) from receipt points at the interconnection of receipt points at the interconnection of Applicants' jointly owned South Pass Project 77 facilities and pipelines extending from South Pass Blocks 78 and 57, offshore Louisiana, to the terminus of the Project 77 facilities in Plaquemines Parish, Louisiana.

Applicants state that Southern would pay Tennessee and Columbia Gulf a monthly demand charge of $32,538 and $36,464, respectively, as well as 8.92 cents and 9.99 cents per Mcf, respectively, for gas volumes transported in excess of the contract demand quantity. In addition, Southern would provide to Tennessee 1.2 percent and Columbia Gulf 1.05 percent of their respective volumes received for transportation for lost or unaccounted-for volumes, it is explained. Southern would also provide Applicants a *pro rata* share of volumes of gas used as fuel in the Project 77 facilities, it is submitted.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 7, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protest filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-1734 Filed 1-20-84; 8:45 am]

BILLING CODE 6717-01-M

[1] Quantities of gas in excess of 24,000 Mcf per day would be transported on a best efforts basis.

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**[Docket No. CP84-134-000]**

## Tennessee Gas Pipeline Company, a Division of Tenneco Inc. et al.; Application

January 17, 1984.

Take notice that on December 15, 1983, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, and Columbia Gulf Transmission Company (Columbia Gulf), P.O. Box 683, Houston, Texas 77001, filed in Docket No. CP84-134-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Transcontinental Gas Pipe Line Corporation (Transco), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state that they have contracted to transport for Transco on a firm basis up to 18,000 Mcf of natural gas per day [1] (9,400 Mcf by Tennessee and 9,400 Mcf by Columbia Gulf) from receipt points at the interconnection of Applicants' jointly-owned South Pass Project 77 facilities and a pipeline extending from West Delta Block 109, offshore Louisiana, to the terminus of the Project 77 facilities in Plaquemines Parish, Louisiana.

Applicants state that Transco would pay Tennessee and Columbia Gulf a monthly demand charge of $25,501 and $28,563, respectively, as well as 8.92 cents and 9.99 cents per Mcf, respectively, for gas volumes transported in excess of the contract demand quantity. In addition, Transco would provide to Tennessee 1.2 percent and Columbia Gulf 1.05 percent of their respective volumes received for lost or unaccounted-for volumes, it is explained. Transco would also provide Applicants a *pro rata* share of volumes of gas used as fuel in the Project 77 facilities, it is submitted.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 7, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-1735 Filed 1-20-84; 8:45 am]

BILLING CODE 6717-01-M

[1] Quantities in excess of 18,800 Mcf per day would be transported on a best-efforts basis.

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**[Docket No. CP84-148-000]**

## Valero Interstate Transmission Company; Application

January 17, 1984.

Take notice that on December 23, 1983, Valero Interstate Transmission Company (Applicant), Post Office Box 1569, San Antonio, Texas 78296, filed in Docket No. CP84-148-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon approximately 145 miles of

transmission pipeline and related gathering facilities in Hidalgo, Starr, Zapata, Jim Hogg, Webb and La Salle Counties, Texas, and a 1,000 horsepower compressor in Jim Hogg County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes the abandonment by sale to Valero Transmission Company (VTC) of 62.9 miles of 16–inch pipline, 81.1 miles of 20–inch pipeline, 1.7 miles of 18–inch pipeline, related gathering facilities and a 1,000 horsepower compressor at Thompsonville in Jim Hogg County, Texas. Applicant states that it is more economical to abandon these facilities and transport the amount of gas currently flowing through them pursuant to a transportation agreement with VTC than it is to maintain them as jurisdictional facilities.

Applicant states that there would be no diminution of service because service to Vitco's customers before and after abandonment will be equivalent.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 7, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84–1736 Filed 1–20–84; 8:45 am]

BILLING CODE 6717–01–M

## Office of Hearings and Appeals

### Cases Filed; Week of December 30, 1983, Through January 6, 1984

During the Week of December 30, 1983 through January 6, 1984, the appeal and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 C.F.R. Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

Dated: January 13, 1984

**George B. Breznay,**

*Director, Office of Hearings and Appeals.*

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Dec. 30, 1983 through Jan. 6, 1984]

| Date | Name and location of applicant | Case No. | Type of Submission |
|---|---|---|---|
| Jan. 3, 1984 | State of Texas, Austin, Tex | HRD–0197 | Motion for Discovery. If granted: Discovery would be granted to the State of Texas in connection with the Statement of Objections submitted in response to the Proposed Remedial Order (Case No. HRO–0200) issued to Mobil Oil Corporation. |
| Jan. 3, 1984 | Union of Concerned Scientists, Washington, D.C | HFA–0204 | Appeal of an Information Request Denial. If granted: The November 30, 1983, Freedom of Information Request Denial issued by the Department of Energy would be rescinded, and the Union of Concerned Scientists would receive access to the document entitled "Preliminary Safeguards for Typical Light Reactors". |
| Jan. 5, 1984 | U.S. Department of Interior, Washington, D.C | HEE–0083 | Exception from the Certification Rules. If granted: The Department of Interior would receive an exception from certain certification requirements applicable to first sellers of crude oil as set forth in 10 C.F.R. Part 212, with respect to its sales of onshore and offshore crude oil to Navajo Refining Company. |
| Jan. 5, 1984 | Vickers Energy Corporation, Wichita, Kans | HQF–0487 | Second Stage Refund Proceeding. If granted: The Office of Hearings and Appeals would implement second stage special refund procedures pursuant to 10 C.F.R. Part 205, Subpart V in connection with the May 11, 1979 Consent Order with Vickers Energy Corporation (Case No. DFF–0006). |
| Jan. 6, 1984 | Lucky Stores, Inc., Washington, D.C | HEG–0031 | Petition for Special Redress. If granted: The Office of Hearings and Appeals would review the regulatory issues involved in the allocation agreement between Lucky Stores, Inc. and Oasis Petroleum, Inc. Pursuant to the December 6, 1983 decision in *Lucky Stores, Inc.* v. *Oasis Petroleum Corp.*, No. 81–383 Civ-T-H (M.D. Fla., December 6, 1983). |

REFUND APPLICATIONS RECEIVED

[Week of Dec. 30 through Jan. 6, 1984]

| Date | Name of refund proceeding/name of refund applicant | Case No. |
|---|---|---|
| Jan. 3, 1984 | Palo Pinto/Missouri | RQ5–42. |
| Jan. 4, 1984 | Amoco/Lawrence W. Buckman | RF21–12262. |

[FR Doc. 84–1781 Filed 1–20–84; 8:45 am]

BILLING CODE 6450–01–M

### Cases Filed; Week of December 16, Through December 23, 1983

During the week of December 16, through December 23, 1983, the appeals and applications for other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

Dated: January 16, 1984.

**George B. Breznay,**

*Director, Office of Hearings and Appeals.*

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Dec. 16 through Dec. 23, 1983]

| Date | Name and location of applicant | Case No. | Type of submission |
|---|---|---|---|
| Dec. 19, 1983 | | HED-0192, HEH-0192 | Motions for Discovery and Evidentiary Hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the Statement of Objections submitted by Plateau, Inc. in response to the September 8, 1983 Proposed Decision and Order (HEE-0063) issued to the Department of the Interior. |
| Do | do | HED-0195, HEH-0195 | Motions for Discovery and Evidentiary Hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the Statement of Objections submitted by Silver Eagle Oil, Inc. in response to the September 8, 1983 Proposed Decision and Order (Case No. HEE-0070) issued to the Department of the Interior. |
| Dec. 22, 1983 | Subia Corporation of New Mexico, Phoenix, Arizona | HFA-0203 | Appeal of an Information Request Denial. If granted: The November 23, 1983 Freedom of Information Request Denial issued by the DOE Albuquerque Operations Office would be rescinded and Subia Corporation of New Mexico would receive access to information concerning the award of bids by Sandia National Laboratories. |

REFUND APPLICATIONS RECEIVED

[Week of December 16, 1983 through December 23, 1983]

| Date | Name of refund proceeding/name of refund applicant | Case No. |
|---|---|---|
| Dec. 20, 1983 | Amoco/West Virginia | RQ21-36. |
| Do | Belridge/Tennessee | RQ8-37. |
| Do | Palo Pinto/Tennessee | RQ5-38. |
| Do | Amoco/Tennessee | RQ21-39. |
| Dec. 22, 1983 | Amoco/Red Cliff Band of Lake Superior Chippewas | RQ21-40. |
| Do | Amoco/Sweda's Amoco | RF21-12255. |
| Do | Amoco/Russell A. Rosenberg | RF21-12256. |

[FR Doc.84-1824 Filed 1-20-84; 8:45 am]

**BILLING CODE 6450-01-M**

### Objection to Proposed Remedial Order; Period of December 12 Through December 23, 1983

During the period of December 12 through December 23, 1983, the notice of objection to proposed remedial order listed in the Appendix to this Notice was filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial order described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in this proceeding should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

Dated: January 16, 1984.

**George B. Breznay,**

*Director, Office of Hearings and Appeals.*

*Doma Corporation, Abilene, Texas, HRO-0204*

On December 20, 1983, Doma Corporation, 3102 So. Clark, Abilene, Texas 70606, filed a Notice of Objection to a Proposed Remedial Order which the DOE Dallas, Texas Office of the Economic Regulatory Administration issued to the firm on November 3, 1983. In the PRO the Dallas ERA Office found that during the period November 1973 to June 1977, Doma violated pricing and certification regulations connected with the resale of crude oil. 10 CFR 212.10, 212.93, 205.202, 210.62(c) and 212.131.

According to the PRO the Doma Corporation violations resulted in $3,466, 675.67 of overcharges.

[FR Doc. 84-1823 Filed 1-20-84; 8:45 am]

**BILLING CODE 6450-01-M**

## ENVIRONMENTAL PROTECTION AGENCY

**40 CFR Part 51**

**[AMS-FRL 2509-41]**

### Motor Vehicle Emission Factors; Public Workshop

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of public workshop.

**SUMMARY:** This notice announces a public workshop which the Environmental Protection Agency will hold regarding possible revisions to the

Agency's motor vehicle emission factors and the computer program MOBILE2 used to calculate composite emission factors for vehicle fleets. These emission factors are used by States in preparing State Implementation Plan revisions and by others engaged in determining the air quality impact of motor vehicles. The Agency's purpose in holding this workshop is to meet with those parties potentially possessing information which would be of use in revising the emission factors and to allow all interested parties to participate informally in the revision process.

**DATES:** The workshop is being held on Tuesday, February 14, 1984 at 8:30 a.m..

**ADDRESS:** The workshop will be held at EPA's Motor Vehicle Emissions Laboratory, 2565 Plymouth Road, Ann Arbor, Michigan 48105.

**FOR FURTHER INFORMATION CONTACT:** Tom Darlington, (313) 668–4473, or Lois Platte, (313) 668–4306, Emission Control Technology Division, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105.

**SUPPLEMENTARY INFORMATION:** EPA's current estimates of emission factors for motor vehicles are contained in the report "Compliation of Air Pollutant Emission Factors: Highway Mobile Sources," March 1981 (EPA–460/3–81–005). The emission factors and the arthmetical procedures for combining them into an estimate of the composite emission factors for a motor vehicle fleet have been automated in the computer program MOBILE2. The report and computer program were developed in 1980, and EPA perceives that in the intervening period enough additional information has become available to warrant consideration of revisions to both.

Although EPA is not required to invite public participation during the revision of the emission factors, EPA believes a series of public workshops will facilitate EPA's revosopm process by enabling EPA to receive valuable technical information in a timely fashion and to receive suggestions from those parties who may otherwise be interested in the revision process and its outcome.

The workshop announced here is the fifth of a series. At this fifth workshop, EPA plans to present an overview of the differences between MOBILE2 and MOBILE3. EPA will also discuss 1981 and later light-duty vehicle emission factors, evaporative emissions based on commercial fuel, tampering, conversion factor for heavy-duty vehicles, new speed and temperature correctio factors, and updated vehicle registration and mileage accoumulatio distributons. A copy of the draft MOBILE3 computer program will be made available following the workshop to those interested in testing the program and acquiring a better understanding of the mechanics of its operation.

Suggestions for additional topics should be made in advance of the workshop. Because of the technical nature of the agenda, participants should be familiar with the existing emission factors and MOBILE2 to most fully contribute to the discussions.

This workshop will not discuss the prgramming aspects of the MOBILE2 or MOBILE3 computer programs, such as the interface with other programs used in preparing emission inventories and air quality plans, and the language and equipment requirements of the programs. A workshop may be scheduled at a later date to meet with parties interested in these areas in particular.

No rulemaking action is anticipated in connectio with the revisions that will be subject of this workshop. Consequentlly, the workshop will be very informal. there will be not opportunity for prepared statementsin generl, although perpared remarks will be welcome on specific issues as those are brough up for discussion. Although no public docket will be kept, written submissions are welcome at any time and may be brought to the workshop or mailed to Tom Darlington or Lois Platte, at the address set out above.

The Agency in addition requests that all persons planning to attend the workshop contact Tom Darlington or Louis Platte.

Dated: January 13, 1984.

**Sheldon Meyers,**

*Acting Assistant Administrator for Air and Radiation.*

[FR Doc. 84–1659 Filed 1–20–84; 8:45 am]

**BILLING CODE 6560–50–M**

## FEDERAL HOME LOAN BANK BOARD

**[No. AC–332]**

### Collective Federal Savings & Loan Association, Egg Harbor City, N.J.; Approval of Conversion Application

January 16, 1984.

Notice is hereby given that on December 22, 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 Collective Federal Savings and Loan Association, Egg Harbor City, New Jersey, for permission to convert to the stock form or organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street NW., Washingon, D.C. 20552, and at the Office of the Supervisory Agent of said Corporation at the Federal Home loan Bank of New York, One World Trade Center, Floor 103, New York, New York 10048.

By the Federal Home Loan Bank Board.

**John M. Buckley, Jr.,**

*Acting Secretary.*

[FR Doc. 84–1809 Filed 1–20–84; 8:45 am]

**BILLING CODE 6720–01–M**

**[No. AC–331]**

### Home Federal Saving & Loan Association of Hagerstown, Hagerstown, Md.; Approval of Conversion Application

January 16, 1984.

Notice is hereby given that on December 23, 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 Home Federal Savings and Loan Association of Hagerstown, Hagerstown, Maryland, 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 Agent of said Corporation at the Federal Home Loan Bank of Atlanta, P.O. Box 56527 Peachtree Center Station, Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

**John M. Buckley, Jr.,**

*Acting Secretary.*

[FR Doc. 84–1808 Filed 1–20–84; 8:45 am]

**BILLING CODE 6720–01–M**

**[No. AC–328]**

### Atlantic Federal Savings and Loan Association of Fort Lauderdale, Fort Lauderdale, Florida; Final Action; Approval of Conversion Application

Dated: January 16, 1984.

Notice is hereby given that on September 14, 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 Atlantic Federal Savings and Loan Association of Fort Lauderdale, Fort Lauderdale, Florida, 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 Agent of said Corporation at the Federal Home Loan Bank of Atlanta, P.O. Box 56527, Peachtree Center Station, Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

**John M. Buckley, Jr.**

*Acting Secretary.*

[FR Doc. 84-1805 Filed 1-20-84; 8:45 am]

BILLING CODE 6720-01-M

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[No. AC-322]

### Columbia First Federal Savings and Loan Association; Washington, D.C., Final Action; Approval of Conversion Application

Dated: January 16, 1984.

Notice is hereby given that on December 13, 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 Columbia First Federal Savings and Loan Associations of Washington, D.C., for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, D.C. 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of Atlanta, P.O. Box 56527, Peachtree Center Station, Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

**John M. Buckley, Jr.,**

*Acting Secretary.*

[FR Doc. 84-1799 Filed 1-20-84; 8:45 am]

BILLING CODE 6720-01-M

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[No. AC-330]

### Community Savings and Loan Association, Fond du Lac, Wisconsin; Final Action; Approval of Conversion Application

Dated: January 16, 1984.

Notice is hereby given that on December 19, 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 Community Savings and Loan Association, Fond du Lac, Wisconsin, 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, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Chicago, 111 East Wacker Drive, Suite 800, Chicago, Illinois 60601.

By the Federal Home Loan Bank Board.

**John M. Buckley, Jr.**

*Acting Secretary.*

[FR Doc. 84-1807 Filed 1-20-84; 8:45 am]

BILLING CODE 6720-01-M

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[No. AC-320]

### Crusader Savings and Loan Association, Rosemont, Pennsylvania; Final Action; Approval of Conversion Applications

Dated: January 16, 1984.

Notice is hereby given that on December 9, 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 Crusader Savings and Loan Association, Rosemont, Pennsylvania, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, D.C. 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of Pittsburgh, 11 Stanwix Street, Fourth Floor, Gateway Center, Pittsburgh, Pennsylvania, 15222-1395.

By the Federal Home Loan Bank Board.

**John M. Buckley, Jr.,**

*Acting Secretary.*

[FR Doc. 84-1797 Filed 1-20-84; 8:45 am]

BILLING CODE 6720-01-M

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[No. AC-327]

### Fidelity Federal Savings and Loan Association, Dalton, Georgia; Final Action; Approval of Conversion Application

Dated: January 16, 1984.

Notice is hereby given that on September 15, 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 Fidelity Federal Savings and Loan Association, Dalton, Georgia, 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 Agent of said Corporation at the Federal Home Loan Bank of Atlanta, P.O. Box 56527, Peachtree Center Station, Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

**John M. Buckley, Jr.,**

*Acting Secretary.*

[FR Doc. 84-1804 Filed 1-20-84; 8:45 am]

BILLING CODE 6720-01-M

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[No. AC-329]

### Fidelity Federal Savings and Loan Association, Philadelphia, Pennsylvania; Final Action; Approval of Conversion Application

Dated: January 16, 1984.

Notice is hereby given that on December 14, 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 Fidelity Federal Savings and Loan Association, Philadelphia, Pennsylvania, 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 Agent of said Corporation at the Federal Home Loan Bank of Pittsburgh, Eleven Stanwix Street, Fourth Floor, Gateway Center, Pittsburgh, Pennsylvania 155222-1395.

By the Federal Home Loan Bank Board.

**John M. Buckley, Jr.,**

*Acting Secretary.*

[FR Doc. 84-1806 Filed 1-20-84; 8:45 am]

BILLING CODE 6720-01-M

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[No. AC-325]

### First Savings Bank of Florida, F.S.B., Tarpon Springs, Florida; Final Action; Approval of Conversion Application

Dated: January 16, 1984.

Notice is hereby given that on October 21, 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 First Savings Bank of Florida, F.S.B., Tarpon Springs, Florida, 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 Agent of said Corporation at the Federal Home Loan Bank of Atlanta, P.O. 56527, Peachtree Center Station, Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.
**John M. Buckley, Jr.,**
*Acting Secretary.*
[FR Doc. 84-1802 Filed 1-20-84; 8:45 am]
BILLING CODE 6720-01-M

**[NO. AC-323]**

### Georgia Federal Bank, FSB, Atlanta, Georgia; Final Action; Approval of Conversion Application

Dated: January 16, 1984.

Notice is hereby given that on October 21, 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 Georgia Federal Bank, FSB, Atlanta, Georgia, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Board, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Board at the Federal Home Loan Bank of Atlanta, P.O. Box 56527, Peachtree Center Station, Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.
**John M. Buckley, Jr.,**
*Acting Secretary.*
[FR Doc. 84-1800 Filed 1-20-84; 8:45 am]
BILLING CODE 6720-01-M

**[No. AC-326]**

### Home Federal Savings Bank; Worcester, Massachusetts; Final Action; Approval of Conversion Application

Dated: January 16, 1984.

Notice is hereby given that on October 26, 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 Home Federal Savings Bank, Worcester, Massachusetts, 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 Agent of said Corporation at the Federal Home Loan Bank of Boston, P.O. Box 2196, Boston, Massachusetts 02106.

By the Federal Home Loan Bank Board.
**John M. Buckley, Jr.,**
*Acting Secretary.*
[FR Doc. 84-1803 Filed 1-20-84; 8:45 am]
BILLING CODE 6720-01-M

**[No. AC-324]**

### Western Federal Savings and Loan Association; Marina Del Rey, California; Final Action; Approval of Conversion Application

Dated: January 16, 1984.

Notice is hereby given that on October 21, 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 Fidelity Federal Savings and Loan Association, Marina Del Rey, California, 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 Agent of said Corporation at the Federal Home Loan Bank of San Francisco, P.O. Box 7948, San Francisco, California, 94120.

By the Federal Home Loan Bank Board.
**John M. Buckley, Jr.,**
*Acting Secretary.*
[FR Doc. 84-1801 Filed 1-20-84; 8:45 am]
BILLING CODE 6720-01-M

**[No. AC-321]**

### Ponce Federal Savings and Loan Association of Puerto Rico, Ponce, Puerto Rico; Final Action; Approval of Conversion Applications

Dated: January 16, 1984.

Notice is hereby given that on December 12, 1983, the Office of General Counsel of the Federal Home Loan Bank, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Ponce Federal Savings and Loan Association of Puerto Rico, Ponce, Puerto Rico, 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 gent of said Corporation at the Federal Home Loan Bank of New York, One World Trade Center, Floor 103, New York, New York 10048.

By the Federal Home Loan Bank Board.
**John M. Buckley, Jr.,**
*Acting Secretary.*
[FR. Doc. 84-1798 Filed 1-20-84; 8:45 am]
BILLING CODE 6720-01-M

## FEDERAL RESERVE SYSTEM

**[Docket No. R-0504]**

### Fee Schedules for Federal Reserve Bank Services

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Fee Schedules for Wire Transfer of Funds and Net Settlement Services.

**SUMMARY:** The Monetary Control Act of 1980 (Title I of Public Law 96-221) requires that schedules of fees be established for Federal Reserve Bank services. Revised fee schedules for the wire transfer of funds and net settlement services were implemented effective April 29, 1982, and continued through 1983. The Board has approved an increase in the off-line surcharges for the wire transfer of funds and net settlement services.

**EFFECTIVE DATE:** March 1, 1984.

**FOR FURTHER INFORMATION CONTACT:** Elliot C. McEntee, Associate Director (202/452-2231) or Florence M. Young, Program Manager (202/452-3955) Division of Federal Reserve Bank Operations; Gilbert T. Schwartz, Associate General Counsel (202/452-3625) or Elaine M. Boutilier, Attorney (202/452-2418), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

**SUPPLEMENTARY INFORMATION:** The Monetary Control Act of 1980 ("Act") requires that fee schedules be developed for Federal Reserve Bank services based on pricing principles established by the Board (12 U.S.C. 248a). The current fee schedule for the Federal Reserve's wire transfer of funds and net settlement services was implemented on April 29, 1982, and was reviewed by the Board on March 17, 1983. As indicated in the notice continuing the existing fee schedule (48 FR 12135, March 23, 1983), a comprehensive review was conducted during 1983 of the fee structure for the wire transfer of funds and net settlement services. These services include both on-line services—i.e., transfers made through electronic connections—and off-line services—i.e., transfers made upon the receipt of a telephone request.

This review concluded that the off-line services provided to depository institutions are labor intensive and that the current off-line surcharges are not fully recovering the costs incurred in providing the services. To enable the Reserve Banks to recover the costs of off-line services, the Board has determined that the following

surcharges will apply for off-line services beginning March 1, 1984:

*Wire Transfer of Funds*

Off-line Origination: $5.50
Telephone Advice: $3.00

*Net Settlement*

Off-line Settlement: $8.00
Telephone Advice: $3.00

The current fees are $3.50 for an off-line origination of a funds transfer, $5.00 for an off-line origination of a net settlement, and $2.25 for a telephone advice of a funds transfer or net settlement entry. As a result of the changes, it is anticipated that annual off-line revenue will be approximately $8 million. The current basic fee for transfers originated and received ($0.65 per transfer) and net settlement entries ($1.30 per entry) will remain in effect until a new fee schedule is approved by the Board later this year. It is proposed that the basic transaction fee for transfers originated and received be reduced to $0.60 and a new fixed monthly fee be assessed to on-line institutions based upon the type of electronic connection that is installed between the institution and the Federal Reserve Bank. (*See* Proposed Fee Schedules for Wire Transfer of Funds and Net Settlement Services, published simultaneously with this notice.)

By order of the Board of Governors of the Federal Reserve System, January 17, 1984.

**William W. Wiles,**

*Secretary of the Board.*

[FR Doc. 84-1745 Filed 1-20-84; 8:45 am]

BILLING CODE 6210-01-M

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**[Docket No. R-0505]**

## Fee Schedules for Federal Reserve Bank Services

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Proposed 1984 Fee Schedules for Wire Transfer and Net Settlement Services.

**SUMMARY:** The Monetary Control Act of 1980 (Title I of Pub. L. 96-221) requires that schedules of fees be established for Federal Reserve Bank services. Revised fee schedules for the wire transfer of funds and net settlement services were implemented effective April 29, 1982, and continued through 1983. The Board now seeks comment on the following new fee structure and new prices for these services to be implemented in 1984:

| Type of connection | Monthly fees | |
|---|---|---|
| | All priced services, except dedicated ACH and securities transfer connections [1] | Dedicated ACH connections [2] |
| Computer interface | $1,400 | $840 |
| Leased line | 350 | 210 |
| Dial up | 75 | 45 |

[1] A number of on-line connections are used by depository institutions solely for securities transfers. No fixed monthly fees will be assessed at this time for these dedicated connections, pending a review of the fee structure for the securities transfer service later this year.

[2] The ACH service is priced under an incentive pricing policy. The fees proposed for dedicated ACH connections reflect a 60-percent recovery rate for the service.

In conjunction with implementing fixed monthly fees for electronic connections with the Federal Reserve, it is also proposed that:

—the fee for originating or receiving a wire transfer of funds be reduced from $0.65 to $0.60 per transfer; and
—the fee for originating a securities transfer be maintained at $3.00 per transfer.

**DATE:** Comments, must be received by March 17, 1984.

**ADDRESS:** Comments, which should refer to Docket No. R-0505, may be mailed to: William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, D.C. 20551, or delivered to room B-2223 between 8:45 a.m. and 5:15 p.m. Comments received may be inspected in room B-1122 between 8:45 a.m. and 5:15 p.m., except as provided in § 216.6(a) of the Board's Rules Regarding Availability of Information (12 CFR 261.6(a)).

**FOR FURTHER INFORMATION CONTACT:** Elliott C. McEntee, Associate Director (202/452-2231), or Florence M. Young, Program Manager (202/452-3955), Division of Federal Reserve Bank Operations; Gilbert T. Schwartz, Associate General Counsel (202/452-3625), or Elaine M. Boutilier, Attorney (202/452-2418), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

**SUPPLEMENTARY INFORMATION:** The Monetary Control Act of 1980 requires that fee schedules be developed for Federal Reserve Bank services based on pricing principles established by the Board (12 U.S.C. 248a). The Board, in accordance with the requirements of the Act, has established fee schedules, for the wire transfer of funds and net settlement services. The current fee schedule, implemented on April 29, 1982, was retained because estimates of the volume of funds transfers and the total costs, including the PSAF, indicated that revenues would cover the 1983 costs of providing the service. The Board noted, at that time, that a comprehensive review of the fee structure for these services had been undertaken and that if significant changes were determined to be necessary, public comment would be solicited (48 F.R. 12135, March 23, 1983). The results of that review indicate that it is appropriate to revise the existing fee structure for the wire transfer of funds service in order to recover anticipated costs for 1984. Accordingly, the Board is requesting public comment on a revised fee structure.

For the period January through November, 1983, total costs, including the PDAF, amounted to $52.0 million and total revenues amounted to $52.4 million, resulting in a modest net revenue surplus of approximately $400 thousand. The volume of funds transfers originated amounted to 34.7 million during the eleven month period, an increase of 8 percent over the same period in 1982. Cost, volume and revenue data for December, 1983, are not yet available. However, it is expected that a modest net revenue surplus will be realized for the year 1983.

The total costs, including a 16 percent PSAF, of providing the wire transfer of funds and net settlement service are projected to be $62.4 million in 1984. If the current fee schedule for these services were retained, projected annual revenues would amount to $58.9 million, resulting in an estimated net revenue shortfall of $3.5 million. Therefore, in order to match costs and revenues, the Board proposes to implement fixed monthly fees and lower basic transaction fees on June 28, 1984.[1] As a result of these changes, 1984 revenues of about $62.9 million are anticipated for the wire transfer of funds and net settlement service, resulting in a net revenue surplus of $500,000.

### Cost Structure

The Reserve Banks provide electronic services to four classes of users: (1) Institutions with computers linked directly to Federal Reserve computers, (2) institutions using terminals or microcomputers that are linked to the Federal Reserve via dedicated, leased lines, (3) institutions using terminals or microcomputers that are linked to the Federal Reserve via public telephone lines or dial-up facilities, and (4) institutions without electronic connections that

[1] In this connection, the Board has approved, effective March 1, 1984, an increase in the off-line surcharges for the wire transfer of funds and net settlement services. (See **Federal Register** notice published simultaneously with this notice.)

initiate and receive transfers of funds and securities over the telephone or, in the case of the automated clearing house ("ACH"), physically deliver and receive transactions. The following table indicates the approximate number of electronic links to the Federal Reserve as of December 31, 1983:

NUMBER OF ELECTRONIC CONNECTIONS

| Type | Number |
|---|---|
| Computer interface | 100 |
| Leased line | 1,300 |
| Dial-up | 2,700 |
| ACH data link | [1] 200 |

[1] Unlike other electronic connections, ACH data links are frequently shared. Approximately 2,000 depository institutions are currently served by the 200 data links that are installed.

During 1983, on-line users of the Federal Reserve's electronic services originated about 98 percent of all funds transfers and about 99 percent of all securities transfers. In the case of the ACH service, on-line institutions originated less than 25 percent and received only 10 percent of commercial ACH transactions.[2]

The on-line electronic payments services offered to depository institutions by the Reserve Banks are capital intensive services and fixed costs are high relative to total costs. The Federal Reserve has developed sophisticated intradistrict and interdistrict data communications networks, invested in state-of-the-art data communications and data processing equipment, and is developing enhanced automated systems for each of its electronic payments services.

Certain elements of the Federal Reserve's data communications and data processing costs would be incurred in order to offer electronic payments services even if no on-line connections with the Federal Reserve were offered. However, other costs, in particular the costs associated with intradistrict communications networks, would not be incurred if on-line connections were not offered. Intradistrict communications networks consist primarily of the lines, circuits, and modems used to link depository institutions to the Federal Reserve. During 1983, it is estimated that the costs of the local networks that were allocated to priced services amounted to $6 to $7 million.

Depository institutions that have computer-interface connections with the Federal Reserve originated and received more than 60 percent of the total number of funds and securities transfers during 1983. These institutions expend considerable resources to purchase and install computer-to-computer interfaces, and Federal Reserve staff devotes considerable time to testing the equipment. To ensure that the high transaction volumes are processed efficiently, high speed, dedicated lines link these institutions to the Federal Reserve. In addition, the capacity of the Federal Reserve's data processing and data communications equipment is largely dictated by the volume of transactions originated and received by these high volume users.

Institutions using terminals or micro-computers that are linked via leased lines accounted for nearly 30 percent of all funds and securities transfers during 1983. Compute software necessary to interface with the Federal Reserve's applications software is provided by the Federal Reserve. However, Federal Reserve development and support costs are spread over a relatively broad base because the majority of institutions within a Federal Reserve District use the same equipment. In many cases, the lines leased from common carriers serving individual institutions feed into one circuit linked with the Federal Reserve and, generally, have less capacity than the lines used by institutions with computer interfaces.

During 1983, institutions using terminals or micro-computers linked via public telephone lines, that is, dial-up connections, accounted for about 8 percent of total transaction volume. The Federal Reserve provides the necessary software to support their use of electronic services. However, the lines connecting these institutions to the Federal Reserve are typically public telephone lines that require institutions to dial the Federal Reserve to originate or receive transactions.

In summary, the costs to the Federal Reserve of serving individual institutions with computer interfaces tend to be higher than for those with leased-line connections, which are higher than for those with dial-up connections. However, the three classes of on-line institutions use the Federal Reserve's electronic services with different intensities. When fixed costs, such as data communications costs, are spread over the high transaction volumes processed by computer-interface institutions, the per transaction impact of fixed costs tends to be lower. Conversely, for lower volume, leased-line or dial-up institutions, the per transaction impact of fixed costs tends to be higher.

**Alternatives**

At present, the fees assessed for the wire transfer of funds, securities transfer, and the ACH services are generally based on the average cost of processing a transaction.[3] Basing fees on average processing costs is an appropriate pricing methodolgy when a high proportion of total production costs are variable. In the case of the Federal Reserve's electronic services, a high proportion of costs are fixed relative to total costs. Thus, some modification to the current fee structures for electronic services could result in fee structures that more closely resembled the cost structure of the services.

To achieve this objective, the following alternatives were received:

—assessing variable transaction fees for wire transfers of funds and securities services based on the type of on-line connection used by a depository institution;

—assessing on-line institutions the actual costs of the lines and modems that are installed to provide electronic payments services; and

—assessing fixed monthly fees that would vary by type of on-line connection and would, on average, recover the cost of intradistrict communications networks.

Based on the staff study, the first alternative, the use of variable transaction fees, would result in a range of transaction fees, with the highest being assessed to institutions using dial-up connections and the lowest fees being assessed to institutions with computer-interface connections, due to differences in transaction volumes among the three classes of on-line institutions. While the use of variable transaction fees would reflect the costs of providing electronic payments services more accurately than the current fee structures, it still would not fully reflect the fixed cost structure of the Federal Reserve's electronic payments services. Moreover, variable transaction fees would also provide depository institutions an incentive to upgrade the type of connection linking them with the Federal Reserve in order to reduce the variable costs they incur in using Federal Reserve services. Since dedicated leased-line connections are more costly to the Federal Reserve than

[2] On September 23, 1983, a revised fee schedule for the ACH service was published for public comment. (48 FR 44650) The proposal to implement fixed monthly fees for electronic services will have a minor impact on the proposed ACH fee schedule since a relatively small percentage of ACH transactions are originated and received via on-line connections.

[3] On September 23, 1983, a revised ACH fee structure was published for public comment that proposed instituting fixed deposit and receiver handling fees reflecting fixed costs associated with these activities. (48 FR 44650)

shared dial-up facilities and computer-interface connections are more costly than leased-line connections, moves to upgrade connections on the part of depository institutions would increase rather than reduce the overall costs of the Federal Reserve's electronic payments services.

The alternative of passing through actual line and modem costs to individual depository institutions would provide an objective means of assessing fees. It would also provide institutions with an incentive to select the most cost-effective, on-line connection based on the volume of transactions handled. However, telephone rates are frequently based on distance and may vary from region to region, resulting in disparate charges to institutions within the same class. Furthermore, the AT&T divestiture creates a great deal of uncertainty regarding the fees that would be assessed. Finally, determining the costs that would be assessed to institutions sharing leased lines or using dial-up networks would be complex. Therefore, this approach was regarded as unacceptable due to its complexity and the unpredictability of telephone rates.

The third alternative, assessing fixed monthly fees to on-line institutions that vary by type of connection, like passing through actual line and modem costs, would be based on clearly identifiable fixed costs and would result in a fee structure that reflects the fact that high fixed costs are incurred in providing electronic services. Setting fees that, on average, would recover the costs of intradistrict communications networks would generate revenues comparable to those generated under the second alternative. Although the effect of fixed monthly fees on institutions with on-line connections would vary within each connection category depending upon an institution's volume of transactions, variability in fees charged due to differences on telephone rates would not occur. Therefore, the use of fixed fees would remove the uncertainty regarding charges that would exist under the pass-through proposal. This alternative also should provide incentives for depository institutions to select cost-effective, on-line connections and, thereby, contribute to reductions in the overall costs of the Federal Reserve's electronic services. Accordingly, the Board believes that this alternative is the most reasonable basis for recovering fixed costs, and the following proposed fee structure incorporates this approach.

| Type of connection | Monthly fees | |
|---|---|---|
| | All priced services, except dedicated ACH and securities transfer connections | Dedicated ACH connections |
| Computer interface | $1,400 | $840 |
| Leased line | 350 | 210 |
| Dial up | 75 | 45 |

Under the Board's proposal, a fixed monthly fee would be assessed for each separately addressed connection that is installed between a depository institution and the Federal Reserve. When an institution uses on connection to access the Federal Reserve for all types of electronic services, one fee would be assessed based on the type of connection. However, if a depository institution uses a computer-interface connection for funds transfer services and a dial-up conection for ACH services, and each connection is separately addresable, the institution would be assessed the monthly fee for each connection. It should be noted that fixed monthly fees would be assessed to all on-line institutions—those that use their own equipment to interface with the Federal Reserve and those that lease equipment from the Federal Reserve.

Because the ACH service is priced under an incentive pricing policy, it is proposed that the fixed monthly fees for communications links used solely for ACH transactions should be included under that policy. Specifically, the ACH fees recently published for public comment were set to recover 60 percent of the costs of providing commercial ACH services. That proposal also included fixed receiver handling fees for both ground and electronic delivery. If fixed monthly fees for on-line connections with the Federal Reserve are implemented, it is proposed that the receiver handling fee for electronic delivery, if one is adopted, be eliminated in order to avoid double charging users of ACH services.

There are a number of on-line connections used by depository institutions solely for securities transfers. At this time, no fixed monthly fees are proposed for these dedicated connections, pending a review of the fee structure for the securities transfer service later this year.

Currently, some Federal Reserve Banks' terminal lease fees include a component that is intended to recover a portion of intradistrict communications and other costs. Some Reserve Banks also assess fixed monthly fees to on-line institutions that own their own terminals or micro-computers rather than leasing them from the Federal Reserve. If the proposed fixed monthly fees for on-line institutions are implemented, it is proposed that these Reserve Banks would discontinue assessing the fixed monthly fees that they now charge to on-line institutions.[4]

At this time, the Reserve Banks Project that intradistrict communications costs will amount to approximately $8.3 million during 1984, an increase of 20 to 40 percent over 1983 costs. The relatively substantial increase in costs is based on estimates of the effects of the AT&T divestiture, which are highly tentative at this time, as well as growth in the number of on-line connections with the Federal Reserve. Based on the projected number of each type of on-line connection with the Federal Reserve during 1984, it is estimated that the proposed fixed fees would generate annual revenues of approximately $8.0 million. [5]

As a result of these changes, it is also proposed that the following transaction fees be implemented:

Basic Transfer Originated—$0.60
Basic Transfer Received—$0.60
Net Settlement Entries—$1.30

This proposal would result in a $0.05 reduction in the basic fee for originating or receiving a funds transfer. No change is proposed for the fee for net settlement entries. This new transaction fee would be implemented at the same time fixed monthly fees are implemented, which is proposed to be June 28, 1984.

By order of the Board of Governors of the Federal Reserve System, January 17, 1984.

**William W. Wiles,**

*Secretary of the Board.*

[FR Doc. 84-1746 Filed 1-20-84; 8:45 am]

BILLING CODE 6210-01-M

## American National Agency, Inc., et al.; Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

[4] Existing fees assessed for terminals used exclusively for securities transfers will continue in effect pending a review of the fee structure for securities transfers later this year.

[5] Approximately 70 percent of the revenue generated through fixed monthly fees would be allocated to the wire transfer of funds and net settlement service.

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *American National Agency, Inc.*, Nashwauk, Minnesota; to acquire an additional 35 percent of the voting shares or assets of American National Bank, Nashwauk, Minnesota. Comments on this application must be received not later than February 15, 1984.

B. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *First Huntsville Corporation*, Huntsville, Texas; to acquire 100 percent of the voting shares of First National Bank-South, Huntsville, Texas. Comments on this application must be received not later than February 16, 1984.

Board of Governors of the Federal Reserve System, January 17, 1984.

**James McAfee,**

*Associate Secretary of the Board.*

[FR Doc. 84-1740 Filed 1-20-84; 8:45 am]

BILLING CODE 6210-01-M

## Equitable Bancorporation, et al.; Proposed De Novo Nonbank Activities by Bank Holding Companies

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage to *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governers to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Equitable Bancorporation*, Baltimore, Maryland (mortgage banking activities; eastern United States): To engage, through its subsidiary, E. B. Mortgage Corporation, in the business of originating, purchasing, selling and servicing loans to third parties secured by real estate and, in connection therewith, to acquire, hold and dispose of real property and to enter into any and all agreements necessary, desirable or appropriate to the aforementioned, business. These activities would be conducted from new offices in Towson, Maryland and Bala-Cynwyd, Pennsylvania, serving Pennsylvania, New Jersey, Delaware, Maryland, Washington, D.C., Florida, Texas and Virginia. Comments on this application must be received not later than February 7, 1984.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *California Commercial Bankshares*, Santa Ana, California (mortgage and trust activities; the entire United States): To engage in mortgage lending activities including origination and sale of real estate secured loans; and in trust department activities. These activities would be carried on from an office located in Santa Ana, California serving the entire United States. Comments on this application must be received not later than February 17, 1984.

Board of Governors of the Federa' Reserve System, January 17, 1984.

**James McAfee,**

*Associate Secretary of the Board.*

[FR Doc. 84-1744 Filed 1-20-84; 8:45 am]

BILLING CODE 6210-01-M

## Hawkeye Bancorporation; Proposed Expansion of Activities of Hawkeye Bancorporation Mortgage Company

Hawkeye Bancorporation, Des Moines, Iowa, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to expand the activities of Hawkeye Bancorporation Mortgage Company, Des Moines, Iowa.

Applicant states that the proposed subsidiary would engage in the activities of arranging equity financing. These activities would be performed from offices of Applicant's subsidiary in Des Moines, Iowa and the geographic areas to be served are the states of Iowa, Missouri, Illinois, Wisconsin, Minnesota, South Dakota, Nebraska, Kansas, Indiana, North Dakota, Michigan, Tennessee, Oklahoma, and Ohio. Although such activities have not been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, the Board has approved by order individual proposals to engage in these activities.

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be acompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, indentifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any views or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C., not later than February 16, 1984.

Board of Governors of the Federal Reserve System, January 17, 1984.

**James McAfee**

*Associate Secretary of the Board.*

[FR Doc. 84-1741 Filed 1-20-84; 8:45 am]

BILLING CODE 6210-01-M

## River Oaks Bancshares, Inc.; Formation of a Bank Holding Company

River Oaks Bancshares, Inc., Houston, Texas, has applied for the Board's approval under 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842 (a)(1)) to become a bank holding company by acquiring 80 percent of the voting shares of River Oaks Bank & Trust Company, Houston, Texas. The factors that are considered in acting on the application are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

River Oaks Bancshares, Inc., Houston, Texas, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843 (c)(8)) and § 225.4(b)(2) of the Board's Regulation Y 12 CFR 225.4(b)(2)), for permission to acquire voting shares of River Oaks Trust Company and River Oaks Trust Corporation, both of Houston, Texas.

Applicant states that the proposed subsidiaries would perform the activities that maybe performed by a trust company and will act as an investment or financial advisor. These activities would be performed from offices of Applicant's subsidiaries in Houston, Dallas-Fort Worth, Austin, San Antonio and other cities located within a 150-mile radius of Houston, Texas and the geographic area to be served is the State of Texas. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of §225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than February 9, 1984.

Board of Governors of the Federal Reserve System, January 17, 1984.

**James McAfee,**

*Associate Secretary of the Board.*

[FR Doc. 84-1742 Filed 1-20-84; 8:45 am]

BILLING CODE 6210-01-M

## Southern National Bankshares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (49 FR 794) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated for that application. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. With respect to each application, interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than February 15, 1984.

**A. Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Southern National Bankshares, Inc.,* Atlanta, Georgia; to become a bank holding company by acquiring 80.45 percent of the voting shares of The First National Bank of Dekalb County, Decatur, Georgia.

**B. Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *The Baraboo Bancorporation, Inc.,* Baraboo, Wisconsin; to acquire 80 percent of the voting shares or assets of Viroqua Bancshares, Inc., Viroqua, Wisconsin and thereby indirectly acquire The State Bank of Viroqua.

2. *First Chicago Corporation,* Chicago, Illinois; to acquire 100 percent of the voting shares or assets of American National Corporation, Chicago, Illinois, and thereby indirectly acquire American National Bank and Trust Company, Chicago, Illinois, First American Bank of Bensenville, Bensenville, Illinois, and First National Bank of Libertyville, Libertyville, Illinois.

3. *First Michigan Bank Corporation,* Zeeland, Michigan; to acquire 100 percent of the voting shares or assets of The Oceana County Savings Bank, Hart, Michigan.

4. *Lincoln Bancorp,* Reinbeck, Iowa; to become a bank holding company by acquiring 95.89 percent of the voting shares of Lincoln Savings Bank, Reinbeck, Iowa.

**C. Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Kirbyville Bancshares, Inc.,* Beaumont, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of Allied Kirbyville Bank, Kirbyville, Texas.

2. *Newton Bancshares, Inc.,* Beaumont, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of Allied First National Bank, Newton, Texas.

Board of Governors of the Federal Reserve System, January 17, 1984.

**James McAfee,**

*Associate Secretary of the Board.*

[FR Doc. 84-1743 Filed 1-20-84; 8:45 am]

BILLING CODE 6210-01-M

# DEPARTMENT OF THE INTERIOR

## Office of the Secretary

## Presidential Commission on Indian Reservation Economies: Public Hearings and Site Visits

**AGENCY:** Presidential Commission on Indian Reservation Economies.

**ACTION:** Notice of meetings.

**SUMMARY:** This notice sets forth the dates, time and location of forthcoming hearings and site visits of the Presidential Commission on Indian Reservation Economies for February, 1984:

**1. February 6, 1984 (Monday)—Hearing**

Ramada Inn, Escondido, 2500 S., Escondido Blvd., Escondido, California 92025
Time: 9:00 a.m.—4:30 p.m.

**2. February 7, 1984 (Tuesday)—Site Visits**

San Pasqual General Council, Valley Center, California 92082
La Jolla General Council, Valley Center, California 92082
Pala General Council, Pala, California 92059

**3. February 16, 1984 (Monday)—Hearing**

Albuquerque Convention Center, 401 Second Northwest, Albuquerque, New Mexico 87103
Time: 9:00 a.m.—4:30 p.m.

**4. February 17 1984 (Tuesday)—Site Visits**

Laguna Pueblo—Reservation, Laguna, New Mexico 87026
Acoma Pueblo—Reservation, Acomoita, New Mexico 87034

**5. February 23, 1984 (Thursday)—Hearing**

Radisson St. Paul, 11 E. Kellogg Blvd., St. Paul, Minneapolis 55101
Time: 9:00 a.m.—4:30 p.m.

**6. February 23, 1984 (Thursday)—Site Visit**

Prior Lake—Shakople—Reservation, Shakopee Business Council, Prior Lake, Minnesota 55372

**7. February 24, 1984 (Friday)—Site Visit**

Leech Lake—Chippewa, Leech Lake Reservation Business Committee, Cass Lake, Minnesota 56633

The purpose of the hearings will be to receive both oral and written testimony from Indian leaders, Indian businessmen and other representatives from the tribal, public and private sectors concerning the development and sustainment of viable economic enterprises within Indian reservation environments. The site visits will enable the Commission to witness first hand both problems and successes associated with economic and business development on Indian reservations.

Parties interested in testifying at a hearing should present their testimony in writing either in advance of the hearing or at the onsite registration for the hearing. An oral summary of the testimony may be given at the hearing. Those desiring to submit written testimony and make an oral presentation should submit in writing a brief statement of the general nature of the testimony to be presented, the names and addresses of proposed participants and an indication of the approximate time required to make their presentation. This information should be sent to Tanna Chattin, Director, Office of Public, Tribal and Governmental Affairs, Presidential Commission on Indian Reservation Economies Suite 765, 1717 H Street, Northwest, Washington, D.C. 20006. Questions regarding testimony or registration procedures may also be directed to Ms. Chattin at (202) 653–2436. The agenda for oral testomony will be completed five days in advance of each hearing.

Any person attending a hearing who has not requested an opportunity to speak five days in advance of the meeting, will be allowed to make an oral presentation at the conclusion of the hearing, if time permits and at the discretion of the Co-Chairman.

**FOR FURTHER INFORMATION CONTACT:** Eric Rudert, Deputy Director, Presidential Commission on Indian Reservation Economies, 1717 H Street, Northwest, Suite 765, Washington, D.C. 20006. Telephone (202) 653–2436.

**Eric Rudert,**

*Deputy Director, Presidential Commission on Indian Reservation Economies.*

[FR Doc. 84–1425 Filed 1–20–84; 8:45 am]

**BILLING CODE 4310–02–M**

## Change in Discount Rate for Water Resources Planning

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

**ACTION:** Notice of change in discount rate.

**SUMMARY:** This notice sets forth the discount rate to be used in Federal water resources planning for fiscal year 1984.

**DATE:** This discount rate is to be used for the period October 1, 1983, through and including September 30, 1984.

**FOR FURTHER INFORMATION CONTACT:** Richard Greenfield, Office of Policy Analysis, Department of the Interior, Washington, D.C. 20240.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that the interest rate to be used by Federal agencies in the formulation and evaluation of plans for water and related land resources is 8⅛ percent for fiscal year 1984.

This rate has been computed in accordance with Sec. 80(a), Pub. L. 93–251 (88 Stat. 34) and 18 CFR 704.39, which (1) specify that the rate shall be based upon the average yield during the preceding fiscal year on interest-bearing marketable securities of the United States which, at the time the computation is made, have terms of 15 years or more remaining to maturity; and (2) provide that the rate shall not be raised or lowered more than one-quarter of one percent for any year. The Tresaury Department calculated the specified average yield to be 10.71 percent. Since the rate in FY 1983 was 7⅞ percent, the rate for FY 1984 is 8⅛ percent.

The rate of 8⅛ percent shall be used by all Federal agencies in the formulation and evaluation of water and related land resources plans for the purpose of discounting future benefits and computing costs, or otherwise converting benefits and costs to a common time basis.

Dated: January 12, 1984.

**Robert N. Broadbent,**

*Acting Assistant Secretary, Water and Science.*

[FR Doc. 84–1724 Filed 1–19–84; 8:45 am]

**BILLING CODE 4310–10–M**

## Bureau of Land Management

## Intent To Prepare an Environmental Impact Statement and Conduct Mail-Out Scoping; Shute Creek Natural Gas Treatment Plant

*Correction*

In FR Doc. 84–357 beginning on page 941 in the issue of Friday, January 6, 1984, third column, after the fourth line of the paragraph numbered 1, the **DATES** and **ADDRESSES** paragraphs, down to the line above the paragraph numbered 2, should be placed on page 942, first column, directly after "VanWyhe, Project Leader." (the last line of the second undesignated paragraph).

**BILLING CODE 1505–01–M**

## California Desert District, California; Revision of Campground Use Fees Established

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice. Establishment of revised campground use fees.

**SUMMARY:** Thisnotice establishes the fee schedule at $2 for daily use at all developed campgrounds located on public lands managed by the California Desert District, Bureau of Land Management.

**EFFECTIVE DATE:** February 1, 1984.

**FOR FURTHER INFORMATION CONTACT:** David Mensing, Outdoor Recreation Planner, California Desert District, Bureau of Land Management (714) 351.6369.

**SUPPLEMENTARY INFORMATION:** Administrative costs associated with recreation site management have risen dramatically over the past several years as have costs associated with providing and maintaining the services, facilities,

and the natural resources associated with these sites. In order to continue with a viable recreation site management program and ensure the public a fair return for the use of these sites, a greater portion of the costs must be borne by those groups and/or individuals who derive the greatest direct benefits from that use.

Therefore, beginning February 1, 1984, campground use fees will be $2 per camping unit, per user day where the authorized officer determines that fees are required.

For the purpose of this fee schedule, a "user day" is defined as any part of a calendar day.

Authority for this fee increase is contained in CFR Title 36, Chapter 1, Part 66.9.

Dated: January 9, 1984.

**Gerald E. Hillier,**

*District Manager.*

[FR Doc. 84-1796 Filed 1-20-84; 8:45 am]

BILLING CODE 4310-40-M

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## Lakeview Grazing District Advisory Board; Meeting

Notice is hereby given, in accordance with Pub. L. 94-579 and 43 CFR 4120.6-1(e) that a meeting of the Lakeview Grazing District Advisory Board will be held February 28, 1984, at 10:00 a.m. in the BLM's Conference Room at 1000 S. 9th Street, Lakeview, Oregon 97630.

The agenda will include the following topics:

1. Introductory Remarks by New District Manager
2. Election of Officers
3. Assignment of Project Maintenance
4. Cooperative Management Areas
5. RPS Update
6. Fire Rehabilitation Update
7. Cultural Resource Presentation
8. Allocation of Additional Forage
9. Water Development in Rehabilitation Areas

The meeting will be open to all interested parties who desire to attend. Interested persons may make oral statements to the Board or file a written statement for the Board's consideration.

Summary minutes of the Board meeting will be maintained in the District Office and available for public inspection (during regular business hours) within 30 days following the meeting.

January 11, 1984.

**Richard L. Harlow,**

*Associate District Manager.*

[FR Doc. 84-1795 Filed 1-20-84; 8:45 am]

BILLING CODE 4310-08-M

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## Bureau of Reclamation

## Texas Big Sandy Project, Texas; Intent To Prepare an Environmental Statement and To Hold an Environmental Scoping Meeting

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior proposes to prepare an environmental statement (ES) and hold a public environmental scoping meeting for the Texas Big Sandy Project, Texas. A draft environmental statement is scheduled to be filed with the Environmental Protection Agency and be available for review and comment by October 1986.

The project purpose is to provide a dependable municipal and industrial water supply for projected needs in the Upper Sabine River Basin. Other project purposes may include flood control, fish and wildlife, recreation, and environmental enhancement. A promising alternative identified in previous studies is a dam and reservoir on Big Sandy Creek between Big Sandy and Hawkins, Texas. A reservoir on Big Sandy Creek could supply a large portion of the projected needs of the local area. However, all alternatives will be considered during the planning process.

The purpose of this public environmental scoping meeting is to determine the scope of issues to be addressed in the ES and to identify the significant environmental issues related to the proposed action.

The Bureau of Reclamation plans to hold this meeting in Longview, Texas, on February 9, 1984, at the Holiday Inn, 3119 Estes Parkway, at 7 p.m.

Interested public entities and individuals may obtain information on the proposed project and provide information for preparation of the ES by contacting Dan Rubenthaler, Study Manager, Bureau of Reclamation, 714 South Tyler, Suite 201, Amarillo, Texas 79101, telephone (806) 378-5473.

Dated: January 16, 1984.

**Robert A. Olson,**

*Acting Commissioner.*

[FR Doc. 84-1700 Filed 1-20-84; 8:45 am]

BILLING CODE 4310-09-M

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## INTERSTATE COMMERCE COMMISSION

**[AB 36 SDM]**

## Oregon Short Line Railroad Co.; Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1152.13, that the Oregon Short Line Railroad Co. has filed with the Commission its amended color-coded system diagram map in docket No. AB 36 SDM. The Commission on January 11, 1984, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 36 SDM

**James H. Bayne,**

*Acting Secretary.*

[FR Doc. 84-1765 Filed 1-20-84; 8:45 am]

BILLING CODE 7035-01-M

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**[AB 55 SDM]**

## Seaboard System Railroad; Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1152.13, that the Seaboard System Railroad has filed with the Commission its amended color-coded system diagram map in docket No. AB 55 SDM. The Commission on December 22, 1983, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 55 SDM.

**James H. Bayne,**

*Acting Secretary.*

[FR Doc. 84-1768 Filed 1-20-84; 8:45 am]

BILLING CODE 7035-01-M

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**[AB 12 SDM]**

## Southern Pacific Transportation Co.; Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part

1152.13, that the Southern Pacific Transportation Co. has filed with the Commission its amended color-coded system diagram map in docket No. AB 12 SDM. The Commission on January 5, 1984, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 12 SDM.

**James H. Bayne,**

*Acting Secretary.*

[FR Doc. 84-1787 Filed 1-20-84; 8:45 am]

BILLING CODE 7035-01-M

## DEPARTMENT OF JUSTICE

### Information Collections Under Review

January 19, 1984.

OMB has been sent for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. The list has all the entries grouped into new forms, revisions, or extensions. Each entry contains the following information:

(1) The name and telephone number of the Agency Clearance Officer (from whom a copy of the form and supporting documents is available); (2) The office of the agency issuing this form; (3) The title of the form; (4) The agency form number, if applicable; (5) How often the form must be filled out; (6) Who will be required or asked to report; (7) An estimate of the number of responses; (8) An estimate of the total number of hours needed to fill out the form; (9) An indication of whether Section 3504(H) of Pub. L. 96-511 applies; (10) The name and telephone number of the person or office responsible for OMB review. Copies of the proposed forms and supporting documents may be obtained from the Agency Clearance Officer whose name and telephone number appear under the agency name. Comments and question about the items on this list should be directed to the reviewer listed at the end of each entry and to the Agency Clearance Officer. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer and the Agency Clearance Officer of your intent as early as possible.

**Department of Justice**

Agency Clearance Officer Larry E. Miesse—202-633-4312

*Extension of the Expiration Date of a Currently Approved Collection Without any Change in the Substance or in the Method of Collection*

- Immigration and Naturalization Service, Department of Justice
- Application for Advance Permission to Enter as Nonimmigrant (I-192)
- On occasion
- Individuals or households
- Form is used by non-immigrant alien seeking waiver of inadmissibility for entry into the United States as nonimmigrant under Section 212(d)(3) of the I&N Act: 28,000 respondents; 7,000 hours; not applicable under 3504(h).
- Robert Veeder—395-4814
- Federal Bureau of Investigation, Department of Justice
- Number of Full-Time Law Enforcement Employees as of October 31 (DO-52)
- Annually
- State or local governments
- Used to collect information regarding number of state and local law enforcement personnel in the United States. Data are published in the comprehensive annual "Crime in the United States.": 11,702 respondents; 2,340 hours; not applicable under 3504(h).
- Robert Veeder—395-4814
- Federal Bureau of Investigation, Department of Justice Monthly Return of Arson Offenses Known to Law Enforcement (DO-73)
- Monthly
- State or local governments
- Used to collect information regarding arsons in the United States. Summary statistics published in comprehensive annual publication "Crime in the United States" and in the semiannual "Uniform Crime Reports.": 20,592 responses; 10,296 hours; not applicable under 3504(h).
- Robert Veeder—395-4814
- Federal Bureau of Investigation, Department of Justice
- Law Enforcement Officers Killed (DO-76)
- On occasion
- State or local governments
- Used to collect information regarding law enforcement officers killed in the United States. Data are published annually in "Law Enforcement Officers Killed or Assaulted.": 180 responses; 83 hours; not applicable under 3504(h).
- Robert Veeder—395-4814.

**Larry E. Miesse,**

*Agency Clearance Officer, Systems Policy Staff, Office of Information Technology, Justice Management Division.*

[FR Doc. 84-1785 Filed 1-20-84; 8:45 am]

BILLING CODE 4410-01-M

## Bureau of Justice Statistics

### Bureau of Justice Statistics Advisory Board; Meeting

The Bureau of Justice Statistics Advisory Board will meet on February 3-4, 1984, at the Key Bridge Marriott Hotel, Arlington, Virginia. The session on February 3rd is scheduled to begin at 9:00 a.m. and end at 4:30 p.m. The session on February 4th will begin at 9:00 a.m and end at 12 noon.

Topics to be covered will include a status report on BJS programs, reauthorization legislation, and the Study of the National Uniform Crime Reporting Program.

The meeting will be open to the public. The meeting room will be accessible to the handicapped. Approximately ten seats will be available to the public on a first-come first-served basis.

Minutes of the meeting will be available upon request 60 days after the meeting.

Inquiries may be addressed to Paul D. White, Bureau of Justice Statistics, 633 Indiana Avenue, NW., Washington, D.C. 20531. Telephone (202) 724-7770.

Dated: January 10, 1984.

**Steven R. Schlesinger,**

*Director, Bureau of Justice Statistics.*

[FR Doc. 84-1792 Filed 1-20-84; 8:45 am]

BILLING CODE 4410-18-M

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[Notice 84-07]**

### NASA Advisory Council (NAC), Life Sciences Advisory Committee Meeting

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Life Sciences Advisory Committee (LSAC).

**DATE AND TIME:** February 13, 1984, 8:30 a.m. to 5 p.m.; and February 14, 1984, 8:30 a.m. to 12 noon.

**ADDRESS:** National Aeronautics and Space Administration, FB 10–B, February 13, Room 625–T, and February 14, Room 226–A, 600 Independence Ave. SW, Washington, D.C.

**FOR FURTHER INFORMATION CONTACT:** Henry V. Bielstein, M.D., Code EB, National Aeronautics and Space Administration, Washington, DC 20546 (202/453–1546).

**SUPPLEMENTARY INFORMATION:** The Life Sciences Advisory Committee consults with and advises the Council and NASA on the accomplishments and plans of NASA's Life Sciences Programs.

This meeting will be closed to the public from 4 p.m. to 5 p.m. on February 13 for a discussion of candidates being considered for Committee membership. During this session, the qualifications of proposed new members will be candidly discussed and appraised. Since this session will be concerned throughout with matters listed in 5 U.S.C. 552(c)(6), it has been determined that this session should be closed to the public. The remainder of the meeting will be open to the public up to the seating capacity of the room (approximately 35 persons including committee members and other participants).

**Type of Meeting**

Open—except for a closed session as noted in the agenda below.

*February 13, 1984*

8:30 a.m.—Committee Functions (Open session).

9 a.m.—SL–1 Preliminary Results (Open session).

10:30 a.m.—Review Life Sciences' Program Plan (Open session).

1 p.m.—Review of Space Station Plan (Open session).

4:00 p.m.—LSAC Membership (Closed session).

*February 14, 1984*

8:30 a.m.—Status of space Biomedical Institute (Open session).

9:30 a.m.—Advocacy Paper (Open session).

12 noon—Adjourn.

Dated: January 17, 1984.

**Richard L. Daniels,**

*Director, Management Support Office, Office of Management.*

[FR Doc. 84–1748 Filed 1–20–84; 8:45 am]

BILLING CODE 7510–01–M

## PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

### Hydropower Options Task Force; Regular Meeting Notice

**AGENCY:** Hydropower Options Task Force of the Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

**ACTION:** Notice of meeting.

Notice of meeting to be held pursuant to the Federal Advisory Committee Act, 5 U.S.C. Appendix I, 1–4. Activities will include:

- Review of Hydropower Options Task Force Charter
- Discussion of Bonneville proposal
- Discussion of Work Schedule
- Business
- Public Comment.

**STATUS:** Open.

**SUMMARY:** The Northwest Power Planning Council hereby announces a forthcoming meeting of its Hydropower Options Task Force.

**DATE:** Tuesday, January 31, 1984. 9 a.m.

**ADDRESS:** The meeting will be held at the Council Hearing Room at 700 SW. Taylor; Suite 200, in Portland, Oregon.

**FOR FURTHER INFORMATION CONTACT:** Tom Foley, (503) 222–5161.

**Edward Sheets,**

*Executive Director.*

[FR Doc. 84–1787 Filed 1–20–84; 8:45 am]

BILLING CODE 0000–00–M

## DEPARTMENT OF STATE

### Office of the Secretary

**[Secretarial Determination 84–3]**

### Determination Pursuant to Section 6(i) of the Export Administration Act of 1979—Iran

In accordance with Section 6(i) of the Export Administration Act of 1979, 50 U.S.C. App. 2405(i), I hereby determine that Iran is a country which has repeatedly provided support for acts of international terrorism.

**George P. Shultz,**

*Secretary of State.*

[FR Doc. 84–1825 Filed 1–20–84; 8:45 am]

BILLING CODE 4710–06–M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### National Airspace Review; Meeting

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** National Airspace Review Plan Revision.

**SUMMARY:** On April 22, 1982, the National Airspace Review plan was published in the **Federal Register.** The plan encompassed a review of airspace use and the procedural aspects of the air traffic control system. Subsequent revisions to the schedule of various task groups have been made. This notice advises that Task Group 2–4.4, Helicopter Operations, Approach Procedures, which was scheduled to begin February 20, 1984, has been postponed until after April 30, 1984, in order to ensure availability of pertinent flight test data results to the task group. A specific date for this task group session will be provided in a subsequent notice in conjunction with other plan revisions.

**FOR FURTHER INFORMATION CONTACT:** National Airspace Review Program Management Staff, room 1005, Federal Aviation Administration, 800 Independence Avenue. SW., Washington, D.C. 20591, 202–426–3560.

Issued in Washington, D.C., on January 11, 1984.

**Karl D. Trautmann,**

*Manager, Special Projects Staff Air Traffic Service.*

[FR Doc. 84–1750 Filed 1–20–84; 8:45 am]

BILLING CODE 4910–13–M

### Radio Technical Commission For Aeronautics (RTCA), Special Committee 151—Airborne Microwave Landing System Area Navigation Equipment; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 151 on Airborne Microwave Landing System (MLS) Area Navigation Equipment to be held on February 8–10, 1984, in the RTCA Conference Room, One McPherson Square, 1425 K Street NW., Suite 500, Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of the

Third Meeting Held on October 20–21, 1984; (3) Briefing on MLS Program Status; (4) Review and Discussion of Special Committee 137 (Airborne Area Navigation Systems) and Special Committee 149 (Airborne Distance Measuring Equipment) Activities; (5) Review Reports of Operational and Accuracy Groups; (6) Working Groups Meet in Separate Sessions; (7) Committee Plenary Session; and (8) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, D.C. 20005; (202) 682–0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on January 9, 1984

**Karl F. Bierach,**

*Designated Officer.*

[FR Doc. 84–1749 Filed 1–20–84; 8:45 am]

BILLING CODE 4910–13–M

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## Maritime Administration

### Request of Removal, Without Disapproval, From Roster or Approved Trustees

Notice is hereby given, pursuant to 46 CFR 221.28, that The First National Bank of Maryland, with offices at 25 South Charles Street, Baltimore, Maryland, has requested removal, without disapproval, from the Roster of Approved Trustees. In its request for removal, The First National Bank of Maryland stated that as of December 21, 1983, it ceased to be a citizen of the United States pursuant to Pub. L. 89–346 and 46 CFR 221.21–221.30.

Dated: January 16, 1984.

By Order of the Maritime Administrator.

**Georgia P. Stamas,**

*Secretary.*

[FR Doc. 84–1747 Filed 1–20–84; 8:45 am]

BILLING CODE 4910–81–M

# Sunshine Act Meetings

Federal Register
Vol. 49, No. 15
Monday, January 23, 1984

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



1

**CIVIL AERONAUTICS BOARD**

Notice of Change of Status of Item 17, From Open to Closed, at the January 10, 1984, Meeting.

**TIME AND DATE:** 10:00 a.m., January 10, 1984.

**PLACE:** Room 1027 (Open), Room 1012 (Closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

**SUBJECT:**

17. Dockets 41190, Application of Trans Carib Air, Inc. for amendment of its certificate to engage in foreign air transportation. (Memo 2058–A, BIA, OGC, BALJ).

**STATUS:** Closed.

**PERSON TO CONTACT:** Phyllis T. Kaylor, The Secretary. (202) 673–5068.

[FR Doc. 84–1905 Filed 1–19–84; 3:42 p.m.]

BILLING CODE 6320–01–M

2

**FEDERAL RESERVE SYSTEM**

**FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT:** 49 FR 1826, January 13, 1984.

**PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING:** 10:00 a.m., Wednesday, January 18, 1984.

**CHANGES IN THE MEETING:** One of the items announced for inclusion at this meeting was consideration of any agenda items carried forward from a previous meeting; the following such closed item(s) was added: Supervisory and regulatory matter. (This matter was previously announced for a closed Board meeting on January 17, 1984.)

**CONTACT PERSON FOR MORE INFORMATION:** Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: January 18, 1984.

**James McAfee,**

*Associate Secretary of the Board.*

[FR Doc. 84–1829 Filed 1–19–84; 10:14 am]

BILLING CODE 6210–01–M

3

**FEDERAL RESERVE SYSTEM**

**FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT:** Notice forwarded to **Federal Register** on January 17, 1984.

**PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING:** 10:00 a.m., Wednesday, January 25, 1984.

**CHANGES IN THE MEETING:** Deletion of the following open item(s) from the agenda: Publication for comment of proposed expansion of Federal Reserve book-entry securities services.

**CONTACT PERSON FOR MORE INFORMATION:** Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: January 19, 1984.

**James McAfee,**

*Associate Secretary of the Board.*

[FR Doc. 84–1879 Filed 1–19–84; 1:43 pm]

BILLING CODE 6210–01–M

4

**SECURITIES AND EXCHANGE COMMISSION.**

**FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENTS:** (To be published)

**STATUS:** Closed meeting.

**PLACE:** 450 Fifth Street, NW., Washington, D.C.

**DATE PREVIOUSLY ANNOUNCED:** Friday, January 13, 1984.

**CHANGE IN THE MEETING:** Rescheduling.

A closed meeting scheduled for Tuesday, January 24, 1984, at 9:30 a.m., has been changed to Monday, January 23, 1984, at 4:00 p.m.

Chairman Shad and Commissioners Treadway and Cox determined that Commission business required the above change and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Bruce Kohn at (202) 272–3105.

**George A. Fitzsimmons,**

*Secretary.*

January 18, 1984.

[FR Doc. 84–1852 Filed 1–10–84; 12:16 pm]

BILLING CODE 8010–01–M

federal register

Monday
January 23, 1984

Part II

# Department of Energy

## Federal Energy Regulatory Commission

**Determination by Jurisdictional Agencies Under the Natural Gas Policy Act; Notices**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Vol. 1044]

### Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 17, 1984.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd., Springfield, Va. 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 Mile rule)
102–3: New well (1000 Ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal Seams
107–DV: Devonian Shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

**Kenneth F. Plumb,**

*Secretary.*

NOTICE OF DETERMINATIONS

ISSUED JANUARY 17, 1984

| JD NO | JA DKT | API NO | D | SEC(1) | SEC(2) | WELL NAME | FIELD NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|---|---|
| KANSAS CORPORATION COMMISSION | | | | | | | | | |
| -LEBEN OIL CORP | | | | RECEIVED: | 12/14/83 | JA: KS | | | |
| 8412398 | K-80-0572 | 1514520222 | | 108-PB | | ROW #1 | | 0.0 | KN ENERGY INC |
| LOUISIANA OFFICE OF CONSERVATION | | | | | | | | | |
| -DALLAS DRILLING & DEVELOPMENT CO | | | | RECEIVED: | 12/19/83 | JA: LA | | | |
| 8412483 | 82-3193 | 1703100000 | | 103 | | SARA C SAMUELS #1 | CHEMARD LAKE | 75.0 | TENNESSEE GAS TRA |
| -GREAT SOUTHERN OIL & GAS CO INC | | | | RECEIVED: | 12/19/83 | JA: LA | | | |
| 8412485 | 82-2147 | 1705320735 | | 103 | | W E WALKER #1 | SOUTH JENNINGS | 350.0 | LOUISIANA GAS SYS |
| -MCILHENNY-POWELL OPERATING CO | | | | RECEIVED: | 12/19/83 | JA: LA | | | |
| 8412487 | 83-1558 | 1703120675 | | 108 | | FRANK MATTHEWS #1 & 1-D | RED RIVER-BULL BAYOU | 22.0 | LOUISIANA INTRAST |
| -PIONEER PRODUCTION CORPORATION | | | | RECEIVED: | 12/19/83 | JA: LA | | | |
| 8412486 | 82-1497 | 1700100000 | | 102-4 | | HORECKY #2 MT-1 RB SUA | CHURCH POINT | 0.0 | TEXAS GAS TRANSMI |
| -WESSELY ENERGY CORPORATION | | | | RECEIVED: | 12/19/83 | JA: LA | | | |
| 8412484 | 83-1179 | 1704920214 | | 102-4 | | HARRIS #1 #185407 HOSS RA SUN | VERNON 9203 | 375.0 | UNITED GAS PIPE L |
| MICHIGAN DEPARTMENT OF NATURAL RESOURCES | | | | | | | | | |
| -SHELL OIL CO | | | | RECEIVED: | 12/19/83 | JA: MI | | | |
| 8412515 | | 2107934887 | | 102-4 | | BLUE LAKE 1-9A | BLUE LAKE 16 | 55.5 | MICHIGAN CONSOLID |
| 8412517 | | 2116500000 | | 102-4 | | GRAFF 1-5A | HANOVER 5 | 839.5 | MICHIGAN CONSOLID |
| 8412516 | | 2107900000 | | 102-4 | | STATE BLUE LAKE 2-8A | BLUE LAKE 8 | 7.2 | MICHIGAN CONSOLID |
| 8412518 | | 2113700000 | | 102-4 | | STATE CHARLTON 1-10 | CHARLTON 10 | 76.7 | MICHIGAN CONSOLID |
| 8412519 | | 2105500000 | | 102-4 | | WISTRAND 3-8A | PARADISE 8 | 719.0 | MICHIGAN CONSOLID |
| MONTANA BOARD OF OIL & GAS CONSERVATION | | | | | | | | | |
| -CROFT PETROLEUM CO | | | | RECEIVED: | 12/19/83 | JA: MT | | | |
| 8412481 | 6-83-87 | 2510122353 | | 108 | | STATE 16,639 #2 | WILLOW RIDGE | 5.1 | MONTANA POWER CO |
| 8412482 | 6-83-88 | 2510122332 | | 108 | | SUN AG #2 | WILLOW RIDGE | 7.2 | MONTANA POWER CO |
| NORTH DAKOTA INDUSTRIAL COMMISSION | | | | | | | | | |
| -AMERADA HESS CORPORATION | | | | RECEIVED: | 12/19/83 | JA: ND | | | |
| 8412472 | 876 | 3310500260 | | 108 | | BLMU I-13 | BEAVER LODGE | 8.4 | MONTANA DAKOTA UT |
| 8412473 | 877 | 3305301676 | | 102-3 | | F W JONES 9-43 | BLUE BUTTES | 165.0 | MONTANA DAKOTA UT |
| 8412475 | 879 | 3305301711 | | 102-3 | | L WHEELER 10-23 | BLUE BUTTES | 128.0 | MONTANA DAKOTA UT |
| -APACHE CORPORATION | | | | RECEIVED: | 12/19/83 | JA: ND | | | |
| 8412478 | 882 | 3302500368 | | 102-2 | | LOH A #1 | E LITTLE KNIFE | 214.0 | WILLISTION GAS CO |
| 8412479 | 883 | 3302500350 | | 102-2 | | SKACHENKO 29-15 | E LITTLE KNIFE | 70.0 | WILLISTION GAS CO |
| -BASIC EARTH SCIENCE SYSTEMS INC | | | | RECEIVED: | 12/19/83 | JA: ND | | | |
| 8412480 | 884 | 3300700753 | | 102-2 | | WHISKEY JOE-FEDERAL #43-33 | WHISKEY JOE | 35.8 | WESTERN GAS PROCE |
| -COLUMBIA GAS DEVELOPMENT CORP | | | | RECEIVED: | 12/19/83 | JA: ND | | | |
| 8412474 | 878 | 3305301712 | | 102-2 | | NOR-CORP #29-2 | INDIAN HILLS | 0.0 | PHILLIPS PETROLEU |
| -MILESTONE PETROLEUM INC | | | | RECEIVED: | 12/19/83 | JA: ND | | | |
| 8412477 | 881 | 3305301625 | | 102-2 | | BN 21-7 | BOWLINE | 0.0 | KOCH HYDROCARBON |

BILLING CODE 6717-01-M

| JD NO | JA DKT | API NO | D | SEC(1) | SEC(2) | WELL NAME | FIELD NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|---|---|
| -SUPERIOR OIL CO | | | RECEIVED: | 12/19/83 | JA: ND | | | | |
| 8412476 | 880 | 3305300898 | 102-2 | | | FOSSUM WELL #34-1 | INDIAN HILL | 163.0 | |
| NEW MEXICO DEPARTMENT OF ENERGY & MINERALS | | | | | | | | | |
| -C & E OPERATORS INC | | | RECEIVED: | 12/16/83 | JA: NM | | | | |
| 8412424 | | 3004523355 | 108-PB | | | MARY SHEPHERD #1 | AZTEC-PC | 0.0 | EL PASO NATURAL G |
| -EL RAN INC | | | RECEIVED: | 12/16/83 | JA: NM | | | | |
| 8412403 | | 3000520899 | 103 | | | GRIFFIN #1 | SAN ANDRES | 14.6 | TRANSWESTERN PIPE |
| 8412402 | | 3000520907 | 103 | | | GRIFFIN #2 | SAN ANDRES | 11.0 | TRANSWESTERN PIPE |
| -GULF OIL CORPORATION | | | RECEIVED: | 12/16/83 | JA: NM | | | | |
| 8412405 | | 3002528299 | 103 | | | W D GRIMES (NCT-B) #9 | HOBBS DRINKARD | 0.0 | PHILLIPS PETROLEU |
| -MOBIL PRDG TEXAS & NEW MEXICO INC | | | RECEIVED: | 12/16/83 | JA: NM | | | | |
| 8412425 | | 3002500000 | 108-PB | | | S E LONG #6 | DRINKARD | 0.0 | NORTHERN NATURAL |
| -PHILLIPS PETROLEUM COMPANY | | | RECEIVED: | 12/16/83 | JA: NM | | | | |
| 8412422 | | 3002527275 | 108 | | | EAST VACUUM GB/SA UN TR 2980 #004 | VACUUM GB/SA | 12.0 | EL PASO NATURAL G |
| -SOUTHLAND ROYALTY CO | | | RECEIVED: | 12/16/83 | JA: NM | | | | |
| 8412408 | | 3003922779 | 108 | | | CHICOSA CANYON #1 | WILDCAT | 3.5 | NORTHWEST PIPELIN |
| 8412423 | | 3001522924 | 102-4 | | | STATE "16-A" COM #1 | TURKEY TRACK | 53.0 | EL PASO NATURAL G |
| 8412406 | | 3001522692 | 102-4 | | | STATE "16" COM #1 | TURKEY TRACK | 140.0 | EL PASO NATURAL G |
| 8412407 | | 3001522948 | 102-4 | | | STATE "2" COM #1 | ANGELL RANCH | 100.0 | EL PASO NATURAL G |
| -SUN EXPLORATION & PRODUCTION CO | | | RECEIVED: | 12/16/83 | JA: NM | | | | |
| 8412411 | | 3002500000 | 108 | | | STATE "A" A/C-2 #13 | ARROWHEAD GRAYBURG | 3.9 | GETTY OIL CO |
| 8412412 | | 3002500000 | 108 | | | STATE "A" AC/2 #48 | EUNICE SOUTH | 7.0 | PHILLIPS PETROLEU |
| -TENNECO OIL COMPANY | | | RECEIVED: | 12/19/83 | JA: NM | | | | |
| 8412589 | | 3004524444 | 103 | | | PAYNE "A" #1-E | UND MESAVERDE | 500.0 | EL PASO NATURAL G |
| -TEXACO INC | | | RECEIVED: | 12/16/83 | JA: NM | | | | |
| 8412409 | | 3004508938 | 108 | | | NEW MEXICO COM "D" #1 | BASIN DAKOTA | 3.0 | NORTHWEST PIPELIN |
| -UNICON PRODUCING CO | | | RECEIVED: | 12/16/83 | JA: NM | | | | |
| 8412410 | | 3004525639 | 103 | | | STATE 16 #1 | GALLUP | 72.0 | EL PASO NATURAL G |
| -UNION TEXAS PETROLEUM | | | RECEIVED: | 12/16/83 | JA: NM | | | | |
| 8412404 | | 3000510537 | 108 | | | CROSBY "3" - #1 | CATO (SAN ANDRES) | 7.0 | CITIES SERVICES O |
| -YATES PETROLEUM CORPORATION | | | RECEIVED: | 12/16/83 | JA: NM | | | | |
| 8412417 | | 3001524396 | 103 | | | ACHEN FREY "DM" ST #10 | EAGLE CREEK SAN ANDRE | 0.0 | TRANSWESTERN PIPE |
| 8412418 | | 3001523169 | 103 | | | ACHEN FREY "DM" ST #7 | EAGLE CREEK SAN ANDRE | 0.0 | TRANSWESTERN PIPE |
| 8412415 | | 3001524321 | 103 | | | ACHEN FREY "DM" ST #8 | EAGLE CREEK SAN ANDRE | 0.0 | TRANSWESTERN PIPE |
| 8412420 | | 3001524422 | 103 | | | AMIGO "WT" ST #1 | UND ATOKA-MORROW | 0.0 | TRANSWESTERN PIPE |
| 8412416 | | 3001524423 | 103 | | | JACKSON "AT" #17 | EAGLE CREEK SAN ANDRE | 0.0 | TRANSWESTERN PIPE |
| 8412414 | | 3001524213 | 103 | | | MCCAW "BT" #6 | EAGLE CREEK SAN ANDRE | 0.0 | TRANSWESTERN PIPE |
| 8412419 | | 3001524435 | 103 | | | MORRIS ESTATE "CC" #7 | EAGLE CREEK SAN ANDRE | 0.0 | TRANSWESTERN PIPE |
| 8412421 | | 3001524487 | 103 | | | STONEWALL "WN" ST #3 | AVALON DELAWARE | 0.0 | TRANSWESTERN PIPE |
| 8412413 | | 3001524574 | 103 | | | STONEWALL "WN" ST #5 | | 0.0 | PHILLIPS PETROLEU |
| OKLAHOMA CORPORATION COMMISSION | | | | | | | | | |
| -ADOBE OIL & GAS CORPORATION | | | RECEIVED: | 12/16/83 | JA: OK | | | | |
| 8412456 | 22976 | 3508520679 | 102-3 | | | OAKMAN #3-1 | SANDERS | 146.0 | AMINOIL USA INC |
| -ANADARKO PRODUCTION COMPANY | | | RECEIVED: | 12/16/83 | JA: OK | | | | |
| 8412470 | 23498 | 3500721945 | 108 | | | BARNES D #1 | E LORENA | 2.4 | PANHANDLE EASTERN |
| 8412464 | 23057 | 3500721954 | 102-4 | | | STICKLER "A" #1 | TURPIN EAST | 11.0 | PHILLIPS PETROLEU |
| -ARKOMA PRODUCTION CO | | | RECEIVED: | 12/16/83 | JA: OK | | | | |
| 8412458 | 25685 | 3507720281 | 103 | | | WHITNEY #2 - C | WILBURTON | 2000.0 | ARKANSAS LOUISIAN |
| -BARBOUR ENERGY CORP | | | RECEIVED: | 12/16/83 | JA: OK | | | | |
| 8412453 | 22809 | 3508322234 | 102-4 | | | LATIMER #1-25 | | 0.0 | BUCKEYE NATURAL G |
| -BOGERT OIL CO | | | RECEIVED: | 12/16/83 | JA: OK | | | | |
| 8412461 | 25190 | 3509322719 | 103 | | | FLAMING UNIT #1-26 | SOONER TREND | 36.0 | PHILLIPS PETROLEU |
| -EL PASO NATURAL GAS COMPANY | | | RECEIVED: | 12/16/83 | JA: OK | | | | |
| 8412457 | 23053 | 3514920264 | 102-3 | | | DINTLEMAN #1 | UNDESIGNATED WASHITA | 436.0 | EL PASO NATURAL G |
| 8412463 | 23054 | 3503920791 | 102-2 | | | POWERS #1 | UNDESIGNATED CUSTER R | 56.6 | EL PASO NATURAL G |
| -GRACE PETROLEUM CORPORATION | | | RECEIVED: | 12/16/83 | JA: OK | | SOONER TREND | 0.0 | SHAB CORP |
| 8412460 | 25189 | 3507323686 | 103 | | | HESSLER #1-12 | | 0.0 | FARMLAND INDUSTRI |
| -JACK BOWLES | | | RECEIVED: | 12/16/83 | JA: OK | | | 0.0 | FARMLAND INDUSTRI |
| 8412454 | 22968 | 3505320903 | 102-4 | | | ANGELINE PORTER #1 | | 0.0 | ARKANSAS LOUISIAN |
| 8412455 | 22969 | 3505320967 | 102-4 | | | ANGELINE PORTER #2 | | 0.0 | UNION TEXAS PETRO |
| -JIM L HANNA DBA HANNA OIL AND GAS C | | | RECEIVED: | 12/16/83 | JA: OK | | | 73.0 | TRANSOK PIPE LINE |
| 8412466 | 23074 | 3506120278 | 102-4 | | | WAGNON WHEEL #1 | WEST FAIRVIEW | 0.0 | PHILLIPS PETROLEU |
| -JONES & PELLOW OIL CO | | | RECEIVED: | 12/16/83 | JA: OK | | | 54.8 | PARKS ENERGY INVE |
| 8412459 | 25167 | 3508520703 | 103 | | | RAINS #28-1 | PUTNAM | 10.0 | DELHI GAS PIPELIN |
| -JORDAN OIL & GAS COMPANY | | | RECEIVED: | 12/16/83 | JA: OK | | | | |
| 8412462 | 25195 | 3510721555 | 103 | | | PRICE #1-33 | SOONER TREND | 0.0 | CITIES SERVICES C |
| -RED EAGLE OIL CO | | | RECEIVED: | 12/16/83 | JA: OK | | SOONER TREND | 1.8 | NORTHWEST CENTRAL |
| 8412452 | 22706 | 3509322633 | 103 | | | SANDRA #1 | W OKARCHE | 10.3 | PHILLIPS PETROLEU |
| -SPAW INC | | | RECEIVED: | 12/16/83 | JA: OK | | | | |
| 8412465 | 23071 | 3511922164 | 102-2 | | | NELLIE CULP #1 | | | |
| -TXO PRODUCTION CORP | | | RECEIVED: | 12/16/83 | JA: OK | | | 5.0 | FENTRESS GAS TRAN |
| 8412471 | 23508 | 3504300000 | 108 | | | REIN #1 | | 20.0 | FENTRESS GAS TRAN |
| -UNIVERSAL RESOURCES CORPORATION | | | RECEIVED: | 12/16/83 | JA: OK | | INDIAN CREEK | 70.0 | INTRASTATE ENERGY |
| 8412467 | 23086 | 3507323020 | 108 | | | FLEETA 1-10 | | | |
| 8412468 | 23087 | 3507323067 | 108 | | | K G 1-15 | DOUGLAS BRANCH | 12.0 | EAST TENNESSEE NA |
| 8412469 | 23088 | 3507322031 | 108 | | | KRITTENBRINK 1-26 | GLADES EAST | 10.0 | EAST TENNESSEE NA |
| TENNESSEE OIL & GAS BOARD | | | | | | | GLADES EAST | 12.0 | EAST TENNESSEE NA |
| -AMTEX RESOURCES INC | | | RECEIVED: | 12/19/83 | JA: TN | | GLADES EAST | 10.0 | EAST TENNESSEE NA |
| 8412497 | A 2592 | 4104921152 | 102-2 | | | BRUNO GERNT ESTATE #2-A | GLADES EAST | 15.0 | EAST TENNESSEE NA |
| 8412498 | A 2593 | 4104921157 | 102-2 | | | CHARLES GERNT ET AL #1-C | | | |
| -APPALACHIAN OIL & GAS CO INC | | | RECEIVED: | 12/19/83 | JA: TN | | BIG BRANCH DEV | 1.0 | FENTRESS GAS TRAN |
| 8412496 | A 2583 | 4112921355 | 102-4 | | | T YOUNG - L YOUNG #2 | BIG BRANCH DEV | 1.0 | FENTRESS GAS TRAN |
| -B & W OIL CO | | | RECEIVED: | 12/19/83 | JA: TN | | BIG BRANCH DEV | 1.0 | FENTRESS GAS TRAN |
| 8412492 | A 2602 | 4112921322 | 102-2 | | | BERNARD WOJTASIAK #1 | BIG BRANCH DEV | 1.0 | FENTRESS GAS TRAN |
| 8412495 | A 2603 | 4112921321 | 102-2 | | | CHARLES REYNOLDS ET AL #1 | BIG BRANCH DEV | 1.0 | FENTRESS GAS TRAN |
| 8412494 | A-2601 | 4112921323 | 102-2 | | | HIWASSEE LAND CO #2 | | | |
| 8412491 | A 2597 | 4112921089 | 102-2 | | | OLMSTEAD-OVERTON #3 | STOMERS NW | 39.4 | GAS LINES OF TENN |
| 8412493 | A 2604 | 4112921348 | 102-2 | | | PETER PELTZ HEIRS ET AL #2 | | | |
| -CATOOSA EXPLORATION CORP | | | RECEIVED: | 12/19/83 | JA: TN | | WILDCAT | 13.0 | TENNESSEE GAS PIP |
| 8412488 | A 2335 | 4104920266 | 108 | | | ELBERT WILSON #1 | | | |
| 8412514 | A 2336 | 4104920267 | 108 | | | ELBERT WILSON #2 | | | |
| 8412489 | A 2337 | 4104920280 | 108 | | | ELBERT WILSON #3 | | | |
| 8412490 | A 2338 | 4104920307 | 108 | | | ELBERT WILSON #4 | | | |
| 8412500 | A 2334 | 4104920265 | 108 | | | TROY CONATSER #8 | | | |
| -COMMERCE OIL CO | | | RECEIVED: | 12/19/83 | JA: TN | | | | |
| 8412513 | A 2591 | 4112921188 | 102-2 | | | B & L LAND CO #7 | | | |
| -DIXIE SHAMROCK-OIL & GAS INC | | | RECEIVED: | 12/19/83 | JA: TN | | | | |
| 8412512 | A 2599 | 4112921357 | 102-4 | | | GUNTER ET AL #1 | | | |

| JD NO | JA DKT | API NO | D | SEC(1) | SEC(2) | WELL NAME | FIELD NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|---|---|
| 8412511 | A 2598 | 4112921299 | | 102-4 | | JESSE GUNTER #1 | WILDCAT | 35.0 | TENNESSEE GAS PIP |
| -FRANCIS PETROLEUM CORP | | | | RECEIVED: | 12/19/83 | JA: TN | | | |
| 8412509 | A 2594 | 4115121095 | | 103 | | COMMODORE TODD UNIT #3 | | 9.0 | |
| 8412508 | A 2595 | 4104921091 | | 102-2 | | TROY MILLS ET AL #1 | | 7.5 | NOT CONTRACTED |
| -GLEN A WRIGHT | | | | RECEIVED: | 12/19/83 | JA: TN | | | |
| 8412501 | A 2585 | 4112921273 | | 102-2 | | GREGORY BAILEY ET AL #1 | | 7.0 | INTRASTATE ENERGY |
| 8412499 | A 2587 | 4112921290 | | 102-2 | | LINDSAY ETAL #1 | | 8.0 | INTRASTATE ENERGY |
| -NATIONS RESOURCE OF ENERGY INC | | | | RECEIVED: | 12/19/83 | JA: TN | | | |
| 8412502 | A 2568 | 4112920435 | | 102-2 | | JAMES N ROBINSON #1 | | 2.0 | |
| 8412510 | A 2573 | 4112920572 | | 102-2 | | JAMES N ROBINSON #2 | | 2.1 | |
| -ROGERS RICHARD R | | | | RECEIVED: | 12/19/83 | JA: TN | | | |
| 8412506 | A 2608 | 4112921265 | | 103 | | BILLY G GARRETT #4 | UNKNOWN | 20.5 | INTRASTATE ENERGY |
| 8412507 | A 2607 | 4112921257 | | 103 | | KURT SCHAAR UNIT #1 | UNKNOWN | 7.5 | INTRASTATE ENERGY |
| -SONIC PETROLEUM INC | | | | RECEIVED: | 12/19/83 | JA: TN | | | |
| 8412505 | A 2605 | 4115121058 | | 102-2 | | JAMES R SNEED #2-4 | | 5.0 | INTRASTATE ENERGY |
| -T & V DRILLING CO | | | | RECEIVED: | 12/19/83 | JA: TN | | | |
| 8412504 | A 2600 | 4104921161 | | 102-2 | | DALBERT ATKINSON #1 | | 18.2 | FENTRESS GAS TRAN |
| -TAYLOR PETE | | | | RECEIVED: | 12/19/83 | JA: TN | | | |
| 8412503 | A 2596 | 4104920114 | | 102-4 | | ELBERT REED #1 | | 10.0 | FENTRESS GAS TRAN |
| ********** | | | | | | | | | |
| VIRGINIA DEPARTMENT OF LABOR & INDUSTRY | | | | | | | | | |
| ********** | | | | | | | | | |
| -JAMES F SCOTT | | | | RECEIVED: | 12/15/83 | JA: VA | | | |
| 8412401 | | 4518520627 | | 103 | | S-451 ULYSSES ALTIZER | MAIDEN SPRINGS | 0.4 | COLUMBIA GAS TRAN |
| -PANTHER CREEK LTD PARTNERSHIP #3 | | | | RECEIVED: | 12/15/83 | JA: VA | | | |
| 8412400 | | 4502720456 | | 108 | | A B JEWELL #2 | GRUNDY DISTRICT | 16.0 | CONSOLIDATED GAS |
| -PHILADELPHIA OIL COMPANY | | | | RECEIVED: | 12/15/83 | JA: VA | | | |
| 8412399 | | 4505120488 | | 103 | | JESSE WAMPLER - #P-151 | HORA | 160.6 | KENTUCKY WEST VIR |
| ********** | | | | | | | | | |
| WEST VIRGINIA DEPARTMENT OF MINES | | | | | | | | | |
| ********** | | | | | | | | | |
| -ANCRO OIL & GAS INC | | | | RECEIVED: | 12/16/83 | JA: WV | | | |
| 8412449 | | 4708703695 | | 108 | | W W SHORT #3 | CLOVER | 2.0 | PENNZOIL CO |
| -BOWSER GAS & OIL CO | | | | RECEIVED: | 12/16/83 | JA: WV | | | |
| 8412448 | | 4701303487 | | 102-3 | | MARION RADABAUGH #3 | CENTER | 0.0 | CONSOLIDATED GAS |
| -BRAXTON OIL AND GAS CORP | | | | RECEIVED: | 12/16/83 | JA: WV | | | |
| 8412450 | | 4700701427 | | 108 | | MORGAN #1 | BURNSVILLE 7 1/2 15 | 40.0 | CONSOLIDATED GAS |
| -BURDETTE OIL & GAS CO INC | | | | RECEIVED: | 12/16/83 | JA: WV | | | |
| 8412428 | | 4703903903 | | 103 | | MARY SAYRE AULTZ #1 A | POCATALICO | 0.0 | |
| -CABOT OIL & GAS CORP | | | | RECEIVED: | 12/16/83 | JA: WV | | | |
| 8412446 | | 4709901757 | | 108 | | HOARD BALDWIN A-1 | STONEWALL | 14.0 | TENNESSEE GAS PIP |
| 8412445 | | 4703902335 | | 108 | | MARY MASON #1 | POCA | 3.6 | COLUMBIA GAS TRAN |
| 8412447 | | 4710900851 | | 108 | | POCAHONTAS I-27 | BARKERS RIDGE | 17.7 | CONSOLIDATED GAS |
| -CHASE PETROLEUM | | | | RECEIVED: | 12/16/83 | JA: WV | | | |
| 8412442 | | 4704102686 | | 108 | | DRUFFEY #2 | SKIN CREEK DISTRICT | 30.0 | CONSOLIDATED GAS |
| 8412439 | | 4708504801 | | 103 | | WEEKLEY #1 | CLAY DISTRICT | 39.0 | CONSOLIDATED GAS |
| -CHESTERFIELD CORP | | | | RECEIVED: | 12/16/83 | JA: WV | | | |
| 8412426 | | 4709702132 | | 107-DV | | FISHER WELL #3 - 47-097-2132 | UNION | 0.0 | COLUMBIA GAS TRAN |
| -CONSOLIDATED GAS SUPPLY CORPORATION | | | | RECEIVED: | 12/16/83 | JA: WV | | | |
| 8412451 | | 4703302752 | | 108 | | MARY M SAYLER 12742 | UNION | 7.0 | GENERAL SYSTEM PU |
| -GILCO GAS INC | | | | RECEIVED: | 12/16/83 | JA: WV | | | |
| 8412429 | | 4702103572 | | 103 | | FRAME #2 | GLENVILLE SOUTH | 30.0 | CONSOLIDATED GAS |
| -HARRY C BOGGS | | | | RECEIVED: | 12/16/83 | JA: WV | | | |
| 8412431 | | 4701302860 | | 108 | | R F STALNAKER #10 | NICUT | 0.0 | COLUMBIA GAS TRAN |
| -HAUGHT INC | | | | RECEIVED: | 12/16/83 | JA: WV | | | |
| 8412430 | | 4708500000 | | 103 | | C & C SWADLEY H-989 | MURPHY DISTRICT | 14.0 | ROARING FORK GAS |
| -J & J ENTERPRISES INC | | | | RECEIVED: | 12/16/83 | JA: WV | | | |
| 8412427 | | 4701702920 | | 103 | | J-426 | WEST UNION | 0.0 | COLUMBIA GAS TRAN |
| -OHIO-WEST VIRGINIA HYDRO CARBON CO | | | | RECEIVED: | 12/16/83 | JA: WV | | | |
| 8412440 | | 4708505961 | | 103 | | MOORE #1 | DEVIL HOLE CREEK WATE | 20.0 | CONSOLIDATED GAS |
| -PETROLEUM DEVELOPMENT CORP | | | | RECEIVED: | 12/16/83 | JA: WV | | | |
| 8412444 | | 4709100141 | | 108 | | H GOODWIN #1 | HEADLAND | 40.5 | EQUITABLE GAS CO |
| 8412441 | | 4703300528 | | 108 | | J H LANG #1001 | | 273.0 | CONSOLIDATED GAS |
| 8412443 | | 4707301474 | | 108 | | SIMONTON A #1 | | 90.0 | COLUMBIA GAS TRAN |
| -R & B PETROLEUM INC | | | | RECEIVED: | 12/16/83 | JA: WV | | | |
| 8412432 | | 4708300369 | | 108 | | WARD #1 | ROARING CREEK | 18.0 | PARTNERSHIP PROPE |
| -ROY G HILDRETH ET AL | | | | RECEIVED: | 12/16/83 | JA: WV | | | |
| 8412435 | | 4708701034 | | 108 | | JARVIS HEIRS #1 | GEARY DISTRICT | 0.0 | COLUMBIA GAS TRAN |
| 8412436 | | 4708703454 | | 108 | | JARVIS HEIRS #5 | GEARY DISTRICT | 0.0 | COLUMBIA GAS TRAN |
| 8412437 | | 4708703667 | | 108 | | KIRKHART #1 | GEARY DISTRICT | 0.0 | COLUMBIA GAS TRAN |
| 8412438 | | 4708703668 | | 108 | | KIRKHART #2 | GEARY DISTRICT | 0.0 | COLUMBIA GAS TRAN |
| 8412433 | | 4701301120 | | 108 | | VERA BAILEY #1 | LEE DISIRICT | 11.5 | COLUMBIA GAS TRAN |
| 8412434 | | 4701302251 | | 108 | | VERA BAILEY #2 | LEE DISTRICT | 11.5 | COLUMBIA GAS TRAN |
| ********** | | | | | | | | | |
| ** DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, DENVER,CO | | | | | | | | | |
| ********** | | | | | | | | | |
| -MURCHISON BROTHERS | | | | RECEIVED: | 12/15/83 | JA: CO 1 | | | |
| 8412397 | CD 0188-83 | 0506706676 | | 103 | | 14-20-151-10 | IGNACIO-BLANCO | 6.9 | WESTERN SLOPE GAS |
| -TENNECO OIL COMPANY | | | | RECEIVED: | 12/15/83 | JA: CO 1 | | | |
| 8412395 | CD 0180-83 | 0504506101 | | 108 | | FEDERAL 2-23 | SOUTH CANYON | 5.0 | NORTHWEST PIPELIN |
| -WILLIAM PERLMAN | | | | RECEIVED: | 12/15/83 | JA: CO 1 | | | |
| 8412396 | CD 0185-83 | 0506706527 | | 107-TF | | SOUTHERN UTE #1-32 MOO-C-1420-1530 | IGNACIO BLANCO | 0.0 | EL PASO NATURAL G |
| ********** | | | | | | | | | |
| ** DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, CASPER,WY | | | | | | | | | |
| ********** | | | | | | | | | |
| -DIAMOND CHEMICALS CO | | | | RECEIVED: | 12/19/83 | JA: MT 5 | | | |
| 8412567 | M266-3 | 2507321593 | | 102-2 | | DIAMOND SHAMROCK FEDERAL 21-13 | MARIAS RIVER | 0.0 | |
| -FALCON-COLORADO EXPLORATION INC | | | | RECEIVED: | 12/19/83 | JA: MT 5 | | | |
| 8412521 | M738-2 | 2507121751 | | 108 | | FEDERAL 2-21 | SWANSON CREEK | 10.0 | MONTANA-DAKOTA UT |
| -FARMERS UNION CENTRAL EXCHANGE INC | | | | RECEIVED: | 12/19/83 | JA: MT 5 | | | |
| 8412539 | M236-3 | 2509121492 | | 102-2 | | 15-14 USA | SUNNYHILL WEST | 30.0 | PHILLIPS PETROLEU |
| -FUEL RESOURCES DEVELOPMENT CO | | | | RECEIVED: | 12/19/83 | JA: MT 5 | | | |
| 8412578 | M 279-3 | 2502721197 | | 102-2 | | N-27-23-19-N | LEROY | 65.0 | MONTANA POWER CO |
| -LUFF EXPLORATION CO | | | | RECEIVED: | 12/19/83 | JA: MT 5 | | | |
| 8412522 | M758-2 | 2508321600 | | 103 | | P-7 USA MARTIN | NORTH SIOUX PASS | 60.0 | TRUE OIL CO |
| -MIDLANDS GAS CORP | | | | RECEIVED: | 12/19/83 | JA: MT 5 | | | |
| 8412561 | M258-3 | 2507121495 | | 108 | | 0121 FEDERAL 2 | BOWDOIN | 20.0 | K N ENERGY INC |
| -MIDLANDS GAS CORPORATION | | | | RECEIVED: | 12/19/83 | JA: MT 5 | | | |
| 8412530 | M140-3 | 2507121661 | | 108 | | 0170 FEDERAL #1 | UNNAMED | 11.0 | K N ENERGY INC |
| 8412533 | M152-3 | 2507121198 | | 108 | | 0202-2 (FORMERLY 1102) | WILDCAT | 12.0 | K-N ENERGY INC |
| 8412566 | M265-3 | 2507121879 | | 102-2 | | 0241-2 | BOWDOIN | 50.0 | K N ENERGY INC |
| 8412551 | M195-3 | 2507121487 | | 108-ER | | 0260 FEDERAL #1 | WILDCAT | 22.0 | K-N ENERGY INC |
| 8412544 | M227-3 | 2507121645 | | 108 | | 0460 FEDERAL 1 | UNNAMED | 20.0 | K-N ENERGY INC |
| 8412583 | M288-3 | 2507121873 | | 102-2 | | 0470-2 FEDERAL | LORING | 24.0 | KN ENERGY INC |

| JD NO | JA DKT | API NO | D | SEC(1) | SEC(2) | WELL NAME | FIELD NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|---|---|
| 8412576 | M 277-3 | 2507121886 | | 102-2 | | 0561-2 | BOWDOIN | 82.0 | K N ENERGY INC |
| 8412529 | M135-3 | 2507121834 | | 108 | | 0732 FEDERAL 2 | BOWDOIN (WHITEWATER U | 19.0 | K N ENERGY INC |
| 8412574 | M275-3 | 2507121882 | | 102-2 | | 0861-2 | BOWDOIN | 133.0 | K N ENERGY INC |
| 8412543 | M230-3 | 2507121646 | | 108 | | 0960 FEDERAL #1 | UNNAMED | 20.0 | K-N ENERGY INC |
| 8412579 | M 280-3 | 2507121883 | | 102-2 | | 0960-2 | BOWDOIN | 53.0 | K N ENERGY INC |
| 8412524 | M12-3 | 2507121780 | | 108 | | 1021 FEDERAL 1 | BOWDOIN | 13.0 | K N ENERGY INC |
| 8412569 | M268-3 | 2507121881 | | 102-2 | | 1060-2 | BOWDOIN | 50.0 | K N ENERGY INC |
| 8412531 | M146-3 | 2507121550 | | 108-ER | | 1061 1-10 USA WOLF AND MIAMI | WILDCAT | 32.0 | K-N ENERGY INC |
| 8412565 | M264-3 | 2507121875 | | 103 | | 1121-2 | BOWDOIN (ASHFIELD) | 94.0 | K N ENERGY INC |
| 8412563 | M262-3 | 2507121878 | | 103 | | 1321-2 | BOWDOIN | 13.3 | K N ENERGY INC |
| 8412556 | M249-3 | 2507121462 | | 108 | | 1351 FEDERAL 133531 | BOWDOIN | 16.0 | K N ENERGY INC |
| 8412545 | M224-3 | 2507121440 | | 108 | | 1460 FEDERAL 1 | BOWDOIN | 18.0 | K-N ENERGY INC |
| 8412577 | M 278-3 | 2507121885 | | 102-2 | | 1461 FEDERAL 2 | BOWDOIN | 24.0 | K N ENERGY INC |
| 8412568 | M267-3 | 2507121884 | | 102-2 | | 1560-2 | BOWDOIN | 35.0 | K N ENERGY INC |
| 8412557 | M250-3 | 2507121436 | | 108 | | 1861-1 | WILDCAT | 13.0 | K N ENERGY INC |
| 8412526 | M121-3 | 2507121624 | | 108 | | 2213 FEDERAL 2 | BOWDOIN | 1.0 | K N ENERGY INC |
| 8412549 | M216-3 | 2507121607 | | 108 | | 2233-1 223333 | BOWDOIN | 11.0 | K-N ENERGY INC |
| 8412532 | M147-3 | 2507121262 | | 108 | | 2251 FEDERAL 1 | WILDCAT | 14.0 | K-N ENERGY INC |
| 8412585 | M 291-3 | 2507121876 | | 102-2 | | 2251-2 | BOWDOIN | 25.0 | K N ENERGY INC |
| 8412523 | M11-7 | 2507121807 | | 108 | | 2321 FEDERAL 2 | BOWDOIN | 8.0 | K N ENERGY INC |
| 8412528 | M134-3 | 2507121851 | | 108 | | 3152 FEDERAL 2 | BOWDOIN | 16.0 | K N ENERGY INC |
| 8412580 | M 283-3 | 2507121891 | | 102-2 | | 3171 FEDERAL 2 | EAST LORING | 88.0 | K N ENERGY INC |
| 8412546 | M221-3 | 2510521044 | | 108 | | 3315-1 (ANSCHUTZ FEDERAL 402) | WILDCAT | 11.0 | K-N ENERGY INC |
| 8412575 | M-276-3 | 2507121874 | | 102-2 | | 3370-2 | BOWDOIN | 44.0 | K N ENERGY INC |
| 8412547 | M220-3 | 2510521141 | | 108 | | 3415 FEDERAL 1 | BOWDOIN | 16.0 | K-N ENERGY INC |
| 8412558 | M253-3 | 2507121416 | | 108 | | 3461-1 343631 | BOWDOIN | 17.0 | K N ENERGY INC |
| 8412570 | M269-3 | 2507121880 | | 102-2 | | 3551-2 | BOWDOIN | 50.0 | K N ENERGY INC |
| -PATRICK PETROLEUM CORP (MI) | | | | RECEIVED: | 12/19/83 | JA: MT 5 | | | |
| 8412560 | M256-3 | 2508521356 | | 102-2 | | PETERSON FEDERAL 1-12 | ANVIL | 9.6 | PHILLIPS PETROLEU |
| -PETROLEUM CORP OF AMERICA | | | | RECEIVED: | 12/19/83 | JA: MT 5 | | | |
| 8412586 | M 292-3 | 2507121889 | | 102-2 | | FEDERAL #2-2971 | EAST LORING | 0.0 | KN ENERGY INC |
| 8412587 | M 293-3 | 2507121890 | | 102-2 | | FEDERAL #2-3071 | EAST LORING | 0.0 | KN ENERGY INC |
| 8412588 | M 294-3 | 2507121892 | | 102-2 | | FEDERAL #2-3271 | EAST LORING | 0.0 | KN ENERGY INC |
| -S & J OPERATING CO | | | | RECEIVED: | 12/19/83 | JA: MT 5 | | | |
| 8412542 | M230-3-B | 2507121117 | | 108 | | 2034 MIAMI-FEDERAL 890-20 #1 | BOWDOIN | 8.9 | KN ENERGY INC |
| -SOUTHLAND ROYALTY CO | | | | RECEIVED: | 12/19/83 | JA: MT 5 | | | |
| 8412573 | M274-3 | 2507121895 | | 102-2 | | FEDERAL 0852 #2 | BOWDOIN (EAST LORING) | 58.0 | K N ENERGY INC |
| 8412564 | M263-3 | 2507121698 | | 102-2 | | FEDERAL 1-8-52NE | BOWDOIN-LORING | 53.0 | K N ENERGY INC |
| 8412572 | M273-3 | 2507121894 | | 102-2 | | FEDERAL 1961 #2 | BOWDOIN DOME | 24.0 | K N ENERGY INC |
| 8412571 | M272-3 | 2507121893 | | 102-2 | | FEDERAL 2761 #2 | BOWDOIN DOME | 16.0 | K N ENERGY INC |
| -TRICENTROL UNITED STATES INC | | | | RECEIVED: | 12/19/83 | JA: MT 5 | | | |
| 8412520 | M714-2 | 2500522177 | | 102-4 | | US 15-1-26-18 | SHERARD UNIT | 11.0 | NORTHERN NATURAL |
| -WESTERN RESERVES INC | | | | RECEIVED: | 12/19/83 | JA: MT 5 | | | |
| 8412534 | M180-3 | 2510122383 | | 102-4 | | FEDERAL 1-1 - T 37N - R 2E | WEST PHANTOM SUNBURST | 500.0 | MONTANA POWER CO |
| -APACHE CORPORATION | | | | RECEIVED: | 12/19/83 | JA: ND 5 | | | |
| 8412548 | ND218-3 | 3300700899 | | 102-2 | | FEDERAL #3-4 | BUCKHORN | 35.0 | KOCH HYDROCARBON |
| -CANTERRA PETROLEUM INC | | | | RECEIVED: | 12/19/83 | JA: ND 5 | | | |
| 8412553 | ND182-3 | 3300700804 | | 102-2 | | U S 2-12 | TR | 0.0 | |
| 8412552 | ND183-3 | 3300700826 | | 102-2 | | U S 2-34 | WHISKEY JOE | 0.0 | |
| -FARMERS UNION CENTRAL EXCHANGE INC | | | | RECEIVED: | 12/19/83 | JA: ND 5 | | | |
| 8412559 | ND254-3 | 3300700146 | | 102-2 | | FEDERAL 16-32 | ELKHORN RANCH | 75.0 | KOCH HYDROCARBON |
| -FLORIDA GAS EXPLORATION COMPANY | | | | RECEIVED: | 12/19/83 | JA: ND 5 | | | |
| 8412540 | ND232-3 | 3300700900 | | 102-2 | | FEDERAL 19-144-101 #2 | DEVILS PASS | 0.0 | KOCH HYDROCARBON |
| -KOCH INDUSTRIES INC | | | | RECEIVED: | 12/19/83 | JA: ND 5 | | | |
| 8412582 | ND 287-3 | 3300700929 | | 102-2 | | FEDERAL #5-27 | TREE TOP | 8.0 | MONTANA DAKOTA UT |
| 8412550 | ND202-3 | 3300700334 | | 102-2 | | FEDERAL NO 9-24 "A" MISSION CANYON | BIG STICK | 19.0 | MONTANA-DAKOTA UT |
| -MILESTONE PETROLEUM INC | | | | RECEIVED: | 12/19/83 | JA: ND 5 | | | |
| 8412584 | ND 290-3 | 3305301696 | | 102-2 | | FEDERAL #14-6 | BOWLINE | 150.0 | KOCH HYDROCARBON |
| -PETRO-LEWIS CORPORATION | | | | RECEIVED: | 12/19/83 | JA: ND 5 | | | |
| 8412527 | ND122-3 | 3300700776 | | 103 | | FEDERAL 32-3 | MADISON | 56.0 | KOCH HYDROCARBON |
| 8412541 | ND231-3 | 3300700776 | | 102-2 | | FEDERAL 32-3 | MADISON | 56.0 | KOCH HYDROCARBON |
| 8412525 | ND55-3 | 3301100081 | | 108 | | FEDERAL 4-15 | LITTLE MISSOURI | 7.9 | MONTANA-DAKOTA UT |
| -SHELL OIL CO | | | | RECEIVED: | 12/19/83 | JA: ND 5 | | | |
| 8412537 | ND238-3 | 3305301412 | | 102-2 | | USA 11-4-76 | ESTES | 17.0 | MONTANA DAKOTA UT |
| -SKYLINE OIL COMPANY | | | | RECEIVED: | 12/19/83 | JA: ND 5 | | | |
| 8412535 | ND245-3 | 3305301519 | | 102-2 | | FEDERAL RIVET 6-1X | PIERRE CREEK | 21.0 | KOCH HYDROCARBON |
| 8412536 | ND244-3 | 3305301519 | | 103 | | FEDERAL RIVET 6-1X | PIERRE CREEK | 21.0 | KOCH HYDROCARBON |
| 8412554 | ND246-3 | 3305301604 | | 103 | | FEDERAL RIVET 6-2 | PIERRE CREEK - RED RI | 1.6 | KOCH HYDROCARBON |
| 8412555 | ND247-3 | 3305301604 | | 102-2 | | FEDERAL RIVET 6-2 | PIERRE CREEK | 16.0 | KOCH HYDROCARBON |
| -TENNECO OIL COMPANY | | | | RECEIVED: | 12/19/83 | JA: ND 5 | | | |
| 8412562 | ND261-3 | 3300700862 | | 102-2 | | HAMILTON USA 2-33 | ELKHORN RANCH | 0.4 | MONTANA DAKOTA UT |
| -TEXACO INC | | | | RECEIVED: | 12/19/83 | JA: ND 5 | | | |
| 8412538 | ND235-3 | 3305301632 | | 103 | | BLUE BUTTES MADISON UNIT F208X | BLUE BUTTES | 6.6 | AMERADA HESS CORP |
| 8412581 | ND 285-3 | 3305301683 | | 103 | | BLUE BUTTES MADISON UNIT #G-208 | BLUE BUTTES MADISON | 22.0 | AMERADA HESS CORP |

[FR Doc. 84-1737 Filed 1-20-84; 8:45 am]

BILLING CODE 6717-01-C

Federal Register

Monday
January 23, 1984

Part III

# Department of Energy

Office of Conservation and Renewable Energy

10 CFR Part 455

Grant Programs for Schools and Hospitals and for Buildings Owned by Units of Local Government and Public Care Institutions; Proposed Rule

**DEPARTMENT OF ENERGY**

**Office of Conservation and Renewable Energy**

**10 CFR Part 455**

**[Docket No. CAS-RM-78-503]**

## Grant Programs for Schools and Hospitals and for Buildings Owned by Units of Local Government and Public Care Institutions

**AGENCY:** Office of Conservation and Renewable Energy, DOE.

**ACTION:** Notice of inquiry.

**SUMMARY:** The Department of Energy is considering proposing to modify the regulations for the operation of its Grant Programs for Schools and Hospitals and for Buildings Owned by Units of Local Government and Public Care Institutions in order to make the program operate more efficiently. This notice of inquiry is intended to solicit public comment as to aspects of the program which the public feels need to be addressed, and which could be changed through regulatory (rather than legislative) means. The object of this notice of inquiry is to receive ideas and suggestions as to the direction the program should be taking in the future and possible improvements which could be implemented to make the program more efficient and productive. The Department is particularly interested in comments relating to the following areas:

- Modifying the regulations as they apply to an institution's using financing based on the energy saved by the installation of an energy conservation measure to satisfy the institution's matching portion of the cost of installing the energy conservation measure;
- Changing the payback limit(s) for energy conservation measures;
- Clarifying the definitions of "energy conservation measure," "maintenance," and "operating";
- Modifying the treatment of leased equipment;
- Establishing requirements for updating Energy Audits and Technical Assistance Reports.

**DATE:** Written comments must be received by February 22, 1984.

**ADDRESS:** Send comments to Department of Energy, Office of Conservation and Renewable Energy, Hearings and Dockets Unit, Room 6B-025, Docket Number CAS-RM-78-503, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-9319. (Five Copies)

**FOR FURTHER INFORMATION CONTACT:**
Frank M. Steward, Director, Institutional Conservation Programs Division, Conservation and Renewable Energy, Department of Energy, Mail Stop 5G-070, Forrestal Buiding, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-2198.

Edward H. Pulliam, Office of General Counsel, Department of Energy, Mail Stop 6B-144, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252-9507.

**SUPPLEMENTARY INFORMATION:**

### I. Introduction

The Grant Program for Schools and Hospitals and for Buildings Owned by Units of Local Government and Public Care Institutions, also known as the Institutional Conservation Program (ICP), was established in the Department of Energy by Title III of the National Energy Conservation Policy Act, Pub. L. 95-619, 92 Stat. 3238, (42 U.S.C. 6371 *et seq.*). Regulations for the program appear in 10 CFR Part 455.

In general, the program makes grants to schools and hospitals to help finance technical assistance analyses and energy conservation improvements. In addition, public care institutions and buildings owned by units of local government are eligible for grants for technical assistance energy analyses only.

### II. Issues and Questions for Public Comments

DOE is particularly interested in obtaining views on the issues and questions set forth below.

The program regulations require, in hardship cases, that a school or hospital match the Federal funds provided for an energy conservation measure (ECM) on a fifty-fifty basis. The regulations also allow ECM's completed by an institution using non-federal funds to be used as credit toward the institution's matching portion of ECM's funded under the program. An innovative type of financing based on the savings produced by the ECM has been suggested as a possible method of financing either the matching portion of the cost of ECM's funded under the program or the ECM's funded by the institution, which the institution uses as credit towards the matching requirement of ECM's funded under the program. This savings-based financing is accomplished through agreements under which the institutions contract with another party to install the ECM's in return for paying that party a share of the resultant savings over a period of years, or otherwise agree to pay for the ECM's based on savings achieved through improved energy efficiency. Under some of these types of agreements the other party or parties may be a contractor or third party investor, or both (depending on the type of financing arrangment), and may, or may not, retain ownership of the ECM's. Consequently, that party may receive a variety of tax benefits, such as depreciation, investment tax credits, and interest deductions, in addition to the party's share of the savings. These types of agreements raise questions under the current regulation, and DOE is considering modifying the regulation.

Among the questions such agreements raise in regard to the program and about which DOE would particularly like comments are the following:

1. Should institutions be allowed to use these savings-based agreements to finance the matching portion of the cost of ECM's funded under this program or should they be allowed to use ECM's financed by savings-based agreements as credit towards the matching requirement of ECM's funded under this program? Traditionally, matching contributions for ICP grants have been in the form of cash, or goods and services (such as labor) provided directly by the institution. At the completion of the project, the institution is the sole owner of, and receives all of the savings resulting from, the improvements. It would change the nature of the matching contribution in a fundamental way to permit third party investors, or others, to retain ownership of part of the project and share in the savings.

2. Should institutions be allowd to finance the matching requirement by, or receive credit against the matching requirement for, savings-based agreements under which the institutions do not own the ECM's installed under the agreement? As mentioned in question 1, this would represent a major change in the orientation of the program, from one in which institutions acquire energy conservation improvements to one in which institutions combine improvements financed with DOE grants with energy service contracts financed with future savings.

3. How should the cost of the ECM installed under a savings-based agreement be determined so that its value as a credit or its federally funded and matching portions can be established? Since DOE is providing a set percentage of the cost of installation before the project is begun, DOE is concerned that the cost is a fair estimate. Most such agreements involve commitments to turn over a percentage of future savings over a period of years, but do not require a capital outlay at the

beginning. What is the fair value of such an agreement when the ultimate cost will not be determined for five to seven years, or more?

4. How should actual costs of the ECM be determined so that the progress of the grant may be accurately monitored, considering that a savings-based agreement may run five years or more but a grant may be closed out after one or two years? Since DOE is providing fifty percent of the cost of the installation, in most cases, DOE is concerned that a fair value be placed on the other fifty percent of the installation.

5. Should DOE limit the percentage of the savings an institution may share under a savings-based agreement which affects an ECM funded by DOE? When an institution finances its match by itself, the institution retains all the savings achieved by the entire project. If an institution were to use a savings-based agreement as its match, then it would, in effect, have to pay for that agreement out of future savings generated by the installation. However, since one of the purposes of the program is to ease the financial burden on an institution due to increased fuel costs, it may not appear to further this purpose if the institution shares the savings generated by DOE's contribution to the project. In addition, it is often very difficult to identify exactly how much savings are generated by any particular part of an energy conservation project—unless only a single measure is involved. DOE is concerned that institutions not sign away savings which the institutions should be entitled to keep for themselves.

DOE also welcomes comments on any other aspects of savings-based agreements and their relation to the program which DOE might address in the regulations.

As a separate issue, DOE is considering changing the permissible payback limits for measures funded by ICP grants from the present limits of 1 to 15 years. For example, short payback periods might be eliminated to encourage institutions to fund more of the shorter payback items from other sources and to concentrate ICP funds on the longer payback items which may presently tend to be neglected but may be of significant long-term benefit. The questions DOE would like comments to address are:

1. Should DOE change the payback limits for eligible energy conservation measures from the current 1 to 15 years?

2. If so, should the change be at the low or high end of the limits, or at both ends, and how much should the change be?

Also, some clarification of the present definitions may be needed so that program applicants can properly distinguish between operating and maintenance activities, which are not eligible for funding, and installation of energy conservation measures, which are eligible for funding. In particular, there appears to be a need to consider whether massive replacement projects caused by deferred maintenance should be funded as ECM's. DOE is also considering allowing previously funded ECM's which have worn out to be replaced by new ECM's funded by new grants. Among the questions to be considered are:

1. Should the definition of "energy conservation measure" be clarified?

2. Should ECM's be required to increase the energy efficiency of the building beyond its condition when new?

3. Should the regulation be modified to permit DOE grant funds to be used to pay for the replacement of worn out conservation measures, and/or should there be limits to the types of replacement measures which can be funded?

In the area of leasing, the situation has changed considerably since the program's regulations were written. Then, computers were the major items being leased, with relatively minor costs for installation. Recently quite different items, including boilers, have been leased, with sizeable installation charges. Currently the program's regulations permit DOE assistance to be provided for installation charges of leased equipment. This provision may need to be reconsidered in light of the expansion in the universe of leased equipment. The question is: Should the treatment of leased equipment be changed to restrict or to broaden the allowability of installation and connection charges for DOE assistance?

Institutions applying for technical assistance or ECM grants are currently required by §§ 455.41(c) of 455.51(a)(3) of the regulations to have conducted an energy audit (EA) ot technical assistance program (TA), as appropriate, "subsequent to the most recent construction, reconfiguration or utilization change to the building which significantly modified energy use within the building." DOE is considering changing the regulations to require new EA's and TA's after a certain number of years even if the building has not undergone major modifications. The questions which need to be considered are:

1. Should DOE require updated EA's and TA's after a certain number of years, regardless of the degree to which a building's use and/or condition may have changed, in order for the building to be eligible for a grant?

2. Are there limits to the situations where such new EA's and TA's are needed, and if so, what are they?

3. Should the regulations be amended to permit DOE to provide grant funds for the updated TA's (presently grants can be given for only one TA for a particular building)?

In addition to these specific areas of concern, DOE also invites comments or suggestions about other aspects of the program which the public feel need to be addressed, and which could be changed through regulatory (rather than legislative) means.

All interested persons are invited to submit written comments to DOE. Such correspondence should be mailed to: Department of Energy, Office of Conservation and Renewable Energy, Hearings and Dockets Unit, Room 6B-025, Docket Number CAS-RM-78-503, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585. Five copies should be submitted.

All comments received will be available for public inspection in the DOE Reading Room 1E-090, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays. Any information or data considered by the person furnishing it to be confidential and which may be exempt by law from public disclosure must be so identified and submitted in writing, one copy only. DOE reserves the right to determine the confidential status of the information or data and to treat it according to its determination, pursuant to DOE's regulations on confidentiality (10 CFR Part 1004).

**List of Subjects in 10 CFR Part 455**

Buildings, Community facilities, Energy audits, Energy conservation, Grant programs—energy, Health facilities, Hospitals, Reporting requirements, Schools, Solar energy, Technical assistance.

Issued in Washington, D.C. January 16, 1984.

**Pat Collins,**

*Acting Assistant Secretary, Conservation and Renewable Energy.*

[FR Doc. 84-1822 Filed 1-20-84; 8:45 am]

BILLING CODE 6450-01-M

federal register

Monday
January 23, 1984

Part IV

# Department of Education

34 CFR Parts 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, and 262

Indian Education Programs; Proposed Rule

Indian Education Act Grant Programs; Notice Establishing Closing Dates for Transmittal of Certain Fiscal Year 1984 Applications; Notice

## DEPARTMENT OF EDUCATION

### 34 CFR Parts 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, and 262

### Indian Education Programs

**AGENCY:** Office of Elementary and Secondary Education, Department of Education.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Secretary proposes to amend regulations governing awards authorized by the Indian Education Act of 1972, as amended. The proposed changes are based on a review of current regulations for purposes of deregulation under Executive Order 12291. The Secretary takes this action to reduce costs and other regulatory burdens and to clarify application and compliance requirements.

**DATE:** Comments must be received on or before March 23, 1984.

**ADDRESSES:** Comments should be addressed to Hakim Khan, Deputy Director, Indian Education Programs, U.S. Department of Education, 400 Maryland Avenue, S.W., (FOB–6, Room 2177), Washington, D.C. 20202.

**FOR FURTHER INFORMATION CONTACT:** Hakim Khan. Telephone: (202) 245–8020.

**SUPPLEMENTARY INFORMATION:** These proposed regulations would implement the Indian Education Act of 1972 (Title IV of Pub L. 92–318, the Education Amendments of 1972), as amended.

Under the regulations the Secretary of Education provides Federal financial assistance to public school systems, as well as to Indian community schools on or near reservations, for the purpose of planning, developing, and carrying out elementary and secondary school projects designed to meet the special educational needs of Indian children.

Under the regulations the Secretary also provides Federal financial assistance to Indian tribes, Indian institutions, and Indian organizations, as well as to State and local educational agencies and elementary and secondary schools for Indian children operated by the Department of the Interior, for special planning, pilot, and demonstation projects and other projects designed to improve educational services and opportunities for Indian children and adults.

In addition, for educational personnel development projects, the Secretary provides Federal financial assistance to institutions of higher education, State and local educational agencies, Indian tribes, and Indian organizations.

These proposed regulations govern eight programs: (1) Formula Grants—Local Educational Agencies and Tribal Schools (formerly known as Entitlement Grants); (2) Indian-Controlled Schools—Establishment; (3) Indian-Controlled Schools—Enrichment Projects; (4) Educational Services for Indian Children; (5) Planning, Pilot, and Demonstration Projects for Indian Children; (6) Educational Personnel Development; (7) Educational Services for Indian Adults; and (8) Planning, Pilot, and Demonstration Projects for Indian Adults.

Not included in these proposed rules are regulations governing the Indian Fellowship Programs, which were previously published.

The Secretary is also proposing that regulations for four programs that have not been funded be removed from the Code of Federal Regulations. These four programs are: (1) Demonstration Projects-Local Educational Agencies; (2) Adult Education Reserach and Development Projects; (3) Adult Education Surveys; and (4) Adult Education Dissemination and Evaluation projects.

As a result of these proposed removals, many of the remaining programs have been redesignated and given new part numbers in Title 34 of the Code of Federal Regulations. Each of the programs affected by these proposed regulations and the part number assigned is listed in 34 CFR 250.1, the first section of the proposed general provisions regulations governing all of the affected programs.

### Major Issues

*1. What Changes Does the Secretary Propose in Regulations Governing Grants for Planning, Pilot, and Demonstration Projects?*

Applicants are often confused as to what should be included in an application for a grant under a planning, pilot, and demonstation program. Attempts to combine the differing objectives of these types of activities into one multi-year project have resulted in inadequate project designs and vague components and products. To overcome these problems the Secretary proposes to include in these regulations specific criteria that distinguish planning, pilot, and demonstration projects as three separate grant competitions. An applicant would be permitted to apply for a grant under one or more of these competitions, but would be required to submit a separate application for each project.

*2. What Does the Secretary Propose Regarding Requirements Not Specified in the Statute?*

Some provisions of the proposed regulations, although not specified in the authorizing statute, are included—under the Secretary's legal authority to regulate—because the Secretary considers these requirements to be necessary for the efficient and effective administration of the particular affected program. However, the Secretary believes that non-statutory requirements should be kept to a minimum and, thus, has deleted from these proposed regulations a number of provisions found in the current regulations. This action is intended (1) to reduce paperwork and other administrative burdens of applicants and grantees and (2) to enable LEAs, Indian tribes, Indian organizations, and other applicants and grantees to exercise local options.

In a few provisions, the Secretary has added material to the proposed regulations to clarify application and compliance requirements.

*3. How Does the Secretary Propose To Provide Regulatory Relief for Applicants?*

To make it easier for applicants to apply for Federal financial assistance under the formula grants program of Part A of the Indian Education Act, the Secretary may recommend, through a notice in the **Federal Register**, a minimum number of pages with which applicants could satisfy certain of the application requirements.

This approach could reduce the paperwork burden of applicants by as much as two thirds. In addition, the use of abbreviated applications could result in savings at the Federal level by substantially reducing the time needed to process applications.

The Secretary intends to provide additional relief from paperwork for each applicant for a continuation award under the formula grants program. In applying for assistance during the second and third years of a formula grant, the applicant will be eligible to use for the first time an abbreviated application form if there is no change in the purposes and objectives stated in the original application.

The use of this abbreviated form for continuation grants will significantly reduce the amount of time needed to prepare an application, and is thus likely to reduce costs of preparation.

*5. What Other Changes Does the Secretary Propose?*

In addition to the changes already described in this preamble, the

Secretary proposes the following other actions to reduce regulatory burdens, increase understanding of regulatory requirements, and otherwise assist applicants and grantees:

• The Secretary proposes to revise the Title of 34 CFR Part 251 to read "Formula Grants—LEAs and Tribal Schools." The term "entitlement grants" is more appropriately reserved for programs of Federal financial assistance under which grants of specific amounts of money are guaranteed. The change in title will have no effect on program operations.

This new title more accurately reflects the manner in which the Secretary currently awards funds under this program; that is, entities that meet the eligibility requirements are entitled to receive assistance, but the amount of that assistance is determined by available appropriations and the formula in the Indian Education Act.

• The Secretary proposes to consolidate and make editorial changes in the criteria that applicants must address and that the Secretary uses as a basis for selecting grantees under the various programs. These changes are designed to clarify requirements, reduce the time required to prepare an application, and ensure consistent requirements wherever possible among the various programs affected by these proposed regulations.

• The Secretary proposes numerous other editorial changes throughout the proposed regulations to improve clarity, ensure consistency, and eliminate redundancy.

### Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291. They are classified as non-major because they do not meet the criteria for major regulations established in the Order.

### Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations will not have significant economic impact on a substantial number of small entities. The regulations are designed to relieve regulatory and paperwork burdens on small entities participating in the program. However, the regulations will not have a significant economic impact on individual small entities.

### Intergovernmental Review

The Indian Education Act Programs in 34 CFR Parts 252, 253, and 256 are subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79 (48 FR 29158; June 24, 1983). The objective of the Executive Order is 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.

In accordance with the order, this document is intended to provided early notification of the Department's specific plans and actions for these programs.

### Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations. Written comments and recommendations may be sent to the address given at the beginning of this document. All comments received on or before the 60th day after publication of this document will be considered before the Secretary issues the final regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Federal Office Building 6, Room 2177, 400 Maryland Avenue, 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.

### Paperwork Reduction Act

The information collection requirements in these proposed regulations will be submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1980.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act, and their overall requirements of reducing regulatory burden, public comment is especially invited on further opportunities to reduce regulatory burden in these proposed regulations.

### Assessment of Educational Impact

The Secretary particularly requests comments on whether the regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

### List of Subjects

*34 CFR Part 250*

Adult education, Education, Elementary and secondary education, Grant programs—Indians, Indians—education, Teachers.

*34 CFR Parts 251, 252, 253, 254, and 255*

Education, Elementary and secondary education, Grant programs—education, Grant programs—Indians, Indians—education.

*34 CFR Part 256*

Education, Grant programs—education, Grant programs—Indians, Indians—education, Teachers.

*34 CFR Parts 257 and 258*

Adult education, Education, Grant programs—education, Grant programs—Indians, Indians—education.

### Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these proposed regulations.

(Catalog of Federal Domestic Assistance Numbers 84.060 Development Awards Program—Indian Education—Local Educational Agencies and Tribal Schools; 84.061 Indian Education—Special Programs and Projects; 84.062 Indian Education—Adult Indian Education; and 84.072 Indian Education—Grants to Indian-Controlled Schools)

Dated: January 13, 1984.

**T. H. Bell,**

*Secretary of Education.*

The Secretary proposes to amend Title 34 of the Code of Federal Regulations as follows:

1. Part 250 is revised to read as follows:

## PART 250—INDIAN EDUCATION ACT—GENERAL PROVISIONS

### Subpart A—General

Sec.



### Subpart B—[Reserved]

### Subpart C—How Does One Apply for a Grant?



**Authority:** Title IV, Pub. L. 92-318 (the Indian Education Act), 86 Stat. 334, as amended (20 U.S.C. 241aa-241ff, 1211a, 1221h, 3385, 3385a), unless otherwise noted.

### Subpart A—General

#### § 250.1 What programs are governed by these regulations?

The regulations in this part apply to all programs conducted under the Indian Education Act except the Indian Fellowship Program (34 CFR Part 263).

Programs governed by these regulations and their applicable program regulations are as follows:

(a) Formula Grants—Local Educational Agencies and Tribal Schools (34 CFR Part 251).

(20 U.S.C. 241aa.241ff)

(b) Indian-Controlled Schools—Establishment (34 CFR Part 252).

(20 U.S.C. 241bb(b))

(c) Indian-Controlled Schools—Enrichment Projects (34 CFR Part 253).

(20 U.S.C. 241bb(b))

(d) Educational Services for Indian Children (34 CFR Part 254).

(20 U.S.C. 3385 (a), (c))

(e) Planning, Pilot, and Demonstration Projects for Indian Children (34 CFR Part 255).

(20 U.S.C. 3385 (a), (b))

(f) Educational Personnel Development (34 CFR Part 256).

(20 U.S.C. 3385(d), 3385a)

(g) Educational Services for Indian Adults (34 CFR Part 257).

(20 U.S.C. 1211a)

(h) Planning, Pilot, and Demonstration Projects for Indian Adults (34 CFR Part 258).

(20 U.S.C. 1211a)

**§ 250.2 [Reserved]**

**§ 250.3 What regulations apply to these programs?**

In addition to the regulations contained in this part and the applicable program regulations, the programs under 34 CFR Parts 251 through 258 are subject to the Education. Department General Administrative Regulations (EDGAR) in—

(a) 34 CFR Part 74 (Administration of Grants);

(b) 34 CFR Part 75 (Direct Grant Programs), except for § 75.590(c) relating to a grantee's project evaluation;

(c) 34 CFR Part 77 (Definitions);

(d) 34 CFR Part 78 (Education Appeal Board); and

(e) 34 CFR Part 79 (Intergovernmental Review of Department of Education Programs and Activities), except that Part 79 does not apply to 34 CFR Parts 252, 253, and 256.

(20 U.S.C. 241aa–241ff, 1211a, 3385, 3385a)

**§ 250.4 What definitions apply to these programs?**

(a) *Definitions in EDGAR.* Except as otherwise provided, the following terms used in this part and in 34 CFR Parts 251 through 258 are defined in 34 CFR Part 77:

Applicant
Application
Award
Budget
Budget period
EDGAR
Elementary school
Facilities
Fiscal year
Grant
Grantee
Grant period
Local educational agency (LEA) (except as used in 34 CFR Parts 257 and 258)
Local government
Minor remodeling
Nonprofit
Private
Project
Project period
Public
Secondary school (except as used in 34 CFR Parts 254, 255, and 256)
Secretary
State (except as used in 34 CFR Parts 251, 252, and 253)
State educational agency (SEA)
Supplies

(b) *Definitions that apply to the programs governed by this part.* Unless otherwise provided, the following definitions apply to this part and to 34 CFR Parts 251 through 258:

"Adult" means an individual who has attained the age of sixteen.

"Adult education" means services or instruction below the college level for adults who—

(1)(i) Lack sufficient mastery of basic educational skills to enable them to function effectively in society; or

(ii) Do not have a certificate of graduation from a school providing secondary education and have not achieved an equivalent level of education; and

(2) Are not currently required to be enrolled in school.

"Ancillary educational personnel"

(1) This term means guidance counselors, librarians, and others who assist in meeting the educational needs of Indian students.

(2) The term does not include persons in positions not directly involved in the educational process, such as clerks or cafeteria personnel.

"Child" means an individual within the age limits for which the applicable State provides a free public education.

"Demonstration project" means a project that affords opportunities to examine in practice, and to assess the qualities of, an educational method, approach, or technique for the purpose of adaptation of that method, approach, or technique by other institutions with similar needs.

"Equipment" means—

(1) Machinery, utilities, and built-in apparatus;

(2) Any enclosure of structure necessary to house the items listed in paragraph (1) of this definition; and

(3) Any other item necessary for the functioning of a facility for the provision of educational services, including items such as—

(i) Instructional apparatus and necessary furniture;

(ii) Printed, published, and audiovisual instructional materials; and

(iii) Books, periodicals, documents, and related materials.

"Free public education" means education that is—

(1) Provided at public expense, under public supervision and direction, without tuition charge; and

(2) Provided as elementary or secondary school education in the applicable State.

"Full-time student" means an individual pursuing studies that constitute a full-time workload in accordance with an institution's established policy.

"Handicapped person" means an individual requiring special educational and related services because he or she—

(1) Is mentally retarded, hard-of-hearing, deaf, speech-impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, or other health-impaired; or

(2) Has a specific learning disability.

"Indian", except as noted in § 250.5(b), means an individual who is—

(1) A member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized by the State in which they reside;

(2) A descendant, in the first or second degree, or an individual described in paragraph (1) of this definition;

(3) Considered by the Secretary of the Interior to be an Indian for any purpose; or

(4) An Eskimo or Aleut or other Alaska Native. "Indian institution" means a preschool, elementary, secondary, or postsecondary school that—

(1) Is established for the education of Indians;

(2) Is controlled by a governing board, the majority of which is Indian; and

(3) If located on an Indian reservation, operates with the sanction or by charter of the governing body of that reservation.

"Indian organization" means an organization that—

(1) Is legally established—

(i) By tribal or inter-tribal charter or in accordance with State or tribal law; and

(ii) With appropriate constitution, by-laws, or articles of incorporation;

(2) Has as its primary purpose the promotion of the education, economic, or social self-sufficiency of Indians;

(3) Is controlled by a governing board, the majority of which is Indian;

(4) If located on an Indian reservation, operated with the sanction or by charter of the governing body of that reservation;

(5) Is neither an organization or subdivision of, nor under the direct control of, and institution of higher education; and

(6) Is not an agency of State or local government. "Indian tribe" means any federally or State-recognized Indian tribe, band, nation, rancheria, pueblo, Alaska Native village, or regional or village corporation as defined in or established under the Alaska Native Claims Settlement Act (85 Stat. 688), that exercises the power of self-government.

"Institution of higher education" means, in any State, an educational institution that—

(1) Admits as a regular student only an individual having a high school graduation certificate or the recognized equivalent of a high school graduation certificate;

(2) Is legally authorized within that State to provide a program of education beyond high school;

(3) Provides—

(i) An educational program for which it awards a bachelor's degree;

(ii) An educational program of not less than two years that is acceptable for full credit toward a bachelor's degree; or

(iii) A two-year program in engineering, mathematics, or the physical or biological sciences that is designed to prepare a student to work as a technician and at a semi-professional level in engineering, scientific, or other technological fields that require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge;

(4) Is a public or other nonprofit institution; and

(5) (i) (A) Is accredited by a nationally recognized accrediting agency or association listed by the Secretary; or

(B) If not accredited, is an institution whose credits are accepted, on transfer, by not fewer than three institutions that are accredited, on the same basis as if transferred from an institution that is accredited.

(ii) However, in the case of an institution described in paragraph (3) (iii) of this definition, if the Secretary determines that there is no nationally recognized accrediting agency or association qualified to accredit that type of institution—

(A) The Secretary appoints an advisory committee composed of persons specially qualified to evaluate training provided by that type of institution; and

(B) The advisory committee prescribes the standards of content, scope, and quality that must be met in order to qualify that type of institution to participate under the appropriate program and determines whether particular institutions meet those standards.

(iii) For the purpose of paragraph (5) of this definition, the Secretary publishes a list of nationally recognized accrediting agencies or associations that the Secretary determines to be reliable authority as to the quality of education or training offered.

"Local educational agency" (LEA), as used in 34 CFR Parts 257 and 258, means—

(1) A public board of education or other public authority legally constituted within a State for either administrative control or direction of public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or combination of school districts or counties recognized in a State as an administrative agency for its public elementary or secondary schools; or

(2) If there is a separate board or other legally constituted local authority having administrative control and direction of adult education in public schools in the area referred to in paragraph (1) of this definition, that other board or authority.

"Parent"

(1) This term includes a legal guardian or other individual standing *in loco parentis* (in the place of the parent). Examples of individuals who may stand *in loco parentis* with respect to a child are—

(i) A foster parent of the child; and

(ii) A grandparent with whom the child resides.

(2) In determining whether an individual stands *in loco parentis* with respect to a child, an LEA may consider such factors as—

(i) The current relationship of the child and the natural parent(s);;

(ii) The length and stability of the relationship between the individual and the child;

(iii) Tribal custom and tribal law;

(iv) Applicable State law, whether legislative or judicial; and

(v) Dependency for purposes of State or Federal income taxes.

"Pilot project" means a project that tests an educational method, approach, or technique in a limited and controlled setting to determine—

(1) Whether the educational method, approach, or technique meets an established need; and

(2) Whether the educational objectives of the educational method, approach, or technique are appropriate for Indian children or adults.

"Planning projects" means a project that—

(1) Establishes educational objectives; and

(2) Proposes activities and resources that would be needed to meet these objectives for the education of Indian children or adults.

"Secondary school," as used in 34 CFR Parts 254, 255, and 256, means a day or residential school that provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

"State," as used in 34 CFR Part 251, 252, and 253, means any of the 50 States, Puerto Rico, Wake Island, Guam, the District of Columbia, American Samoa, or the Virgin Islands.

"Stipend" means an allowance for personal living expenses paid to a participant in a personnel development project.

"Teacher aide"

(1) This term means a person who assists a teacher in the performance of the teacher's teaching or administrative duties.

(2) The term does not include persons in positions not directly involved in the educational process, such as clerks or cafeteria personnel.

(20 U.S.C. 241aa–241ff, 244, 881, 1202, 1211a, 1221h(a), 3381, 3385, 3385a)

**§ 250.5 What provisions of the Indian Self-Determination and Education Assistance Act apply to these programs?**

(a) Awards under programs covered by this part that are primarily for the benefit of Indians are subject to the provisions of section 7(b) of the Indian Self-Determination and Education Assistance Act (Pub. L. 93–638). That section requires that, to the greatest extent feasible, a grantee—

(1) Give to Indians preferences and opportunities for training and employment in connection with the administration of the grant; and

(2) Give to Indian organizations and to Indian-owned economic enterprises—as defined in section 3 of the Indian Financing Act of 1974 (25 U.S.C. 1452(e))—preference in the award of contracts in connection with the administration of the grant.

(Pub. L. 93-638, Section 7(b); 25 U.S.C. 450e(b))

(b) For purposes of this section, an "Indian" is a member of any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established under the Alaska Native Claims Settlement Act (85 Stat. 688), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(Pub. L. 93-638, Section 4 (a), (b); 25 U.S.C. 450b ((a), (b))

**Subpart B—[Reserved]**

**Subpart C—How Does One Apply for a Grant?**

**§ 250.20 How does an applicant apply under a particular program?**

(a) An applicant shall specify in its application the particular program under 34 CFR Parts 251 through 258 under which it is applying.

(b) If the applicant submits an application under a program covered by this part and the project proposed by the applicant is not authorized under that program, the Secretary may, with the consent of the applicant, review and consider the application under an appropriate program, if any, covered by this part.

(20 U.S.C. 241aa-241ff, 1211a, 3385, 3385a)

2. Part 251 is revised to read as follows:

## PART 251—FORMULA GRANTS—LOCAL EDUCATIONAL AGENCIES AND TRIBAL SCHOOLS

**Subpart A—General**



**Subpart B—What Kinds of Activities Does the Secretary Assist Under This Program?**



**Subpart C—How Does One Apply for a Grant?**



**Subpart D—How Does the Secretary Make a Grant?**



**Subpart E—What Conditions Must Be Met by a Grantee?**



**Subpart F—What Are the Administrative Responsibilities of a Grantee?**



**Authority:** Title IV, Part A, Pub. L. 92-318 (the Indian Education Act), 86 Stat. 334, as amended (20 U.S.C. 241aa-241ff), unless otherwise noted.

### Subpart A—General

**§ 251.1 Formula Grants—Local Educational Agencies and Tribal Schools.**

This program, Formula Grants—Local Educational Agencies (LEAs) and Tribal Schools, provides financial assistance to develop and carry out elementary and secondary school projects that meet the special educational and culturally related academic needs of Indian children.

(20 U.S.C. 241aa(a), 241bb-1)

**§ 251.2 Who is eligible for assistance under this program?**

The following are eligible for assistance under this program:

(a) *LEAs.* (1) An LEA is entitled to receive a grant if the number of Indian children enrolled in the LEA's schools is either—

(i) At least 10; or

(ii) At least half the total enrollment for that agency.

(2) However, an LEA may apply without regard to the enrollment requirements of paragraph (a)(1) of this section if it is located—

(1) In Alaska, California, or Oklahoma; or

(2) On, or in proximity to, an Indian reservation.

(20 U.S.C. 241bb(a))

(b) *Tribal schools.* An Indian tribe—or an organization that is controlled or sanctioned by an Indian tribal government—that operates a school for the children of that tribe is eligible to receive a grant on behalf of that school if the school either—

(1) Provides its students an educational program that meets the standards established by the Bureau of Indian Affairs under section 1121 of the Education Amendments of 1978; or

(2) Is operated by that tribe or organization under a contract with the Bureau of Indian Affairs in accordance with the Indian Self-Determination and Education Assistance Act.

(20 U.S.C. 241bb-1)

**§ 251.3 What regulations apply to this program?**

The following regulations apply to this program:

(a)(1) The regulations in 34 CFR Part 250.

(2) However, 34 CFR 75.111(d) and (e) of the Education Department General Administrative Regulations, relating to the contents of an application, do not apply to this program.

(b)(1) The regulations in this Part 251.

(2) However, the following provisions of this part do not apply to tribal schools:

(i) Section 251.20, relating to the selection of the parent committee.

(ii) Any other provisions of this part relating to the parent committee.

(iii) Section 251.40, relating to the maintenance of effort required for LEAs.

(20 U.S.C. 241aa-241ff)

**§ 251.4 What definitions apply to this program?**

The definitions in 34 CFR 250.4 apply to this program.

(20 U.S.C. 241aa-241ff)

### Subpart B—What Kinds of Activities Does the Secretary Assist Under This Program?

**§ 251.10 What types of projects may be funded?**

(a) The Secretary may fund applications proposing the establishment, maintenance, or operation of projects specifically designed to meet the special educational or culturally related academic needs, or both, of Indian children.

(b) An applicant may also apply for assistance to—

(1) Plan for and take other steps leading to the developments of projects; and

(2) Carry out pilot projects designed to test the effectiveness of those plans.

(20 U.S.C. 241cc)

### Subpart C—How Does One Apply for a Grant?

**§ 251.20 How is a parent committee selected?**

(a) Before developing an application, an LEA shall establish and publicize procedures for the selection of a parent committee.

(b) The following are eligible to select and serve on a parent committee:

(1) Parents of Indian children who will participate in the proposed project.

(2) Teachers, except members of the project staff.

(3) Indian secondary school students, if any, enrolled in the LEA's schools.

(c) At least half the members of the committee shall be parents of the Indian children to be served by the proposed project.

(d) The persons listed in paragraph (b) of this section shall select the members of the committee.

(e) An individual may continue to be a member of the committee only so long as he or she is eligible under paragraph (b) of this section.

(20 U.S.C. 241dd(b)(2)(B))

**§ 251.21 Must an applicant hold a public hearing?**

(a) Before preparing an application for a new or continuation award, an applicant shall hold one or more hearings open to the general public.

(b) At the public hearing or hearings, the applicant, shall provide to the parents of Indian children—including persons acting *in loco parentis* other than school administrators or officials—teachers, and, where applicable, secondary school students, a full opportunity to understand the project for which the applicant is seeking assistance and to offer recommendations on the project.

(c) In the case of an application for a continuation award, the grantee shall provide at the public hearing or hearings an opportunity for full public discussion of all aspects of the project of date and for the remainder of the project period.

(20 U.S.C 241dd(b) (2) (B) (i))

**§ 251.22 What must an application include?**

(a) After holding the public hearing described in § 251.21, each applicant shall prepare its application in accordance with this section.

(b) *Local educational agencies.* An application from an LEA must—

(1) Describe the project for which the applicant seeks assistance;

(2) State the number of Indian children enrolled in the LEA and the number to be served by the project;

(3) Provide assurances that—

(i) The applicant will administer, or supervise the administration of, the activities and services for which it seeks assistance;

(ii) The applicant will make an annual report and any other reports, in the form and containing the information that the Secretary may require to—

(A) Carry out the functions of the Secretary under this program; and

(B) Determine the extent to which funds provided under this program have been effective in improving the educational opportunities of Indian Students in the area served;

(iii) The applicant will keep records and will afford the Secretary access to these records as the Secretary may find necessary to assure the correctness and verification of reports made by the applicant;

(iv) The applicant will use the best available talents and resources, including persons from the Indian community, and will substantially increase the educational opportunities of Indian children in the area to be served by the proposed project;

(v) The applicant has developed the project for which application is made—

(A) In open consultation with parents of Indian children—including persons acting *in loco parentis* other than school administrators or officials—teachers, and, where applicable, secondary school students, including one or more public hearings that meet the requirements of § 215.21; and

(B) With the participation and approval of a parent committee selected in accordance with § 215.20;

(vi) The parent committee selected in accordance with § 251.20 will adopt and abide by reasonable by-laws for the conduct of the project for which assistance is sought;

(vii) The applicant will privide for methods of administration as are necessary for the proper and efficient operation of the project;

(viii) The applicant has fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, funds the applicant receives under this program;

(ix) The applicant will adopt effective procedures, including provisions for appropriate objective measurement of educational achievement, to evaluate at least annually the efectiveness of the proposed project in meeting the special educational needs of Indian students; and

(x) In the case of an application for funds for planning—

(A) The planning was or will be directly related to projects to be carried out under 34 CFR Parts 251, 252, or 253 and has resulted, or is reasonably likely to result in a project that will be carried out under 34 CFR Parts 251, 252, or 253; and

(B) The planning funds are needed because of the innovative nature of the project or because the LEA lacks the resources necessary to plan adequately for projects to be carried out under 34 CFR Parts 251, 252, or 253;

(4) Include a copy of or describe the policies and procedures that assure that funds made available under this program for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of funds that would, in the absence of funds under this program, be made available by the applicant for the education of Indian children, and in no case to supplant those funds of the applicant; and

(5) Include a copy of or describe the policies and procedures, including those relating to the hiring of personnel, as will insure that the project for which the applicant seeks assistance will be operated and evaluated in consultation with, and with the involvement of, parents of the children and representatives of the area to be served, including the parent commmittee established under § 251.20

(c) *Special application provisions.* With regard to the requirements in paragraph (b) of this section, in order to reduce the burden on applicants, the Secretary may recommend each year in the application notice the minimum number of pages with which an applicant may satisfy the requirements in paragraphs(b)(1), (4), and (5) of this section.

(d) *Tribal schools.* An applicant for assistance to support a tribal school shall comply with paragraphs(a), (b), and (c) of this section with the exception of those provisions that refer to a parent committee.

(20 U.S.C. 241dd)

## Subpart D—How Does the Secretary Make a Grant?

**§ 251.30 How does the Secretary determine the amount of a grant?**

(a) The Secretary determines the amount an applicant receives any fiscal year on the basis of the formula in section 303(a), Part A, of the Indian Education Act.

(b) Under the statutory formula, the Secretary computes the amount of the grant to which an applicant is entitled by multiplying—

(1) The number of Indian children enrolled in the schools of the applicant and to whom the applicant provides free public education; by

(2) The average per pupil expenditure for the LEA as determined under section 303(a)(2)(c), Part A, of the Indian Education Act.

(c) In setting the actual amount of a grant, the Secretary, if necessary on the basis of available appropriations, reduces an applicant's entitlement amount proportionately with that of all other applicants.

(20 U.S.C. 241bb(a), 241ff(a))

### Subpart E—What Conditions Must Be Met by a Grantee?

**§ 251.40 What is the maintenance of effort required for LEAs?**

(a) The Secretary does not make payments to an LEA for any fiscal year unless the appropriate SEA finds that the combined fiscal effort of that LEA and the State with respect to the provision of free public education by that LEA for the preceding fiscal year was not less than the combined fiscal effort for that purpose for the second preceding fiscal year.

(b)(1) For the purpose of making the finding described in paragraph (a) of this section, a SEA may compute combined fiscal effort on the basis of either aggregate expenditures or per pupil expenditure.

(2)(i) "Aggregate expenditures" means expenditures by the LEA and the State for free public education provided by that LEA.

(ii) The term includes expenditures for administration, instruction, attendance, health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student activities.

(iii) The term does not include expenditures for community services, capital outlay and debt service, or any expenditures from funds granted under any Federal program of assistance.

(3) "Per pupil expenditure" means aggregate expenditures divided by the number of pupils in average daily attendance at the LEA's schools—as determined in accordance with State law—during the fiscal year for which the computation is made.

(20 U.S.C. 241ee(b)(2) 90)

### Subpart F—What Are the Administrative Responsibilities of a Grantee?

**§ 251.50 What are the responsibilities of a grantee regarding student certification?**

For each student included in the count of Indian students on which the amount of a grant is based, a grantee shall keep on file the student certification form prescribed by the Secretary.

(20 U.S.C. 241bb–241dd)

3. Part 252 is revised to read as follows:

## PART 252—INDIAN-CONTROLLED SCHOOLS—ESTABLISHMENT

### Subpart A—General

Sec.



### Subpart B—What Kinds of Activities Does the Secretary Assist Under This Program?



### Subpart C—How Does One Apply for a Grant?



### Subpart D—How Does the Secretary Make a Grant?



**Authority:** Title IV, Part A, Pub. L. 92-318 (the Indian Education Act), 86 Stat. 334, as amended (20 U.S.C. 241bb(b)), unless otherwise noted.

### Subpart A—General

**§ 252.1 Indian Controlled Schools—Establishment.**

This program, Indian Controlled Schools—Establishment, provides financial assistance to establish and operate Indian-controlled schools or LEAs on or near reservations.

(20 U.S.C. 241bb(b))

**§ 252.2 Who is eligible for assistance under this program?**

Under this program any applicant among the following is eligible for assistance if it operates or plans to establish and operate a school for Indian children that is located on or geographically near one or more reservations:

(a) Indian tribes.

(b) Indian organizations.

(c) Local educational agencies (LEAs) that have been in existence not more than three years.

(20 U.S.C. 241bb(b))

**§ 252.3 What regulation apply to this program?**

The following regulations apply to this program:

(a) The regulations in 34 CFR Part 250.

(b) The following provisions in 34 CFR Part 251:

(1) (i) Section 251.20, relating to the selection of the parent committee.

(ii) However, this requirement does not apply to an Indian tribe or Indian organization.

(iii) If an applicant LEA has formed or is forming a parent committee under 34 CFR 251.20 for the purpose of applying for a grant under 34 CFR Part 251 (Formula Grants-Local Educational Agencies and Tribal Schools), the LEA may have that committee serve as the parent committee for the purpose of this program.

(2) Section 251.21, relating to the holding of one or more public hearings.

(3) Section 251.22(a), (b), and (d), relating to the contents of an application.

(4) (i) Section 251.40, relating to the maintenance of effort required for LEAs.

(ii) However, this requirement does not apply to an Indian tribe or Indian organization.

(c) (1) The regulations in this Part 252.

(2) However, an Indian tribe or Indian organization is not subject to any provisions of this part relating to the parent committee.

(20 U.S.C. 241bb (b), dd)

**§ 252.4 What definitions apply to this program?**

The definitions in 34 CFR 250.4 apply to this program.

(20 U.S.C. 241aa–241ff)

### Subpart B—What kinds of Activities Does the Secretary Assist Under This Program?

**§ 252.10 What types of projects may be funded?**

(a) In the case of an application from an Indian tribe or Indian organization, the Secretary may fund a project designed to—

(1) Assume control over and operate a school previously operated by the Federal Government, the State, an LEA, or a private organization;

(2) Establish and operate a school for Indian children; or

(3) Establish and operate an LEA.

(b) In the case of an application from an LEA, the Secretary may fund a project listed in paragraphs (a)(1) and (2) of this section.

(20 U.S.C. 241bb(b))

### Subpart C—How Does One Apply for a Grant?

**§ 252.20 What must an application include?**

In addition to addressing the criteria in § 252.31, an applicant shall comply with the application requirements in 34 CFR 251.22 (a), (b), and (d). The provisions of 34 CFR 251.22(c), regarding special application provisions, do not apply to this part.

(20 U.S.C. 241dd(a) (1), (2), (5), (7); 241bb(b))

### Subpart D—How Does the Secretary Make a Grant?

#### § 252.30 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application on the basis of the criteria in § 252.31.

(b) The Secretary awards up to 100 possible total points for these criteria.

(c) The maximum possible score for each complete criterion is indicated in parentheses.

(U.S.C. 241bb(b))

#### § 252.31 What selection criteria does the Secretary use?

The Secretary uses the following selection criteria in evaluating each application:

(a) *Need.* (20 points)

(1) The Secretary reviews each application to determine the need for the school or LEA that the applicant proposes to operate.

(2) In making this determination, the Secretary considers—

(i) The educational needs of the Indian children to be served by the school or LEA—as indicated by academic achievement levels, dropout rates, standardized test scores, or other appropriate measures—and the extent to which the schools these children currently attend are inadequate to meet these needs;

(ii) The extent to which the school or LEA for which assistance is sought will help meet these needs and substantially increase educational opportunities for Indian children;

(iii) Cultural factors or other reasons that justify the need for an Indian-controlled school or LEA; and

(iv) An explanation of why the applicant lacks the financial resources to conduct the project.

(b) *Plan of operation.* (20 points)

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the project.

(2) The Secretary looks for information that shows—

(i) High quality in the design of the project;

(ii) An effective plan of management that ensures proper and efficient administration of the project;

(iii) A clear description of how the objectives of the project relate to the purpose of the program and the way the applicant plans to use its resources and personnel to achieve each objective;

(iv) An activity plan, including procedures to increase interaction between teachers and children—and their parents—served by these teachers.

(c) *Parental and community involvement.* (10 points)

(1) The Secretary reviews each application to determine the extent to which parents of the children to be served and other members of the Indian community are involved in the project.

(2) The Secretary looks for information that shows that parents and other members of the Indian community—

(i) Were involved in planning and developing the project; and

(ii) Will be involved in operating and evaluating the project.

(d) *Quality of key personnel.* (10 points)

(1) The Secretary reviews each application for information that shows the qualifications of the key personnel the applicant plans to use on the project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director;

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (d)(2) (i) and (ii) of this section will commit to the project; and

(iv) The extent to which the applicant will give preference to Indians in the hiring of project staff.

(3) To determine personnel qualifications, the Secretary considers experience and training in fields related to the objectives of the project, as well as other information that the applicant provides.

(e) *Budget and cost effectiveness.* (10 points)

(1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(f) *Evaluation plan.* (20 points)

(1) The Secretary reviews each application for information that shows the quality of the evaluation plan for the project.

(2) In making this determination, the Secretary considers—

(i) How well the evaluation will measure—

(A) The project's effectiveness in meeting each objective; and

(B) The impact of the project on the children involved;

(ii) The applicant's plan for collecting and analyzing data including—

(A) The appropriateness of the instruments to collect the data;

(B) The appropriateness of the method for analyzing the data; and

(C) The timetable for collecting and analyzing the data; and

(iii) Procedures for—

(A) Periodic assessment of the progress of the project; and

(B) If necessary, modification of the project as a result of that assement.

(g) *Adequacy of resources.* (10 points)

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the project.

(2) The Secretary looks for information that shows—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(20 U.S.C. 241bb(b))

4. Part 253 is revised to read as follows:

## PART 253—INDIAN-CONTROLLED SCHOOLS—ENRICHMENT PROJECTS

### Subpart A—General

Sec.



### Subpart B—What Kinds of Activities Does the Secretary Assist Under This Program?



### Subpart C—How Does One Apply for a Grant?



### Subpart D—How Does the Secretary Make a Grant?



**Authority:** Title IV, Part A, Pub. L. 92-318 (the Indian Education Act), 86 Stat. 334, as amended (20 U.S.C. 241bb(b)), unless otherwise noted.

### Subpart A—General

#### § 253.1 Indian-Controlled Schools—Enrichment Projects.

This program, Indian Controlled Schools—Enrichment Projects, provides financial assistance for educational enrichment projects designed to meet the special educational and culturally related academic needs of Indian children in Indian-controlled elementary and secondary schools.

(20 U.S.C. 241bb(b))

**§ 253.2 Who is eligible for assistance under this program?**

Under this program any applicant among the following is eligible for assistance if it operates or plans to establish and operate a school for Indian children that is located on or geographically near one or more reservations:

(a) Indian tribes.

(b) Indian organizations.

(c) Local educational agencies (LEAs) that have been in existence not more than three years.

(20 U.S.C. 241bb(b))

**§ 253.3 What regulations apply to this program?**

The following regulations apply to this program:

(a) The regulations in 34 CFR Part 250.

(b) The following provisions in 34 CFR Part 251:

(1)(i) Section 251.20, relating to the selection of the parent committee.

(ii) However, this requirement does not apply to an Indian tribe or Indian organization.

(iii) If an applicant LEA has formed or is forming a parent committee under 34 CFR 251.20 for the purpose of applying for a grant under 34 CFR Part 251 (Formula Grants—Local Educational Agencies and Tribal Schools) or a grant under 34 CFR Part 252 (Indian-Controlled Schools—Establishment), the LEA may have that committee serve as the parent committee for the purposes of this program.

(2) Section 251.21, relating to the holding of one or more public hearings.

(3) Section 251.22 (a), (b), and (d), relating to the contents of an application.

(4)(i) Section 251.40, relating to the maintenance of effort required for LEAs.

(ii) However, this requirement does not apply to an Indian tribe or Indian organization.

(c)(1) The regulations in this Part 253.

(2) However, an Indian tribe or Indian organization is not subject to any provisions of this part relating to the parent committee.

(20 U.S.C. 241bb(b), dd)

**§ 253.4 What definitions apply to this program?**

The definitions in 34 CFR 250.4 apply to this program.

(20 U.S. 241aa–241ff)

## Subpart B—What Kinds of Activities Does the Secretary Assist Under This Program?

**§ 253.10 What types of projects may be funded?**

(a) The Secretary may fund applications proposing projects that include, but are not limited to, those designed to—

(1) Improve acquisition of basic academic skills;

(2) Stimulate interest in careers;

(3) Stiumulate interest in tribal culture and organization;

(4) Prevent school dropouts and reduce absenteeism;

(5) Establish or improve preschool education programs, including kindergarten; or

(6) Develop or improve instructional materials.

(b) The activities listed in paragraph (a) of this section are examples of projects the Secretary may fund under this program. An applicant may propose to carry out one or more of these activities or any other activity that meets the purpose of this program.

(20 U.S.C. 241bb(b))

## Subpart C—How Does One Apply for a Grant?

**§ 253.20 What must an application include?**

In addition to addressing the criteria in § 253.31, an applicant shall comply with the application requirements in 34 CFR 251.22(a), (b), and (d). The provisions of 34 CFR 251.22(c), regarding special application provisions, do not apply to this part.

(20 U.S.C. 241dd(a) (1), (2), (5), (7); 241bb(b))

## Subpart D—How Does the Secretary Make a Grant?

**§ 253.30 How does the Secretary evaluate an application?**

(a) The Secretary evaluates an application on the basis of the criteria in § 253.31.

(b) The Secretary awards up to 100 possible total points for these criteria.

(c) The maximum possible score for each complete criterion is indicated in parentheses.

(20 U.S.C. 241bb(b))

**§ 253.31 What selection criteria does the Secretary use?**

The Secretary uses the following selection criteria in evaluating each application:

(a) *Need.* (20 points)

(1) The Secretary reviews each application to determine the need for the proposed project.

(2) In making this determination, the Secretary considers—

(i) The educational needs to be addressed by the project, including the extent and severity of these needs as indicated by the number and percentage of Indian children with the needs in the area to be served by the project and by such factors as droput rates, academic achievement levels, standardized test scores, or other appropriate measures;

(ii) A description of the efforts being made to meet these needs and an explanation of why these efforts are insufficient;

(iii) A clear description of the educational approach to be used and why the applicant has chosen this approach;

(iv) Evidence that the approach is likely to be successful with the children who will participate in the project; and

(v) An explanation of why the applicant lacks the financial resources to conduct the project.

(b) *Plan of operation.* (20 points)

(1) The secretary reviews each application to determine the quality of the plan of operation for the project.

(2) In making this determination, the Secretary looks for—

(i) A clear statement of the purpose of the project;

(ii) Objectives that are—

(A) Related to the purpose of the project;

(B) Sharply defined;

(C) Stated in measurable terms; and

(D) Capable of being achieved within the project period;

(iii) An activity plan, including a timeline, that clearly and realistically outlines the activities related to each objective; and

(iv) A plan for effective administration of the project.

(c) *Parental and community involvement.* (10 points)

(1) The Secretary reviews each application to determine the extent to which parents of the children to be served and other members of the Indian community are involved in the project.

(2) The Secretary looks for information that shows that parents and other members of the Indian community—

(i) Were involved in planning and developing the project; and

(ii) Will be involved in operating and evaluating the project.

(d) *Quality of key personnel.* (10 points)

(1) The Secretary reviews each application for information that shows the qualifications of the key personnel the applicant plans to use for the project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director;

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (d)(2)(i) and (ii) of this section will commit to the project; and

(iv) The extent to which the applicant will give preference to Indians in the hiring of project staff.

(3) To determine personnel qualifications, the Secretary considers experience and training in fields related to the objectives of the project, as well as other information that the applicant provides.

(e) *Budget and cost effectiveness.* (10 points)

(1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(f) *Evaluation plan.* (20 points)

(1) The Secretary reviews each application for information that shows the quality of the evaluation plan for the project.

(2) In making this determination, the Secretary considers—

(i) How well the evaluation will measure—

(A) The project's effectiveness in meeting each objective; and

(B) The impact of the project on the children involved;

(ii) The applicant's plan for collecting and analyzing data, including—

(A) The appropriateness of the instruments to collect the data;

(B) The appropriateness of the method for analyzing the data; and

(C) The timetable for collecting and analyzing the data; and

(iii) Procedures for—

(A) Periodic assessment of the progress of the project; and

(B) If necessary, modification of the project as a result of that assessment.

(g) *Adequacy of resources.* (10 points)

(1) The Secretary reviews each application to determine the extent to which the resources to be devoted to the project are adequate.

(2) In making this determination, the Secretary looks for information that shows—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(20 U.S.C. 241bb(b))

## PART 254—DEMONSTRATION PROJETS—LOCAL EDUCATIONAL AGENCIES [REMOVED]

5. Part 254 is removed.

6. Part 255 is redesignated as Part 254 and is revised to read as follows:

## PART 254—EDUCATIONAL SERVICES FOR INDIAN CHILDREN

### Subpart A—General

Sec.



### Subpart B—What Kinds of Activities Does the Secretary Assist Under This Program?



### Subpart C—How Does One Apply for a Grant?



### Subpart D—How Does the Secretary Make a Grant?



**Authority:** Title IV, Part B, Pub. L. 92-318 (the Indian Education Act), 86 Stat. 339, as amended (20 U.S.C. 3385(a), (c)), unless otherwise noted.

### Subpart A—General

#### § 254.1 Educational Services for Indian Children.

This program, Educational Services for Indian Children, provides financial assistance for—

(a) Projects designed to improve educational opportunities for Indian children by providing educational services that are not available in sufficient quantity or quality to those children; and

(b) Enrichment projects that introduce innovative and exemplary approaches, methods, and techniques into the education of Indian children in elementary and secondary schools.

(20 U.S.C. 3385(a), (c))

#### § 254.2 Who is eligible for assistance under this program?

The following are eligible for assistance under this program:

(a) State educational agencies (SEAs).

(b) Local educational agencies (LEAs).

(c) Indian tribes.

(d) Indian organizations.

(e) Indian institutions.

(20 U.S.C. 3385(c))

#### § 254.3 What regulations apply to this program?

The following regulations apply to this program:

(a) The regulations in 34 CFR Part 250.

(b) The regulations in this Part 254.

(20 U.S.C. 3385 (a), (c))

#### § 254.4 What definitions apply to this program?

The definitions in 34 CFR 250.4 apply to this program.

(20 U.S.C. 3385 (a), (c))

### Subpart B—What Kinds of Activities Does the Secretary Assist Under This Program?

#### § 254.10 What types of projects may be funded?

(a) The Secretary may fund applications proposing projects that include, but are not limited to, those designed to—

(1) Improve acquisition of basic academic skills;

(2) Provide special educational services for handicapped and for gifted and talented Indian children;

(3) Stimulate interest in careers;

(4) Establish after-school educational centers;

(5) Stimulate interest in tribal culture and organization;

(6) Prevent school dropouts and reduce absenteeism;

(7) Establish or improve preschool education, including kindergarten;

(8) Provide guidance, counseling, and testing services; or

(9) Develop or improve instructional materials.

(b) The types of projects listed in paragraph (a) of this section are examples of projects the Secretary may fund under this program. An applicant may propose to carry out one or more of these activities or any other activity that meets the purposes of this program.

(20 U.S.C. 3385 (a)(2), (c))

### Subpart C—How Does One Apply for a Grant?

#### § 254.20 What must an application include?

(a) An application must contain the following:

(1) A description of the activities for which the applicant seeks assistance, including a statement of the number of

children who will be served in the proposed project.

(2) An assurance that the applicant will provide for an evaluation of the effectiveness of the project in achieving its purposes and the purposes of this program.

(3) A description of a plan that would make adequate provision for the training of the personnel participating in the project.

(4) Information showing that the applicant will provide for the use of funds available under this program, and for other resources available to the applicant, in order to insure that, within the scope of the purpose of the project, there will be a comprehensive program to improve the educational opportunities of Indian children.

(b) The Secretary does not approve an application for a grant under this part unless—

(1) The Secretary is satisfied that the application, and any documents submitted with the application, show that there has been adequate participation by the parents of the children to be served and tribal communities in the planning and development of the project, and that they will participate in the operation and evaluation of the project; and

(2) The Secretary is satisfied that the application—to the extent consistent with the number of eligible children in the area to be served who are enrolled in private nonprofit elementary and secondary schools whose needs are of the type that the program is intended to meet—makes provision for the particpation of these children on an equitable basis.

(20 U.S.C. 3385(f)(1))

## Subpart D—How Does the Secretary Make a Grant?

### § 254.30 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application on the basis of the criteria in § 254.32.

(b) The Secretary awards up to 100 possible total points for these criteria.

(c) The maximum possible score for each complete criterion is indicated in parentheses.

(20 U.S.C. 3385 (c), (f)(1))

### § 254.31 To what applicants does the Secretary give priority?

In addition to the points awarded under § 254.32, the Secretary awards 25 points to each application from an Indian tribe, Indian organization, or Indian institution.

(20 U.S.C. 3385(f)(1))

### § 254.32 What selection criteria does the Secretary use?

The Secretary uses the following selection criteria in evaluating each application:

(a) *Need.* (20 points)

(1) The Secretary reviews each application to determine the need for the proposed services.

(2) In making this determination, the Secretary considers—

(i) The needs to be addressed by the project, including the extent and severity of these needs as indicated by the number and percentage of Indian children in the area to be served by the project who require the proposed services and by such factors as dropout rates, academic achievement levels, standardized test scores, or other appropriate measures;

(ii) A description of other services in the area—including those offered by the applicant—that are designed to meet the same needs as those to be addressed by the project and the number of Indian children who receive these other services;

(iii) Evidence that these other services are insufficient in either quantity or quality or both, or an explanation of why they are not used by children who require the proposed services; and

(iv) An explanation of why the applicant lacks the financial resources to conduct the project.

(b) *Plan of operation.* (20 points)

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the project.

(2) In making this determination, the Secretary looks for—

(i) A clear statement of the purpose of the project;

(ii) Objectives that are—

(A) Related to the purpose of the project;

(B) Sharply defined;

(C) Stated in measurable terms; and

(D) Capable of being achieved within the project period;

(iii) An activity plan, including a timeline, that clearly and realistically outlines the activities related to each objective; and

(iv) A plan for effective administration of the project.

(c) *Parental and community involvement.* (10 points)

(1) The Secretary reviews each application to determine the extent to which parents and other members of the Indian community are involved in the project.

(2) The Secretary looks for information that shows that parents and other members of the Indian community—

(i) Were involved in planning and developing the project; and

(ii) Will be involved in operating and evaluating the project.

(d) *Quality of key personnel.* (10 points)

(1) The Secretary reviews each application to determine the quality of the staff that the applicant plans to use for the project.

(2) In making this determination, the Secretary considers—

(i) The qualifications of the project director;

(ii) The qualifications of each of the other key personnel to be used in the project;

iii) The time that each person referred to in paragraphs (d)(2) (i) and (ii) of this section will commit to the project; and

(iv) The extent to which the applicant will give preference to Indians in the hiring of project staff.

(3) To determine personnel qualifications, the Secretary considers experience and training in fields related to the objectives of the project, as well as other information that the applicant provides.

(e) *Budget and cost effectiveness. (10 points)*

(1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(f) *Evaluation plan.* (20 points)

(1) The Secretary reviews each application to determine the quality of the plan for evaluating the project.

(2) In making this determination, the Secretary considers—

(i) How well the evaluation will measure—

(A) The project's effectiveness in meeting each objective; and

(B) The impact of the project on the children involved;

(ii) The applicant's plan for collecting and analyzing data, including—

(A) The appropriateness of the instruments to collect the data;

(B) The appropriateness of the method for analyzing the data; and

(C) The timetable for collecting and analyzing the data; and

(iii) Procedures for—

(A) Periodic assessment of the progress of the project; and

(B) If necessary, modification of the project as a result of that assessment.

(g) *Adequacy of resources.* (10 points)

(1) The Secretary reviews each application to determine the extent to which the resources to be devoted to the project are adequate.

(2) In making this determination the Secretary looks for information that shows—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(20 U.S.C. 3385(c), (f) (1))

7. Part 256 is redesignated as Part 255 and is revised to read as follows:

## PART 255—PLANNING, PILOT, AND DEMONSTRATION PROJECTS FOR INDIAN CHILDREN

### Subpart A—General

Sec.



### Subpart B—What Kinds of Activities Does the Secretary Assist Under This Program?



### Subpart C—How Does One Apply for a Grant?



### Subpart D—How Does the Secretary Make a Grant?



Authority: Title IV, Part B, Pub. L. 92-318 (the Indian Education Act), 86 Stat. 339, as amended (20 U.S.C. 3385(a), (b)), unless otherwise noted.

### Subpart A—General

#### § 255.1 Planning, Pilot, and Demonstration Projects for Indian Children.

This program, Planning, Pilot, and Demonstration Projects for Indian Children, provides financial assistance for planning, pilot, and demonstration projects designed to create, test, and demonstrate the effectiveness of programs for improving educational opportunities for Indian children.

(20 U.S.C. 3385 (a)(1), (b))

#### § 255.2 Who is eligible for assistance under this program?

The following are eligible for assistance under this program:

(a) State educational agencies (SEAs).

(b) Local educational agencies (LEAs).

(c) Indian tribes.

(d) Indian organizations.

(e) Indian institutions.

(f) Federally supported elementary and secondary schools for Indian children.

(20 U.S.C. 3385(b))

#### § 255.3 What regulations apply to this program?

The following regulations apply to this program:

(a) The regulations in 34 CFR Part 250.

(b) The regulations in this Part 255.

(20 U.S.C. 3385 (a), (b))

#### § 255.4 What definitions apply to this program?

The definitions in 34 CFR 250.4 apply to this program.

(20 U.S.C. 3385 (a), (b))

### Subpart B—What Kind of Activities Does the Secretary Assist Under This Program?

#### § 255.10 What types of projects may be funded?

(a)(1) The Secretary may fund applictions proposing projects designed to plan, test or demonstrate the effectiveness of programs for improving educational opportunities for Indian children.

(2) An applicant may apply for one or more of the types of grants listed in § 255.20(a)(2).

(3) An applicant may not apply for more than one type of grant for each proposed project.

(b) Proposed planning, pilot, or demonstration projects may include, but are not limited to—

(1) Activities designed to develop, test, replicate, or adapt—

(i) Curricular materials to improve the academic achievement of Indian children;

(ii) Successful educational practices to improve the academic achievement of Indian children;

(iii) Programs related to the educational needs of educationally deprived Indian children; or

(iv) Techniques to lower the school dropout rate or reduce absenteeism among Indian children;

(2) Development, testing and validation, or demonstration of materials appropriate for measuring the academic achievement of Indian children; or

(3) Coordination of the operation of other federally assisted programs that may be used to assist in meeting the educational needs of Indian children.

(c) The types of projects listed in paragraph (b) of this section are examples of projects the Secretary may fund under this program. An applicant may propose to carry out one or more of these activities or any other activity that meets the purposes of this program.

(d) *Priorities.* (1) Each year the Secretary may select for priority for planning, pilot, or demonstration grants one or more of the types of projects listed in paragrph (b) of this section.

(2) The Secretary publishes the selected priorities, if any, in a notice in the Federal Register.

(20 U.S.C. 3385 (a)(1), (b))

### Subpart C—How Does One Apply for a Grant?

#### § 255.20 What must an application include?

(a)(1) An applicant shall submit a separate application for each proposed project.

(2) The applicant shall specify whether its application is for—

(i) A planning grant;

(ii) A pilot grant; or

(iii) A demonstration grant.

(b) An application must contain the following:

(1) A description of the activities for which the applicant seeks assistance, including a statement of the number of children who will participate in the proposed project.

(2) An assurance that the applicant will provide for an evaluation of the effectiveness of the project in achieving its purposes and the purposes of this program.

(c) The Secretary does not approve an application for a grant under this program unless—

(1) The Secretary is satisfied that the application, and any documents submitted with the application, show that there has been adequate participation by the parents of the children to be served and tribal communities in the planning and development of the project, and that they will participate in the operation and evaluation of the project; and

(2) The Secretary is satisfied that the application—to the extent consistent with the number of eligible children in the area to be served who are enrolled in private nonprofit elementary and secondary schools whose needs are of the type which the program is intended to meet— makes provision for the

participation of these children on an equitable basis.

(20 U.S.C. 3385(b), (f)(1))

## Subpart D—How Does the Secretary Make a Grant?

### § 255.30 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application on the basis of the applicable criteria in §§ 255.32, 255.33, or 255.34, depending on the type of grant for which the applicant has applied.

(b) The Secretary awards up to 100 possible total points for the criteria established for each type of grant.

(c) The maximum possible score for each complete criterion is indicated in parentheses.

(20 U.S.C. 3385(b))

### § 255.31 To what applicants does the Secretary give priority?

In addition to the points awarded under §§ 255.32, 255.33, or 255.34, the Secretary—

(a) Awards 25 points to each application from an Indian tribe, Indian organization, or Indian institution; and

(b)(1) May award up to 10 points to an application for the extent to which the applicant addresses the priorities, if any, selected by the Secretary under § 255.10(d); or

(2) May give absolute preference to each application that addresses these priorities.

(20 U.S.C. 3385(f)(1))

### § 255.32 What selection criteria does the Secretary use for a planning grant?

The Secretary uses the following selection criteria in evaluating each application for a planning grant:

(a) *Need.* (20 points)

(1) The Secretary reviews each application to determine the need for and soundness of the rationale for the planning project.

(2) In making this determination, the Secretary looks for—

(i) An identification and description of the specific problem to be addressed and evidence that the problem is of significant magnitude among Indian children:

(ii) A clear statement of the educational approach to be developed;

(iii) A description of the literature review, site visits, or other appropriate activity that shows that the applicant has made a serious attempt to learn from other projects that address similar needs or have tried similar approaches; and

(iv) Evidence that the project is likely to serve as a model for communities with similar educational needs.

(b) *Plan of operation.* (20 points)

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the planning project.

(2) In making this determination, the Secretary looks for information that shows—

(i) A clear statement of the purpose of the project;

(ii) Objectives that are—

(A) Related to the purpose of the project;

(B) Sharply defined;

(C) Stated in measurable terms; and

(D) Capable of being achieved within the project period.

(iii) An activity plan, including a timeline, that clearly and realistically outlines the activities related to each objective; and

(iv) A plan for effective administration of the project.

(c) *Parental and community involvement.* (10 points)

(1) The Secretary reviews each application to determine the extent to which parents of the children to be served and other members of the Indian community are involved in the planning project.

(2) The Secretary looks for information that shows that parents and other members of the Indian community—

(i) Were involved in planning and developing the project; and

(ii) Will be involved in operating and evaluating the project.

(d) *Quality of key personnel.* (10 points)

(1) The Secretary reviews each application for information that shows the qualifications of the key personnel the applicant plans to use for the planning project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director;

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (d)(2) (i) and (ii) of this section will commit to the project; and

(iv) The extent to which the applicant will give preference to Indians in the hiring of project staff.

(3) To determine personnel qualifications, the Secretary considers experience and training in fields related to the objectives of the project, as well as other information that the applicant provides.

(e) *Budget and cost effectiveness.* (10 points)

(1) The Secretary reviews each application for information that shows that the planning project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(f) *Evaluation plan.* (20 points)

(1) The Secretary reviews each application to determine the quality of the plan for evaluating the planning project.

(2) In making this determination, the Secretary considers—

(i) How well the evaluation will measure the project's effectiveness in meeting each objective;

(ii) The applicant's plan for collecting and analyzing data, including—

(A) The appropriateness of the instruments to collect the data;

(B) The appropriateness for the method of analyzing the data; and

(C) The timetable for collecting and analyzing the data; and

(iii) Procedures for—

(A) Periodic assessment of the progress of the project; and

(B) If necessary, modification of the project as a result of that assessment.

(g) *Adequacy of resources.* (10 points)

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the planning project.

(2) The Secretary looks for information that shows—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(20 U.S.C. 3385(b), (f) (1))

### § 255.33 What selection criteria does the Secretary use for a pilot grant?

The Secretary uses the following selection criteria in evaluating each application for a pilot grant:

(a) *Need.* (20 points)

(1) The Secretary reviews each application to determine the need for and the soundness of the rationale for the pilot project;

(2) In making this determination, the Secretary looks for—

(i) An identification and description of the specific problem to be addressed and evidence that the problem is of significant magnitude among Indian children;

(ii) A clear statement of the educational approach to be tested in the project;

(iii) Evidence that—

(A) The plan on which the pilot project is based included an adequate literature review, site visits, or other appropriate activity; and

(B) The applicant has made a serious attempt to learn from research and from other projects that address similar needs or that have tried similar approaches; and

(iv) Evidence that the project is likely to serve as a model for communities with similar educational needs.

(b) *Plan of operation.* (20 points)

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the pilot project.

(2) The Secretary looks for information that shows—

(i) A clear statement of the purpose of the project;

(ii) Objectives that are—

(A) Related to the purpose of the project;

(B) Sharply defined;

(C) Stated in measurable terms; and

(D) Capable of being achieved within the project period.

(iii) An activity plan, including a timeline, that clearly and realistically outlines the activities related to each objective; and

(iv) A plan for effective administration of the project.

(c) *Parental and community involvement.* (10 points)

(1) The Secretary reviews each application to determine the extent to which the parents of the children to be served and other members of the Indian community are involved in the pilot project.

(2) The Secretary looks for information that shows that parents and other members of the Indian community—

(i) Were involved in planning and developing the project; and

(ii) Will be involved in operating and evaluating the project.

(d) *Quality of key personnel.* (10 points)

(1) The Secretary reviews each application for information that shows the qualifications of the key personnel the applicant plans to use for the pilot project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director;

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (d)(2) (i) and (ii) of this section will commit to the project;

(iv) The extent to which the applicant will give preference to Indians in the hiring of project staff; and

(v) The procedures the applicant intends to use to train staff for implementing the project.

(3) To determine personnel qualifications, the Secretary considers experience and training in fields related to the objectives of the project, as well as other information that the applicant provides.

(e) *Budget and cost effectiveness.* (10 points)

(1) The Secretary reviews each application for information that shows that the pilot project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(f) *Evaluation plan.* (20 points)

(1) The Secretary reviews each application to determine the quality of the plan for evaluating the pilot project.

(2) In making this determination the Secretary considers—

(i) How well the evaluation will measure—

(A) The project's effectiveness in meeting each objective; and

(B) The impact of the project on the children involved;

(ii) The applicant's plan for collecting and analyzing data, including—

(A) The appropriateness of the instruments to collect the data;

(B) The appropriateness of the method for analyzing the data; and

(C) The timetable for collecting and analyzing the data; and

(iii) Procedures for—

(A) Periodic assessment of the progress of the project; and

(B) If necessary, modification of the project as a result of that assessment.

(g) *Adequacy of resources.* (10 points)

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the pilot project.

(2) The Secretary looks for information that shows—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(20 U.S.C. 3385 (b), (f)(1))

**§ 255.34 What selection criteria does the Secretary use for a demonstration grant?**

The Secretary uses the following selection criteria in evaluating each application for a demonstration grant:

(a) *Need.* (15 points)

(1) The Secretary reviews each application to determine the need for and the soundness of the rationale for the demonstration project.

(2) In making this determination, the Secretary looks for—

(i) An identification and description of the specific problem to be addressed and evidence that the problem is of sufficient magnitude among Indian children;

(ii) A clear statement of the educational approach to be demonstrated and evidence that the project is likely to serve as a model for communities with similar educational needs; and

(iii) Evidence that—

(A) The plan and pilot project on which the demonstration project is based included an adequate literature review, site visits, or other appropriate activity; and

(B) The applicant has made a serious attempt to learn from research and from other projects that address similar needs or have tried similar approaches.

(b) *Plan of operation.* (15 points)

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the demonstration project.

(2) In making this determination, the Secretary looks for information that shows—

(i) A clear statement of the purpose of the project;

(ii) Objectives that are—

(A) Related to the purpose of the project;

(B) Sharply defined;

(C) Stated in measurable terms; and

(D) Capable of being achieved within the project period;

(iii) An activity plan, including a timeline, that clearly and realistically outlines the activities related to each objective; and

(iv) A plan for effective administration of the project.

(c) *Parental and community involvement.* (10 points)

(1) The Secretary reviews each application to determine the extent to which the parents of the Indian children to be served and other members of the Indian community are involved in the demonstration project.

(2) The Secretary looks for information that shows that parents and other members of the Indian community—

(i) Were involved in planning and developing the project; and

(ii) Will be involved in operating and evaluating the project.

(d) *Quality of key personnel.* (10 points)

(1) The Secretary reviews each application for information that shows the qualifications of the key personnel to be used in the demonstration project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director;

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) the time that each person referred to in paragraphs (d)(2) (i) and (ii) of this section will commit to the development of the project;

(iv) The extent to which the applicant will give preference to Indians in the hiring of project staff; and

(v) The procedures the applicant intends to use to train staff, if necessary, for implementing the project.

(3) To determine personnel qualifications, the Secretary considers experience and training in fields related to the objectives of the project, as well as other information that the applicant provides.

(e) *Budget and cost effectiveness.* (10 points)

(1) The Secretary reviews each application for information that shows that the demonstration project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(f) *Evaluation plan.* (15 points)

(1) The Secretary reviews each application to determine the quality of the plan for evaluating the demonstration project.

(2) In making this determination, the Secretary considers—

(i) How well the evaluation will measure—

(A) The project's effectiveness in meeting each objective; and

(B) The impact of the project on the children involved;

(ii) The applicant's plan for collecting and analyzing data, including—

(A) The appropriateness of the instruments to collect the data;

(B) The appropriateness of the method for analyzing the data; and

(C) The timetable for collecting and analyzing the data; and

(iii) Procedures for—

(A) Periodic assessment of the progress of the project; and

(B) If necessary, modification of the project as a result of that assessment.

(g) *Dissemination.* (15 points)

(1) The Secretary reviews each application for evidence that the applicant has an effective and efficient plan for disseminating information about the demonstration project, including the results of the project and any specialized materials developed by the project.

(2) In making this determination, the Secretary looks for—

(i) Information that shows high quality in the design of the dissemination plan and procedures for evaluating the effectiveness of the dissemination plan;

(ii) A description of the types of materials the applicant plans to make available and the methods for making the materials available;

(iii) Provisions for demonstrating the methods and techniques used by the project;

(iv) Provisions for assisting interested schools in adapting or adopting and successfully implementing the project; and

(v) Provisions for publicizing the findings of the project at the local, State, or national level.

(h) *Adequacy of resources.* (10 points)

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the demonstration project.

(2) The Secretary looks for information that shows—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(20 U.S.C. 3385(b), (f)(1))

8. Part 257 is redesignated as Part 256 and is revised to read as follows:

## PART 256—EDUCATIONAL PERSONNEL DEVELOPMENT

### Subpart A—General

Sec.



### Subpart B—What Kinds of Activities Does the Secretary Assist Under These Programs?



### Subpart C—How Does One Apply for a Grant?



### Subpart D—How Does the Secretary Make a Grant?



### Subpart E—What Conditions Must Be Met by a Grantee?



### Subpart F—What Are the Administrative Responsibilities of a Grantee?



Authority: Title IV, Part B, Pub. L. 92-318, 86 Stat. 339, as amended (20 U.S.C. 3385); and the Indian Education Act, Section 422, as amended (20 U.S.C. 3385a) unless otherwise noted.

### Subpart A—General

#### § 256.1 Educational Personnel Development.

(a) Educational Personnel Development includes two programs supporting projects designed to—

(1) Prepare persons to serve Indian students as teachers, administrators, teacher aides, social workers, and ancillary educational personnel; and

(2) Impove the qualifications of persons serving Indian students in thes : capacities.

(b) The two programs included in Educational Personnel Development are—

(1) The program authorized by section 1005(d) of the Indian Education Act and referred to in this part as the Section 1005(d) Program; and

(2) The program authorized by section 422 of the Indian Education Act and referred to in this part as the Section 422 Program.

(20 U.S.C. 3385(d), 3385a)

#### § 256.2 Who is eligible for assistance under these programs?

(a) The following are eligible for assistance under the Section 1005(d) Program:

(1) Institutions of higher education.

(2) Local educational agencies (LEAs) in combination with institutions of higher education.

(3) State educational agencies (SEAs) in combination with institutions of higher education.

(b) The following are eligible for assistance under the Section 422 Program:

(1) Institutions of higher education.

(2) Indian tribes.

(3) Indian organizations.

(20 U.S.C. 3385(d), 3385a)

#### § 256.3 What regulations apply to these programs?

The following regulations apply to these programs:

(a) The regulations in 34 CFR Part 350.

(b) The regulations in this Part 256.

(20 U.S.C. 3385, 3385a)

**§ 256.4 What definitions apply to these programs?**

The definitions in 34 CFR 250.4 apply to these programs.

## Subpart B—What Kinds of Activities Does the Secretary Assist Under These Programs?

**§ 256.10 What types of projects may be funded?**

(a) The Secretary may fund applications proposing projects designed to—

(1) Prepare persons to serve Indian students as educational personnel or ancillary educational personnel, as described in paragraph (b) of this section;

(2) Improve the qualifications of persons serving Indian students in these types of positions; or

(3) Provide in-service training to persons serving Indian students in these types of positions.

(b) Projects assisted under these programs may prepare participants for position as such as teachers, special educators for handicapped or gifted and talented students, bilingual-bicultural specialists, guidance counselors, school psychologists, school administrators, teacher aides, social workers, adult education specialists or instructors, or college administrators.

(U.S.C. 3385(d), 3385a)

## Subpart C—How Does One Apply for a Grant?

**§ 252.20 What must an application include?**

(a) An application must contain the following:

(1) A description of the activities for which the applicant seeks assistance, including the total number of participants in the proposed project and the number and percentage of participants who will be Indian.

(2) A description of the plan for giving preference to Indians in the selection of participants in accordance with § 256.50

(3) Assurances that the applicant will—

(i) Provide for an evaluation of the effectiveness of the project in achieving its purposes and those of this program;

(ii) Provide in its final performance report information on the selection, academic performance, and job placement participants; and

(iii) Cooperate with follow-up studies of project participants conducted or authorized by the Secretary.

(b) The Secretary does not approve an application for a grant under the Section 1005(d) Program unless the Secretary is satisfied that the application—to the extent consistent with the number of eligible children in the area to be served who are enrolled in private nonprofit elementary and secondary schools whose needs are of the type which the program is intended to meet—makes provisions for the participation on an equitable basis of persons serving or preparing to serve these children as educational personnel or ancillary educational personnel.

(U.S.C. 3385(d), (f)(1))

## Subpart D—How Does the Secretary Make a Grant?

**§ 252.30 How does the Secretary evaluate an application?**

(a) The Secretary reviews and approves applications under the Section 1005(d) Program separately from applications under the Section 422 Program.

(b) The Secretary evaluates each application under either program on the basis of the criteria in § 256.32.

(c) The Secretary awards up to 100 possible total points for these criteria.

(d) The maximum possible score for each complete criterion is indicated in parentheses.

(U.S.C. 3385(d), 3385a)

**§ 256.31 To what applicants does the Secretary give priority?**

In addition to the points awarded under § 256.32, the Secretary awards—

(a) Ten points to each application proposing a project in which all participants will be enrolled in—

(1) A course of study resulting in a degree at the bachelor's level or higher; or

(2) Courses beyond the bachelor's degree.

(b) Ten points to each application under the Section 1005(b) Program from an Indian institution of higher education;

(c) Ten points to each application under the Section 1005(d) Program proposing a project in which 100 percent of the participants will be Indian.

(d) Fifteen points to each application under the Section 422 Program from an Indian institution of higher education, Indian tribe, or Indian organization.

(20 U.S.C. 3385(d), (f)(1), (335a)

**§ 256.32 What selection criteria does the Secretary use?**

The Secretary uses the following selection criteria in evaluating each application:

(a) *Need.* (20 points)

(1) The Secretary reviews each application to determine the need for the type of personnel to be trained.

(2) In making this determination the Secretary considers—

(i) The conclusions of and supporting evidence from a current needs assessment or other appropriate documentation; and

(ii) The recency of the assessment or other documentation.

(b) *Plan of operation.* (25 points)

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the project.

(2) In making this determination, the Secretary looks for—

(i) A clear statement of the purpose of the project;

(ii) Objectives that are—

(A) Related to the purpose of the project;

(B) Sharply defined;

(C) Stated in measurable terms; and

(D) Capable of being achieved within the project period.

(iii) An activity plan, including a timeline, that clearly and realistically outlines the activities related to each objective;

(iv) Techniques designed specifically to enable project participants to meet the needs of Indian students; and

(v) A plan for effective administration of the project.

(c) *Benefit to Indian students.* (10 points)

(1) The Secretary reviews each application to determine the likelihood that, after receiving training under the project, the participants will serve Indian students as educational personnel or ancillary educational personnel, as described in § 256.10(b).

(2) In making this determination, the Secretary considers—

(i) Policies or practices of the applicant, such as those governing selection of participants, that increase the likelihood that participants will serve Indian students on completion of the training; and

(ii) Evidence that, on completion of the training, participants will be able to obtain positions that involve the education of Indian students.

(d) *Quality of key personnel.* (15 points)

(1) The Secretary reviews each application to determine the quality of the staff that the applicant plans to use for the project.

(2) In making this determination, the Secretary considers—

(i) The qualifications of the project director;

(ii) The Qualifications of each of the other key personel to be used in the project;

(iii) The time that each person referred to in paragraphs (d) (2) (i) and (ii) of this section will commit to the project; and

(iv) The extent to which the applicant will give preference to Indians in the hiring of project staff.

(3) To determine personnel qualifications, the Secretary considers experience and training in fields related to the objectives of the project, as well as other information that the applicant provides.

(e) *Budget and cost effectiveness.* (10 points)

(1) The Secretary reviews each application to determine the extent to which the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(f) *Evaluation plan.* (10 points)

(1) The Secretary reviews each application to determine the quality of the plan for evaluating the project.

(2) In making this determination, the Secretary considers—

(i) How well the evaluation will measure—

(A) The project's effectiveness in meeting each objective; and

(B) The impact of the project on the participants; and

(ii) Procedures for—

(A) Periodic assessment of the progress of the project; and

(B) If necessary, modification of the project as a result of that assessment.

(g) *Adequacy of resources.* (10 points)

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the project.

(2) In making this determination, the Secretary looks for information that shows—

(i) The facilities the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(20 U.S.C. 3385(d), (f) (l), 3385a)

### Subpart E—What Conditions Must Be Met by a Grantee?

#### § 256.40 What costs are allowable for stipends and dependency allowances?

(a) A grantee may, from project funds, pay to participants stipends and allowances for dependents.

(b) Each year, the Secretary announces in a notice in the **Federal Register** the estimated maximum amount of a stipend and the estimated maximum amount of an allowance for dependents.

(c)(1) In determining a participant's need for assistance and the amount of the assistance, the grantee shall deduct financial assistance—other than loans—received or expected to be received by the participant for his or her living expenses and for the support of his or her dependents.

(2) The total financial assistance provided to a participant from all sources other than loans may not exceed the participant's need for that assistance.

(d)(1) Unless approved by the Secretary, the grantee may not pay a stipend or dependency alloawance to a participant who is not a full-time student.

(2) The Secretary may approve payment of a partial stipend to a teacher aide who must take leave without pay in order to be a part-time student.

(20 U.S.C. 3385(d), 3385a)

### Subpart F—What Are the Administrative Responsibilities of a Grantee?

#### § 256.50 What perference must a grantee give in selecting participants?

In selecting project participants, a grantee shall give preference to Indians.

(20 U.S.C. 3385(d), 3385a)

9. Part 258 is redesignated as Part 257 and is revised to read as follows:

## PART 257—EDUCATIONAL SERVICES FOR INDIAN ADULTS

### Subpart A—General

Sec.



### Subpart B—What Kinds of Activities Does the Secretary Assist Under This Program?



### Subpart C—How Does One Apply for a Grant?



### Subpart D—How Does the Secretary Make a Grant?



**Authority:** Title IV, Part C, Pub. L. 92-318 (the Indian Education Act), 86 Stat. 342, as amended (20 U.S.C. 1211a), unless otherwise noted.

### Subpart A—General

#### § 257.1 Educational Services for Indian Adults.

This program, Educational Services for Indian Adults, provides financial assistance for educational service projects designed to improve educational opportunities for Indian adults.

(20 U.S.C. 1211a(b))

#### § 257.2 Who is eligible for assistance under this program?

The following are eligible for assistance under this program:

(a) Indian tribes.

(b) Indian organizations.

(c) Indian institutions.

(20 U.S.C. 1211a(b))

#### § 257.3 What regulations apply to this program?

The following regulations apply to this program:

(a) The regulations in 34 CFR Part 250.

(b) The regulations in this Part 257.

(20 U.S.C. 1211a)

#### § 257.4 What definitions apply to this program?

The definitions in 34 CFR 250.4 apply to this program.

(20 U.S.C. 1211a)

### Subpart B—What Kinds of Activities Does the Secretary Assist Under This Program?

#### § 257.10 What types of projects may be funded?

(a) The Secretary makes grants under this program for services and instruction below the college level.

(b) The Secretary may fund applications proposing projects designed to—

(1) Enable Indian adults to acquire basic educational skills, including literacy;

(2) Enable Indian adults to continue their education through the secondary school level;

(3) Establish career education projects intended to improve employment opportunities; and

(4) Provide educational services or instruction for—

(i) Handicapped or elderly Indian adults; or

(ii) Incarcerated Indian adults.

(c) The types of projects listed in paragraphs (b) of this section are examples of projects the Secretary may fund under this program. An applicant may propose to carry out one or more of these activities or any other activities that meets the purpose of this program.

(d)(1) The Secretary does not fund under this program activities designed solely to prepare individuals to enter a specific occupation or cluster of closely related occupations in an occupational field after participating in the project.

(2) However, if the following types of activities are otherwise authorized under this part, the Secretary may fund—

(i) Activities that are designed to prepare individuals to benefit from occupational training; and

(ii) Activities that incidentally involve the teaching of employment-related skills.

(20 U.S.C. 1202(b), 1211a(b))

### Subpart C—How Does One Apply for a Grant?

#### § 257.20 What must an application include?

An application must contain the following:

(a) A description of the activities for which the applicant seeks assistance, including the total number of participants in the proposed project.

(b) An assurance that the applicant will provide for an evaluation of the effectiveness of the project in achieving its purposes and the purposes of this program.

(20 U.S.C. 1211a(b), (d))

### Subpart D—How Does the Secretary Make a Grant?

#### § 257.30 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application on the basis of the criteria in § 257.31.

(b) The Secretary awards up to 100 possible total points for these criteria.

(c) The maximum possible score for each criterion is indicated in parentheses.

(20 U.S.C. 1211a(b))

#### § 257.31 What selection criteria does the Secretary use?

The Secretary uses the following selection criteria in evaluating each application:

(a) *Need.* (20 points)

(1) The Secretary reviews each application to determine the need for the proposed services.

(2) In making this determination, the Secretary considers—

(i) The needs to be addressed by the project, including the extent and severity of these needs as indicated by the number and percentage of Indian adults in the area to be served by the project who need the proposed services and by such factors as elementary and secondary school dropout or absenteeism rates, average grade level completed, unemployment rates, or other appropriate measures;

(ii) A description of other services in the area—including those offered by the applicant—that are designed to meet the same needs as those to be addressed by the project, and the number of Indian adults who receive these other services;

(iii) Evidence that these other services are insufficient in quantity or quality or both, or an explanation of why these other services are not used by adults who require the proposed services; and

(iv) An explanation of why the applicant lacks the financial resources to conduct the project.

(b) *Plan of operation.* (20 points)

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the project.

(2) The Secretary looks for information that shows—

(i) A clear statement of the purpose of the project;

(ii) Objectives that are—

(A) Related to the purpose of the project;

(B) Sharply defined;

(C) Stated in measurable terms; and

(D) Capable of being achieved within the project period.

(iii) An activity plan, including a timeline, that clearly and realistically outlines the activities related to each objective; and

(iv) A plan for effective administration of the project.

(c) *Community involvement.* (10 points)

(1) The Secretary reviews each application to determine the extent to which the individuals to be served and other members of the Indian community are involved in the project.

(2) The Secretary looks for information that shows that individuals to be served and other members of the Indian community—

(i) Were involved in planning and developing the project; and

(ii) Will be involved in operating and evaluating the project.

(d) *Quality of key personnel.* (10 points)

(1) The Secretary reviews each application to determine the quality of the staff that the applicant plans to use for the project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director;

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (d)(2) (i) and (ii) of this section will commit to the project; and

(iv) The extent to which the applicant will give preference to Indians in the hiring of project staff.

(3) To determine personnel qualifications, the Secretary considers experience and training in fields related to the objectives of the project, as well as other information that the applicant provides.

(e) *Budget and cost effectiveness.* (10 points)

(1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(f) *Evaluation plan.* (20 points)

(1) The Secretary reviews each application for information to determine the quality of the plan for evaluating the project.

(2) In making this determination, the Secretary considers—

(i) How well the evaluation will measure—

(A) The project's effectiveness in meeting each objective; and

(B) The impact of the project on the adults involved;

(ii) The applicant's plan for collecting and analyzing data including—

(A) The appropriateness of the instruments to collect the data;

(B) The appropriateness of the method for analyzing the data; and

(C) The timetable for collecting and analyzing the data; and

(iii) Procedures for—

(A) Periodic assessment of the progress of the project; and

(B) If necessary, modification of the project as a result of that assessment.

(g) *Adequacy of resources.* (10 points)

(1) The Secretary reviews each application to determine the extent to which the resources to be devoted to the project are adequate.

(2) In making this determination, the Secretary looks for information that shows—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(20 U.S.C. 1211a(b), (d)(2))

10. Part 259 is redesignated as Part 258 and is revised to read as follows:

## PART 258—PLANNING, PILOT, AND DEMONSTRATION PROJECTS FOR INDIAN ADULTS

### Subpart A—General

Sec.



### Subpart B—What Kinds of Activities Does the Secretary Assist Under This Program?



### Subpart C—How Does One Apply for a Grant?



### Subpart D—How Does the Secretary Make a Grant?



Authority: Title IV, Part C, Pub. L. 92-318 (the Indian Education Act), 86 Stat. 342, as amended (20 U.S.C. 1211a), unless otherwise noted.

### Subpart A—General

#### § 258.1 Planning, Pilot, and Demonstration Projects for Indian Adults.

This program, Planning, Pilot, and Demonstration Projects for Indian Adults, provides financial assistance for planning, pilot, and demonstration projects designed to create, test, and demonstrate the effectiveness of programs for improving employment and educational opportunities for Indian adults.

(20 U.S.C. 1211a(a))

#### § 258.2 Who is eligible for assistance under this program?

The following are eligible for assistance under this program:

(a) State educational agencies (SEAs).

(b) Local educational agencies (LEAs).

(c) Indian tribes.

(d) Indian organizations.

(e) Indian institutions.

(20 U.S.C. 1211a)

#### § 258.3 What regulations apply to this program?

The following regulations apply to this program:

(a) The regulations in 34 CFR Part 250.

(b) The regulations in this Part 258.

(20 U.S.C. 1211a)

#### § 258.4 What definitions apply to this program?

The definitions in 34 CFR 250.4 apply to this program.

(20 U.S.C. 1211a)

### Subpart B—What Kinds of Activities Does the Secretary Assist Under This Program?

#### § 258.10 What types of projects may be funded?

(a)(1) The Secretary may fund applications proposing projects designed to plan, test, or demonstrate the effectiveness of programs for improving employment and educational opportunities for Indian adults.

(2) An applicant may apply for one or more of the types of grants listed in § 258.20(a)(2).

(3) An applicant may not apply for more than one type of grant for each proposed project.

(b) Proposed planning, pilot, or demonstration projects may include, but are not limited to, activities, designed to develop, test, replicate, or adapt—

(1) Educational approaches to assist Indian adults in achieving basic literacy;

(2) Methods for improving the basic skills of Indian adults so that they may benefit from occupational training; or

(3) Educational approaches to assist Indian adults in qualifying for high school equivalency certificates in the shortest time feasible.

(c) The types of projects listed in paragraph (b) of this section are examples of projects the Secretary may fund under this program. An applicant may propose to carry out one or more of these activities or any other activity that meets the purpose of this program.

(d) If a proposed project includes services and instruction, those services and instruction must be below the college level.

(e)(1) The Secretary does not fund under this program activities designed solely to prepare individuals to enter a specific occupation or cluster of closely related occupations in an occupational field after participating in the project.

(2) However, if the following types of activities are otherwise authorized under this part, the Secretary may fund—

(i) Activities that are designed to prepare individuals to benefit from occupational training; and

(ii) Activities that incidentally involve the teaching of employment-related skills.

(f) *Priorities.* (1) Each year the Secretary may select for priority for planning, pilot, or demonstration grants one or more of the types of projects listed in paragraph (b) of this section.

(2) The Secretary publishes the selected priorities, if any, in a notice in the **Federal Register.**

(Adult Education Act, Section 303(b), 316(b); 20 U.S.C. 1211(a)(1), (2))

### Subpart C—How Does One Apply for a Grant?

#### § 258.20 What must an application include?

(a)(1) An applicant shall specify whether its application is for—

(i) A planning grant;

(ii) A pilot grant; or

(iii) A demonstration grant.

(2) The Secretary does not consider an application that addresses more than one of these three categories.

(b) An application must contain the following:

(1) A description of the activities for which the applicant seeks assistance, including the total number of participants in the proposed project.

(2) An assurance that the applicant will provide for an evaluation of the effectiveness of the project in achieving its purposes and the purposes of this program.

(c) The Secretary does not approve an application for a grant under this part unless the Secretary is satisfied that the application, and any documents submitted with the application, indicate that there has been adequate participation by the individuals to be served and tribal communities in the planning and development of the project, and that they will participate in the operation and evaluation of the project.

(20 U.S.C. 1211a(a) (1), (2), (d))

### Subpart D—How Does the Secretary Make a Grant?

#### § 258.30 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application on the basis of the applicable criteria in § 258.32, 258.33, or 258.34, depending on the type of grant for which the applicant has applied.

(b) The Secretary awards up to 100 possible total points for the criteria established for each type of grant.

(c) The maximum possible score for each complete criterion is indicated in parentheses.

(20 U.S.C 1211a(a)(1), (2))

**§ 258.31 To what applicants does the Secretary give priority?**

In addition to the points awarded under §§ 258.32, 258.33, or 258.34, the Secretary—

(a) Awards 25 points to each application from an Indian tribe, Indian organization, or Indian institution; and

(b)(1) May award up to 10 points to an application for the extent to which the applicant addresses the priorities, if any, selected by the Secretary under § 258.10(f); or

(2) May give absolute preference to applications that address these priorities.

(20 U.S.C. 1211a(a)(1), (2))

**§ 258.32 What selection criteria does the Secretary use for a planning grant?**

The Secretary uses the following selection criteria in evaluating each application for a planning grant:

(a) *Need.* (20 points)

(1) The Secretary reviews each application to determine the need for and the soundness of the rationale for the planning project.

(2) In making this determination, the Secretary looks for—

(i) An identification and description of the specific problem to be addressed and evidence that the problem is of sufficient magnitude among Indian adults;

(ii) A clear statement of the educational approach to be developed;

(iii) A description of the literature review, site visits, or other appropriate activity that shows that the applicant has made a serious attempt to learn from other projects that address similar needs or have tried similar approaches; and

(iv) Evidence that the project is likely to serve as a model for communities with similar educational needs.

(b) *Plan of operation.* (20 points)

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the planning project.

(2) In making this determination, the Secretary looks for information that shows—

(i) A clear statement of the purpose of the project;

(ii) Objectives that are—

(A) Related to the purpose of the project;

(B) Sharply defined;

(C) Stated in measurable terms; and

(D) Capable of being achieved within the project period.

(iii) An activity plan, including a timeline, that clearly and realistically outlines the activities related to each objective; and

(iv) A plan for effective administration of the project.

(c) *Community involvement.* (10 points)

(1) The Secretary reviews each application to determine the extent to which individuals to be served and other members of the Indian community are involved in the planning project.

(2) The Secretary looks for information that shows that individuals to be served and other members of the Indian community—

(i) Were involved in planning and developing the project; and

(ii) Will be involved in operating and evaluating the planning project.

(d) *Quality of key personnel.* (10 points)

(1) The Secretary reviews each application for information that shows the qualifications of the key personnel the applicant plans to use for the planning project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director;

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (d)(2)(i) and (ii) of this section will commit to the project; and

(iv) The extent to which the applicant will give preference to Indians in the hiring of project staff.

(3) To determine personnel qualifications, the Secretary considers experience and training in fields related to the objectives of the project, as well as other information that the applicant provides.

(e) *Budget and cost effectiveness.* (10 points)

(1) The Secretary reviews each application for information that shows that the planning project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(f) *Evaluation plan.* (20 points)

(1) The Secretary reviews each application to determine the quality of the plan for evaluating the project.

(2) In making this determination, the Secretary considers—

(i) How well the evaluation will measure the project's effectiveness in meeting each objective;

(ii) The applicant's plan for collecting and analyzing data, including—

(A) The appropriateness of the instruments to collect the data;

(B) the appropriateness of the method for analyzing the data; and

(C) The timetable for collecting and analyzing the data; and

(iii) Procedures for—

(A) Periodic assessment of the progress of the project; and

(B) If necessary, modification of the project as a result of that assessment.

(g) *Adequacy of resources.* (10 points)

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the planning project.

(2) The Secretary looks for information that shows—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(20 U.S.C. 1211a(a)(1), (2), (d))

**§ 258.33 What selection criteria does the Secretary use for a pilot grant?**

The Secretary uses the following selection criteria in evaluating each application for a pilot grant:

(a) *Need.* (20 points)

(1) The Secretary reviews each application to determine the need for and the soundness of the rationale for the pilot project.

(2) In making this determination, the Secretary looks for—

(i) An identification and description of the specific problem to be addressed and evidence that the problem is of significant magnitude among Indian adults;

(ii) A clear statement of the educational approach to be tested in the project;

(iii) Evidence that—

(A) The plan upon which the pilot project is based included an adequate literature review, site visits, or other appropriate activity; and

(B) The applicant has made a serious attempt to learn from research and from other projects that address similar needs or that have tried similar approaches; and

(iv) Evidence that the project is likely to serve as a model for communities with similar educational needs.

(b) *Plan of operation. (20 points)*

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the pilot project.

(2) The Secretary looks for information that shows—

(i) A clear statement of the purpose of the project;

(ii) Objectives that are—

(A) Related to the purpose of the project;

(B) Sharply defined;

(C) Stated in measurable terms; and

(D) Capable of being achieved within the project period.

(iii) An activity plan, including a timeline, that clearly and realistically outlines the activities related to each objective; and

(iv) A plan for effective administration of the project.

(c) *Community involvement.* (10 points)

(1) The Secretary reviews each application to determine the extent to which individuals to be served and other members of the Indian community are involved in the pilot project.

(2) The Secretary looks for information that shows that individuals to be served and other members of the Indian community—

(i) Were involved in planning and developing the project; and

(ii) Will be involved in operating and evaluating the project.

(d) *Quality of key personnel.* (10 points)

(1) The Secretary reviews each application for information that shows the qualifications of the key personnel the applicant plans to use for the pilot project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director;

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (d)(2) (i) and (ii) of this section will commit to the project;

(iv) The extent to which the applicant will give preference to Indians in the hiring of project staff; and

(v) The procedures the applicant intends to use to train staff for implementing the project.

(3) To determine personnel qualifications, the Secretary considers experience and training in fields related to the objectives of the project, as well as other information that the applicant provides.

(e) *Budget and cost effectiveness.* (10 points)

(1) The Secretary reviews each application for information that shows that the pilot project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(f) *Evaluation plan.* (20 points)

(1) The Secretary reviews each application to determine the quality of the plan for evaluating the pilot project.

(2) In making this determination, the Secretary considers—

(i) How well the evaluation will measure—

(A) The project's effectiveness in meeting each objective; and

(B) The impact of the project on the adults involved;

(ii) The applicant's plan for collecting and analyzing data, including—

(A) The appropriateness of the instruments to collect the data;

(B) The appropriateness of the method for analyzing the data; and

(C) The timetable for collecting and analyzing the data; and

(iii) Procedures for—

(A) Periodic assessment of the progress of the project; and

(B) If necessary, modification of the project as a result of that assessment.

(g) *Adequacy of resources.* (10 points)

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the pilot project.

(2) The Secretary looks for information that shows—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(20 U.S.C. 1211a (a)(1), (2), (d))

**§ 258.34 What selection criteria does the Secretary use for a demonstration grant?**

The Secretary uses the following selection criteria in evaluating each application for a demonstration grant:

(a) *Need.* (15 points)

(1) The Secretary reviews each application to determine the need for and the soundness of the rationale for the demonstration project.

(2) In making this determination, the Secretary looks for—

(i) An identification and description of the specific problem to be addressed and evidence that the problem is of significant magnitude among Indian adults;

(ii) A clear statement of the educational approach to be demonstrated and evidence that the project is likely to serve as a model for communities with similar educational needs; and

(iii) Evidence that—

(A) The plan and pilot project on which the proposed demonstration project is based included an adequate literature review, site visits, or other appropriate activity; and

(B) The applicant has made a serious attempt to learn from research and from other projects that address similar needs or have tried similar approaches.

(b) *Plan of operation.* (15 points)

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the demonstration project.

(2) In making this determination, the Secretary looks for information that shows—

(i) A clear statement of the purpose of the project;

(ii) Objectives that are—

(A) Related to the purpose of the project;

(B) Sharply defined;

(C) Stated in measurable terms; and

(D) Capable of being achieved within the project period.

(iii) An activity plan, including a timeline, that clearly and realistically outlines the activities related to each objective; and

(iv) A plan for effective administration of the project.

(c) *Community involvement.* (10 points)

(1) The Secretary reviews each application to determine the extent to which the individuals to be served and other members of the Indian community are involved in the demonstration project.

(2) The Secretary looks for information that shows that individuals to be served and other members of the Indian community—

(i) Were involved in planning and developing the demonstration project; and

(ii) Will be involved in operating and evaluating the project.

(d) *Quality of key personnel.* (10 points)

(1) The Secretary reviews each application for information that shows the qualification of the key personnel the applicant plans to use for the demonstration project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director;

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraph (d)(2)(i) and (ii) of this section will commit to the development of the project;

(iv) The extent to which the applicant will give preference to Indians in the hiring of project staff; and

(v) The procedures the applicant intends to use to train staff, if necessary, for implementing the projects.

(3) To determine personnel qualifications, the Secretary considers experience and training in fields related to the objectives of the project, as well as other information that the applicant provides.

(e) *Budget and cost effectiveness.* (10 points)

(1) The Secretary reviews each application for information that shows that the demonstration project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(f) *Evaluation plan.* (15 points)

(1) The Secretary reviews each application to determine the quality of the plan for evaluating the project.

(2) In making this determination, the Secretary considers—

(i) How well the evaluation will measure—

(A) The project's effectiveness in meeting each objective; and

(B) The impact of the project on the adults involved;

(ii) The applicant's plan for collecting and analyzing data, including—

(A) The appropriateness of the instruments to collect the data;

(B) The appropriateness of the method for analyzing the data; and

(C) The timetable for collecting and analyzing the data; and—

(iii) Procedures for—

(A) Periodic assessment of the progress of the project; and

(B) If necessary, modification of the project as a result of that assessment.

(g) *Dissemination.* (15 points)

(1) The Secretary reviews each application for evidence that the applicant has an effective and efficient plan for disseminating information about the demonstration project, including the results of the project and any specialized materials developed by the project.

(2) In making this determination, the Secretary looks for—

(i) Information that shows high quality in the design of the dissemination plan and procedures for evaluating the effectiveness of the dissemination plan;

(ii) A description of the types of materials the applicant plans to make available and the methods for making the materials available;

(iii) Provisions for demonstrating the methods and techniques used by the project;

(iv) Provisions for assisting interested Indian communities in adapting or adopting and successfully implementing the project; and

(v) Provisions for publicizing the findings of the project at the local, State, or national level.

(h) *Adequacy of resources.* (10 points)

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the demonstration project.

(2) The Secretary looks for information that shows—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(20 U.S.C. 1211a (a) (1), (2), (d))

## PART 260—ADULT EDUCATION RESEARCH AND DEVELOPMENT PROJECTS—[REMOVED]

11. Part 260 is removed.

## PART 261—ADULT EDUCATION SURVEYS—[REMOVED]

12. Part 261 is removed.

## PART 262—ADULT EDUCATION DISSEMINATION AND EVALUATION PROJECTS—[REMOVED]

13. Part 262 is removed.

[FR Doc. 84-1738 Filed 1-20-84; 8:45 am]
BILLING CODE 4000-01-M

## DEPARTMENT OF EDUCATION

### Indian Education Act Grant Programs; Application Notice Establishing Closing Dates for Transmittal of Certain Fiscal Year 1984 Applications

**AGENCY:** Office of Elementary and Secondary Education, Department of Education.

**ACTION:** Application notice establishing closing dates for transmittal of certain Fiscal Year 1984 applications for new awards.

**SUMMARY:** The purpose of these application notices is to inform potential applicants of fiscal and programmatic information and closing dates for transmittal of applications for new awards under certain programs administered by the Department of Education.

**Organization of Notice**

This notice contains two parts. Part I includes the list of all application closing dates covered by this notice. Part II consists of individual application announcements for each program.

**Instructions for Transmittal of Applications**

Applicants should note specifically the intructions for the transmittal of applications included below:

*Transmittal of Applications:* Applications must be mailed or hand delivered on or before the closing date given in the individual program announcements included in this document. Each late applicant for a new award will be notified that its application will not be considered.

*Applications Delivered by Mail:* Applications must be addressed to the Department of Education, Application Control Center, *Attention:* (insert appropriate CFDA Number), Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other evidence of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

*Applications Delivered by Hand:* Hand delivered applications must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept hand delivered applications between 8:30 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted by the Application Control Center after 4:30 p.m. on the closing date. (OMB approval number 1810–0021, expiration date, February 1986)

**Part I—Programs**

| CFDA | Program | Closing date |
|---|---|---|
| 84.060A | Formula Grants—Local Educational Agencies and certain Tribal Schools. | Mar. 16, 1984. |
| 84.072A | Indian-Controlled Schools—Enrichment. | Do. |
| 84.061A | Educational Services for Indian Children. | Do. |
| 84.061A | Planning, Pilot, and Demonstration Projects for Indian Children. | Do. |
| 84.061A | Educational Personnel Development. | Do. |
| 84.062A | Educational Services for Indian Adults. | Do. |
| 84.062A | Planning, Pilot, and Demonstration Projects for Indian Adults. | Do. |

*Intergovernmental Review:* The Education Department General Administrative Regulations (EDGAR) 34 CFR Part 79, pertaining to intergovernmental review of Federal programs, apply to all programs listed above *except:* 84.072A Indian-Controlled Schools—Enrichment and 84.061A Educational Personnel Development.

Applications for grants under the other programs are subject to intergovernmental review, *except* for applications submitted by Federally recognized tribal governments and non-governmental entities. Applicants for grants under the programs covered should give special attention to instructions dealing with intergovernmental review which are provided in the individual program announcements.

**Part II—Individual Announcements for Programs Listed in Part I**

*84.060A—Indian Education Act: Formula grants to Local Educational Agencies (LEAs) and certain Tribal Schools*

Closing Date: March 16, 1984.

Applications are invited for new grants under the Indian Education Act Formula grant program.

Authority for this program is contained in Section 303 of Part A of the Indian Education Act, as amended (20 U.S.C. 241bb).

This program authorizes grants to LEAs, and to certain Indian Tribes and Indian organizations described in Section 1146 of Pub. L. 95–561.

The program provides financial assistance to develop and carry out elementary and secondary school projects that meet the special educational and culturally related academic needs of Indian children.

*Program Information:* In fiscal year 1983, $44,031,321 supported 1,083 projects in schools with a total eligible Indian student enrollment of 304,790. The average grant amount was $40,657.

The amount of each grant is based on a formula that takes into account the Indian student enrollment in the applicant's school and the average per pupil expenditure for public elementary and secondary education in the applicant's state.

*Available Funds:* The appropriation for this program for fiscal year 1984 is $46,400,000. It is estimated that 1,200 projects will be supported and that the average grant will be $38,667.

These estimates, however, do not bind the U.S. Department of Education to a specific number of grants nor to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Projects supported under this program will be for a period of one year.

An application under this program must be marked ATTENTION: 84.060A.

**Intergovernmental Review:** On June 24, 1983, the Secretary published in the **Federal Register** final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.)* implementing Executive Order 12372 entitled "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

This program is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is 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.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance;
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated; and
- Revokes OMB Circular A–95.

Transactions with nongovernmental entities, including State post-secondary educational institutions and federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects that do not have a unique gegraphic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographic area.

The following is the current list of States that have established a process, designated a single point of contact, and have selected this program for review:

*State*

| | |
|---|---|
| Arizona | New Mexico |
| California | New York |
| Connecticut | Northern Marianas Island |
| Delaware | Ohio |
| District of Columbia | Oklahoma |
| Florida | South Carolina |
| Hawaii | South Dakota |
| Indiana | Utah |
| Louisiana | Vermont |
| Michigan | Virginia |
| Missouri | Washington |
| Montana | Wisconsin |
| Nebraska | Wyoming |
| Nevada | Trust Terrritory |
| New Jersey | |

Immediately upon receipt of this notice, applicants that are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should contact, immediately upon receipt of this notice, the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States not listed above, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State process recommendation and other comments submitted by a State point of contact and any comments from State, areawide, regional, and local entities must be mailed or hand delivered by May 15, 1984 to the following address:

The Secretary, U.S. Department of Education, Room 4181 (84.060A), 400 Maryland Avenue, SW., Washington, D.C. 20202, Telephone (202) 245–7913. (Proof of mailing will be determined on the same basis as applications.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.*

*Applicable Regulations:* The regulations that apply to this program include the following:

(a) Regulations governing Indian Education Programs as proposed for codification in 34 CFR Parts 250 and 251. (Applications are being accepted based on the notice of proposed rulemaking for Indian Education Programs which is published in this issue of the **Federal Register.** Applicants should note that the notice of proposed rulemaking proposes to redesignate the CFR Part of a number of the regulations. If any substantive changes are made in the final regulations for this program, applicants will be given an opportunity to revise their applicants.)

(b) The Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, 78, and 79).

*Applications Forms:* Application packages are expected to be ready for mailing on February 1, 1984. A copy of the application package may be obtained by writing to Indian Education Programs, U.S. Department of Education (Room 2177, FOB 6), 400 Maryland Avenue, SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 3 pages in length. The Secretary further urges that applicants not submit information that is not requested.

*Further information.* For further information, contact Director, Indian Education Programs, U.S. Department of Education, Room 2177, 400 Maryland Avenue, SW., Washington, D.C., Telephone Number (202) 245–8020.

(20 U.S.C. 241aa–241ff)

*84.072A, 84.061A, 84.062A—Indian Education Act Discretionary Grants*

*Closing Date:* March 16, 1984.

Applications are invited for new grants under the following Indian Education Act programs:

*(1) Part A—Indian-Controlled Schools—Enrichment*

Authority for this program is contained in Section 303(b) of Part A of the Act, as amended.

(20 U.S.C. 241bb(b))

The purpose of the enrichment grants is to provide financial assistance for educational enrichment projects designed to meet the special educational and culturally-related academic needs of Indian children in elementary and secondary schools for Indian children that are located on or geographically near one or more reservations.

Grants for enrichment projects may be to Indian tribes, Indian organizations and LEAs that have been in existence not more than three years.

*Program Information:* In fiscal year 1983, 31 enrichment projects were awarded grants totalling $3,874,196. The average grant amount was $124,974. In formulating grant applications for this program applicants should give special attention to Section 253.31 of the notice of proposed as rulemaking for Indian Education Programs which is published in this issue of the **Federal Register.** This section contains the criteria used in evaluating applications.

The Education Department General Administrative Regulations (EDGAR) 34 CFR, Part 79, pertaining to intergovernmental review, do not apply to this program.

*Available Funds:* The appropriation for fiscal year 1984 is $4,500,000 of which the Secretary estimates that approximately $2,800,000 will be available to support new projects. It is estimated that these funds will support 20 projects with awards ranging from $30,000 to $310,000. These estimates, however, do not bind the U.S. Department of Education to a specific number of grants nor to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Projects supported under this program will be for a period of one year.

An application under this program must be marked ATTENTION: 84.072A.

*(2) Part B—Educational Services for Indian Children*

Authority for this program is contained in Section 1005 (a) and (c) of Part B of the Act, as amended.

(20 U.S.C. 3385 (a), (c))

This program provides financial assistance for—

(1) Projects designed to improve educational opportunities for Indian children by providing educational services that are not sufficiently otherwise available to those children; and

(2) Enrichment projects that introduce innovative and exemplary approaches, methods, and techniques into the education of Indian children in elementary and secondary schools.

Grants may be made to State educational agencies (SEAs), LEAs, Indian tribes, Indian organizations, and Indian institutions.

*Program Information:* In fiscal year 1983, 28 projects were awarded service grants totalling approximately $3,600,000. The average grant amount was $128,6000. In formulating applications for service grants, applicants should give special attention to § 254.32 of the notice of proposed rulemaking for Indian Education Programs which is published in this issue of the **Federal Register**. This section contains the criteria used in evaluating applications.

*Available Funds:* The appropriation for this program for fiscal year 1984 is $3,500,000 of which the Secretary estimates $2,925,000 will be available to support new projects. It is estimated that these funds will support 31 projects with awards between $75,000 and $125,000. These estimates, however, do not bind the U.S. Department of Education to a specific number of grants nor to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Projects supported under this program will be for a period of one year.

An application under this program must be marked ATTENTION: 84.061A.

*Intergovernmental Review:* On June 24, 1983, the Secretary published in the **Federal Register** final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.*) implementing Executive Order 12372 entitled "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

This program is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is 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.

The Executive Order—

- Allows States, after consultation with local officials, to estalish their own process for review and comment on proposed Federal financial assistance;
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated; and
- Revokes OMB Circular A-95.

Transactions with nongovernmental entities, including State post-secondary educational institutions and federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects that do not have a unique geographic focus and are not directly relevent to the governmental responsibilities of a State or local government within that geographic area.

The following is the current list of States that have established a process, designated a single point of contact, and have selected this program for review:

*State*

| | |
|---|---|
| Arizona | New York |
| Arkansas | Northern Marianas |
| California | Islands |
| Connecticut | Ohio |
| Delaware | Oklahoma |
| District of Columbia | Oregon |
| Florida | South Carolina |
| Hawaii | South Dakota |
| Louisiana | Texas |
| Michigan | Utah |
| Missouri | Vermont |
| Montana | Virginia |
| Nebraska | Washington |
| Nevada | Wisconsin |
| New Jersey | Wyoming |
| New Mexico | Trust Territory |

Immediately upon receipt of this notice, applicants that are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should contact, immediately upon receipt of this notice, the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States not listed above, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State process recommendation and other comments submitted by a State single point of contact and any comments from State, areawide, regional, and local entities must be mailed or hand delivered by May 15, 1984 to the following address:

The Secretary, U.S. Department of Education, Room 4181, (84.061A), 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone Number (202) 245-7913. (Proof of mailing will be determined on the same basis as applications.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.*

*(3) Part B—Planning, Pilot, and Demonstration Projects for Indian Children*

Authority for this program is contained in Section 1005(a)(1) and (b) of the Act, as amended.

(20 U.S.C. 3385 (a)(1), (b))

This program provides financial assistance for projects designed to create, test, and demonstrate the effectiveness of programs for improving educational opportunities for Indian children.

Grants may be made to SEAs, LEAs, Indian tribes, Indian organizations, Indian institutions, and elementary and secondary schools for Indian children which are Federally supported.

*Program Information:* In fiscal year 1983, 22 projects were awarded planning, pilot, and demonstration grants totalling approximately $3,338,900. The average grant amount was $151,800.

Under the notice of proposed rulemaking for Indian Education Programs, which is published in this issue of the **Federal Register**, an application for a grant under this program must address only one of the three types of projects authorized by the Act, i.e., the proposed project must be a planning, pilot or demonstration project. An application that addresses more than one of these types of projects will not be considered.

In formulating applications for grants for planning projects, applicants should give special attention to § 255.32 of the notice of proposed rulemaking for Indian Education Programs which is published in this issue of the **Federal Register**. This section contains the criteria used in evaluatiog applications. Applicants for grants for pilot projects should give special attention to § 255.33; applicants

for grants for demonstration projects should give special attention to § 255.34.

*Available Funds:* The appropriation for this progarm for fiscal year 1984 is $2,500,000 of which the Secretary estimates $2,150,000 will be available to support new projects. It is estimated that $1,075,000 will support 3 to 4 demonstration projects with awards from $200,000 to $300,000; that $645,000 will support 4 pilot projects with awards from $100,000 to $175,000 and that $430,000 will support 5 planning projects with awards from $75,000 to $100,000. These estimates, however, do not bind the U.S. Departmeant of Education to a specific number or type of grants nor to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Projects supported under this program will be for a period of one year.

An application under this progam must be marked ATTENTION: 84.061A.

*Intergovernmental Review:* On June 24, 1983, the Secretary published in the **Federal Register** final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.*) implementing Executive Order 12372 entitled "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

This program is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review or proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance;
- Increased Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated; and
- Revokes OMB Circular A–95.

Transactions with nongovernmental entities, including State post-secondary educational institutions and federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, and demonstration projects that do not have a unique geographic focus and are not directly relevant to the government responsibilities of a State or local government within that geographic area.

The following is thecurrent list of States that have established a process, designated a single point of contact, and have selected this program for review:

*State*

| | |
|---|---|
| Arizona | New York |
| Arkansas | Northern Marianas |
| California | Islands |
| Connecticut | Ohio |
| Delaware | Oklahoma |
| District of Columbia | Oregon |
| Florida | South Carolina |
| Hawaii | South Dakota |
| Louisiana | Texas |
| Michigan | Utah |
| Missouri | Vermont |
| Montana | Virginia |
| Nebraska | Washington |
| Nevada | Wisconsin |
| New Jersey | Wyoming |
| New Mexico | Trust Territory |

Immediately upon receipt of this notice, applicants that are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should contact, immediately upon receipt of this notice, the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States not listed above, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State process recommendation and other comments submitted by a State single point of contact and any comments from State, areawide, regional,and local entities must be mailed or hand delivered by May 15, 1984 to the following address:

The Secretary, U.S. Department of Education, Room 4181, (84.061A), 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone Number (202) 245–7913. (Proof of mailing will be determined on the same basis as applications.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.*

*(4) Part B—Educational Personnel Development*

Authority for the Educational Personnel Development program under which new applications are being invited is contained in Section 1005(d) of Part B of the Act, as amended. (As sufficient funds are not available to fund new applications under that portion of the Educational Personnel Development program authority contained in Section 422 of Part B of the Act, the Secretary does not invite applications for new awards under the Section 422 authority.)

(20 U.S.C. 3385(d), 3385 a)

This program provides financial assistance to projects designed to—

(1) Prepare persons to serve Indian students as teachers, administrators, teacher aides, social workers, and ancillary educational personnel; and

(2) Improve the qualifications of persons serving Indian students in these capacities.

Under the section 1005(d) program, grants may be made to institutions of higher education, and to SEAs and LEAs in combination with those institutions.

*Program Information:* In fiscal year 1983, 8 grants were awarded under this program totalling approximately $1,053,000. The average grant amount was $121,690. In formulating applications for Educational Personnel Development grants, applicants should give special attention to § 256.32 of the notice of proposed rulemaking for Indian Education Programs which is published in this issue of the **Federal Register.** This section regulations which contain the criteria used in evaluating applications.

The estimated maximum stipends for participants in projects in fiscal year 1984 will be $600 per month at the graduate level and $375 per month at the undergraduate level. An estimated maximum allowance of $90 per month will be allowed for each dependent.

The Education Department General Administrative Regulations (EDGAR) 34 CFR, Par 79, pertaining to intergovernment review do not apply to this program.

*Available Funds:* The appropriation for the Section 1005(d) program for fiscal year 1984 is $1,200,000. The Secretary estimates that $570,000 will be available to support new projects.

It is estimated that these funds will support 5 projects with most awards ranging from $90,000 to $150,000. These estimates, however, do not bind the U.S. Department of Education to a specific number of grants nor to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Projects supported under this progra m will be for a period of one year.

An application under this program must be marked ATTENTION: 84.061A.

*(5) Part C—Educational Services for Indian Adults*

Authority for this program is contained in Section 316(b) of Part C of the Act, as amended.

(20 U.S.C. 1211a(b))

This program provides financial assistance for educational services projects designed to improve educational opportunities for Indian adults.

Grants may be made to Indian tribes, Indian organizations, and Indian institutions.

*Program Information:* In fiscal year 1983, 12 projects were awarded grants totalling approximatley $1,627,000. The average grant amount was $135,590. In formulating applications for grants under this program, applicants should give special attention to § 257.31 of the notice of proposed rulemaking for Indian Education Programs which is published in this issue of the **Federal Register.** This section contains the criteria used in evaluating applications.

*Available Funds:* The appropriation for this program for fiscal year 1984 is $1,200,000 of which the Secretary estimates $905,000 will be available to support new projects. It is estimated that these funds will support 7 projects with most awards between $95,000 and $150,000. These estimates, however, do not bind the U.S. Department of Education to a specific number of grants nor to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Projects supported under this program will be for a period of one year.

An application under this program must be marked ATTENTION: 84.062A.

*Intergovernmental Review:* On June 24, 1983, the Secretary published in the **Federal Register** final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.*) implementing Executive Order 12372 entitled "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

This program is subject to the requirements of the Executive Order and the regulations in 34 CFR, Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State local government coordination and review of proposed Federal financial assistance.

The Executive Order—

•Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance;

•Increase Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated; and

•Revokes OMB Circular A–95.

Transactions with nongovernmental entities, including State post-secondary educational institutions and Federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, and demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of State and local government within the geographic area.

The following is the current list of States that have established a process, designated a single point of contact, and have selected this program for review:

*State*

| | |
|---|---|
| Arizona | New York |
| Arkansas | Northern Marianas |
| California | Islands |
| Connecticut | Ohio |
| Delaware | Oklahoma |
| District of Columbia | Oregon |
| Florida | South Carolina |
| Hawaii | South Dakota |
| Louisiana | Texas |
| Michigan | Utah |
| Missouri | Vermont |
| Montana | Virginia |
| Nebraska | Washington |
| Nevada | Wisconsin |
| New Jersey | Wyoming |
| New Mexico | Trust Territory |

Immediately upon receipt of this notice, applicants that are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should contact, each immediately upon receipt of this notice, the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States not listed above, areawide, regional, and local entities may submit comments directly to the Department.

Any State process recommendation and other comments submitted by a State point of contact and any comments from State, areawide, regional, and local entities must be mailed or hand delivered by May 15, 1984 to the following address:

The Secretary, U.S. Department of Education, Room 4181, (84.062A), 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone Number (202) 245–7913. (Proof of mailing will be determined on the same basis as applications.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.*

*(6) Part C—Planning, Pilot, and Demonstration Projects for Indian Adults*

Authority for this program is contained in Section 316(a)(1), (2) of Part C of the Act, as amended.

(20 U.S.C. 1211a(a) (1), (2))

This program provides financial assistance for projects designed to create, test, and demonstrate the effectiveness of programs for improving employment and educational opportunities for Indian adults.

Grants may be made to SEAs, LEAs, Indian tribes, Indian organizations, and Indian institutions.

*Program Information:* In fiscal year 1983, 21 projects received grants totalling $1,965,900. The average grant amount was $93,616.

Under the notice of proposed rulemaking for Indian Education Programs, which is published in this issue of the **Federal Register,** an application for a grant under this program must address only one of the three types of projects authorized by the Act, i.e., the proposed project must be a planning, pilot or demonstration project. An application that addresses more than one of these types of projects will not be considered.

In formulating applications for grants for planning projects, applicants should give special attention to § 258.32 of the notice of proposed rulemaking which is published in this issue of the **Federal Register.** This section contains the criteria used in evaluating applications. Applicants for grants for pilot projects should give special attention to § 258.33; applicants for grants for demonstration projects should give special attention to § 258.34.

*Available Funds:* The appropriation for this program for fiscal year 1984 is $1,800,000 of which the Secretary estimates $1,675,000 will be available to support new projects. It is estimated that $850,000 will support 4 demonstration projects at an average of $212,500; $500,000 will support 5 pilot projects at an average of $100,000; and $325,000 will support 4 planning projects at an average of $81,250. These estimates, however, do not bind the U.S. Department of Education to a specific

number of grants nor to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Projects supported under this program will be for a period of one year.

An application under this program must be marked ATTENTION: 84.062A.

*Intergovernmental Review:* On June 24, 1983, the Secretary published in the **Federal Register** final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.*) implementing Executive Order 12372 entitled "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

This program is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is 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.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance;
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated; and
- Revokes OMB Circular A–95.

Transactions with nongovernmental entities, including State post-secondary educational institutions and Federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, and demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State of local government within the geographic area.

The following is the current list of States that have established a process, designated a single point of contact, and have selected this program for review:

*State*

| | |
|---|---|
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| Arkansas | District of Columbia |
| California | Florida |
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| Louisiana | Oklahoma |
| Michigan | Oregon |
| Missouri | South Carolina |
| Montana | South Dakota |
| Nebraska | Texas |
| Nevada | Utah |
| New Jersey | Vermont |
| New Mexico | Virginia |
| New York | Washington |
| Northern Marianas Islands | Wisconsin |
| Ohio | Wyoming |
| | Trust Territory |

Immediately upon receipt of this notice, applicants that are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should contact, immediately upon receipt of this notice, the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States not listed above, areawide, regional, and local entities may submit comments directly to the Department.

Any State process recommendation and other comments submitted by a State point of contact and any comments from State, areawide, regional, and local entities must be mailed or hand delivered by May 15, 1984, to the following address:

The Secretary, U.S. Department of Education, Room 4181 (84.062A), 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone Number (202) 245–7913. (Proof of mailing will be determined on the same basis as applications.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.*

*Applicable Regulations.* Regulations applicable to these programs include the following:

(1) Regulations governing Indian Education Programs as proposed to be codified in 34 CFR Parts 250, 252, 253, 254, 255, 256, 257, and 258. (Applications are being accepted based on the notice of proposed rulemaking for Indian Education Programs which is published in this issue of the **Federal Register.** Applicants should note that the notice of proposed rulemaking proposes to redesignate the CFR Part of a number of the regulations. If any substantive changes are made in the final regulations for this program, applicants will be given an opportunity to revise their applications.)

(2) The Education Department General Administrative Regulations (EDGAR) 34 Parts 74, 75, 77, 78, and 79, except where indicated otherwise in this announcement.

*Application Forms:* Application packages are expected to be ready for mailing on February 1, 1984. A copy of the application package may be obtained by writing to Indian Education Programs, U.S. Department of Education (Room 2177, FOB–6), 400 Maryland Avenue, SW., Washington, D.C. 20202. Applicants should note the specific program for which the application package is requested.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 25 pages in length. The Secretary further urges that applicants not submit information that is not requested.

*Further Information:* For further information, contact Director, Indian Education Programs, U.S. Department of Education, Room 2177, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone Number (202) 245–8020.

(20 U.S.C. 241aa–241ff, 1211a, 1211h, 3385, 3385a)

Dated: January 17, 1984.

**Lawrence F. Davenport,**

*Assistant Secretary for Elementary and Secondary Education.*

[FR Doc. 84–1762 Filed 1–20–84; 8:45 am]

BILLING CODE 4000–01–M

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Monday, January 23, 1984

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**Last Listing: December 19, 1983.**

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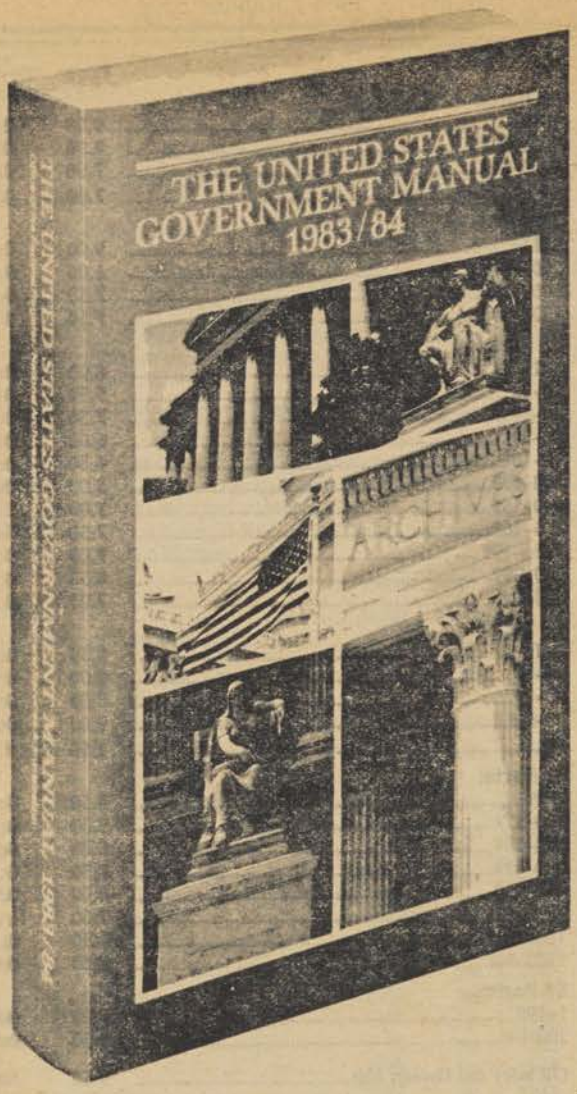
[2] No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1983. The CFR volume issued as of Apr. 1, 1980, should be retained.

[3] Refer to September 19, 1983, FEDERAL REGISTER, Book II (Federal Acquisition Regulation).

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