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Federal Register

Wednesday
February 8, 1984

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Environmental Protection Agency

Airspace
Federal Aviation Administration

Commodity Futures
Commodity Futures Trading Commission

Educational Study Programs
Education Department

Endangered and Threatened Species
National Oceanic and Atmospheric Administration

Energy Conservation
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Excise Taxes
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Income Taxes
Internal Revenue Service

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Public Health Service

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

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 448, Amdt. 2]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This action increases the quantity of California-Arizona lemons that may be shipped to the fresh market to 250,000 cartons during the period January 29–February 4, 1984. Such action is needed to provide for orderly marketing of fresh lemons for the period due to the marketing situation confronting the lemon industry.

DATES: Effective for the period January 29–February 4, 1984.

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

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy currently in effect. The committee met by telephone on February 2, 1984, to consider the current and prospective conditions of supply and demand and recommended an increase in the quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this amendment is based and the effective date necessary to effectuate the declared policy of the Act, and it relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the Act to make these regulatory provisions effective as specified, and handlers have been appraised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

PART 910—[AMENDED]

1. Section 910.748 *Lemon Regulation 443* is revised to read as follows:

§ 910.748 Lemon Regulation 448.

The quantity of lemons grown in California and Arizona which may be handled during the period January 29, 1984, through February 4, 1984, is established at 250,000 cartons.

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

Dated: February 3, 1984.

Russell L. Hawes,

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

[FR Doc. 84-3359 Filed 2-7-84; 8:45 am]

BILLING CODE 3410-02-M

Food Safety and Inspection Service

9 CFR Parts 301, 317, 320, and 381

[Docket No. 82-018F]

Policy Governing Inspection of Packaging Materials

Correction

In FR Doc. 84-1442, beginning on page 2230, in the issue of Thursday, January 19, 1984, make the following corrections:

1. On page 2231, in the thrid column, in the first complete paragraph, in the eighth line, "is on" should read "is no".

2. On page 2232, in the first column, in the second complete paragraph, in the fourth line from the bottom, "They content" should read "They contend".

3. One page 2233, in the second column, in paragraph "7." in the last line "recommend" should read "recommended".

BILLING CODE 1505-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 250 and 259

[Release No. 35-23214; File No. S7-993]

Revision of Annual Report of Registered Holding Companies, and Related Amendment to Rule 48(b)

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission ("Commission") has adopted an amended annual report (Form U5S) on registration statements for registered holding companies under the Public Utility Holding Company Act of 1935 ("Act"), and an amendment to Rule 48(b) (17 CFR § 250.48(b)). The action simplifies the annual report and avoids duplicative reporting. Rule 48(b), concerning advances to employees, is amended to conform to the reporting requirements in the U5S Form.

EFFECTIVE DATE: February 8, 1984. The amended form shall apply to reports to be filed for the calendar or fiscal years ending in 1983, and thereafter.

FOR FURTHER INFORMATION CONTACT: Grant G. Guthrie (202 272–7677), Associate Director, Robert P. Wason (202 272–7649), Chief Financial Analyst,

or James E. Lurie (202 272–7648), Special Council, Office of Public Utility Regulation, Securities and Exchange Commission, 450 Fifth Street NW, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission proposed on September 22, 1983, a revised Form U5S, the annual report for registered holding company systems under the Act.[1] Seven comments were received, two from state commissions, which expressed satisfaction with the proposed report, a joint comment on behalf of twelve registered systems, and four supplemental comments by individual registered holding companies containing additional suggestions. Those who referred to Rule 48 endorsed its amendment.

All comments endorsed the revision. The registered systems suggested clarifications and simplifications, none of which raised substantive issues and most of which have been adopted. They are identified in the following summary of revisions to the proposal, which also discusses more fully the changes not accepted.

The revised form continues the requirement (Rule 1(c) (17 CFR 250.1(c)) that the annual report be signed by each registered holding company in the system. Pursuant to section 11(b)(2) of the Act the Commission elimlinated most intermediate holding companies. However, several operating utility subsidiaries are also statutory holding companies because they own interests in power supply companies. All of them are exempt under section 3(a)(2) of the Act and Rule 2(b) from obligations imposed upon holding companies. A comment suggested the need for an instruction expressly stating that such exempt subsidiary holding companies are not required to sign the report.

We have adopted the revision, suggested in the joint comment, which requires the annual report to be filed within 120 days after the end of the fiscal year, by registered holding companies using a fiscal year. The only such company joined in that recommendation.

Two comments suggested, in different ways, the need to define the statutory term "facilities in place," the subject of Item 2, reporting exempt acquisitions or sales of utility assets. We have substituted "utility plant in service or under construction," which has the same meaning in the context used in the annual report. It was suggested that a dollar threshold be provided with respect to a transfer of utility assets that also involves a transfer of retail service area. The omission of a threshold was intentional. Such a change has significance under the integration standards of the Act, which are directed to the location, rather than the size, of the territory served.

This comment and another suggestion questioning the usefulness of aggregate reporting of minor transactions, indicated that Item 2 and instruction 1 thereto may be overly broad. For example, boundary adjustments in fringe areas between neighboring utilities may include transfers of plant in service and affect a retail service area. Item 2 and instruction 1 have been revised to define retail service area as a descrete territory separately served or to be served by another utility company or municipality, and to exclude reporting of other transactions.

Two comments dealt with the reporting of aggregate exempt short-term borrowings in Item 3. The data supplied in Schedule 9 to Form 10K does provide the information needed as to the amounts and weighted average interest rates. While it includes, and in practice consists entirely of, the short-term borrowings reported under Rule 24 and intended to be excluded from Item 3, it would include any borrowings to which the statutory exemption applied.[2] The technical distinction in the form of authorization has no substantive significance and the combined figure will be more useful. Item 3 has been modified to permit incorporation of Schedule 9 of the Form 10Ks.

Acquisition of outstanding securities and their retirement are different transactions, each with its own significance. When bonds or preferred stock are reacquired, usually in anticipation of sinking fund requirements but not retired until a subsequent year, the ultimate fate of the reacquired securities depends on the issuer's subsequent action and is significant to the holders of other outstanding securities of that issue. Item 4 of the form, like its predecessor, requires that the ultimate disposition be reported. We do not agree with the two comments suggesting that disclosure is unnecessary.

We have deleted temporary cash investments from Item 5 and renumbered the other two subjects accordingly. As the joint comment pointed out, the amount of temporary cash investments appears separately in the balance sheet in the form.

The joint comment and other comments correctly pointed out that reporting of contributions to charitable, social or community welfare programs has never heretofore been required in the annual report for holding companies. For reasons stated in the proposal, it has been required in the specialized service company report. Its appearance in the proposed Form U5S was an error. The explanation for deletion of dues, on pages 7 and 8 of the proposal, would have been equally applicable to charitable contributions had they been included in the existing form. Accordingly, the contributions have been deleted from the form.

The suggestion that directors be deleted from Part III of Item 6 cannot be accepted. Both the Act and the 1934 Act require disclosure of the compensation of and transactions with directors. If, as is common in registered holding company systems, there are no material transactions, Item 6 III will say little about directors, but it will contain whatever is required in the 1934 Act reports on the subject.

As noted above, wholly owned subsidiaries with their own executive officers and directors, exist in the registered holding company systems. In the gas systems they conduct virtually all of the business of the system, but are not reporting companies under the 1934 Act. Part III of Item 6 requires that information as to such executive officers and directors be included on the same basis as those of 1934 Act reporting companies.[3] We cannot omit executive officers and directors of wholly owned subsidiaries from the comprehensive system report required by section 5(b) and 14 of the Act. Nor does the alternate suggestion, that we develop different reporting requirements for them, have merit.

Materiality does not turn on whether an operating utility company issues its senior securities to its parent, which raises the funds by sale of its own securities, rather than a sale of the senior securities directly to the public. However, application of certain requirements to non-reporting subsidiaries on a separate company basis, such as those applying to the five most highly compensated executive officers and directors, may multiply the additional disclosures. Part III of Item 6 has been revised to treat the non-

[1] HCAR No. 23068, 48 FR 44226, September 28, 1983.

[2] Orders increasing the statutory exempt level have uniformly been drawn to include all borrowings, since any attempt to differentiate would be arbitrary and inordinately complicate reporting. The 10 day statutory report under the last sentence of section 6(b) has been needed for many years.

[3] This is not a new requirement. Both the Act and the existing form apply to all officers and directors in the system. If the parent includes this data in its Form 10K and proxy statement, the additional requirement does not apply.

reporting subsidiaries and their parent on a consolidated basis for purposes of determining whether additional disclosures are required as to the non-reporting subsidiaries' individual officers and directors.

In addition to deleting category (3) of Item 7, which inadvertently added itemized reports of charitable contributions, we have raised the reporting threshold of category (2) from $3,000 to $10,000 as suggested by the joint comment, in recognition of changes in price levels since the existing form was adopted. We assume that political contributions will never be reported in category (1), in view of the prohibition of section 12(h) of the Act. Category (1) remains in the final rule for disclosure of lawful expenses under the Federal Election Campaign Act amendments.

Instruction 4 to Item 8 defines the jointly-owned facilities and jointly-employed personnel which are not included in the report required by Item 8. The second sentence does not require a report as to these transactions. It was intended to make explicit the limitation of the exclusion to the defined joint facilities and employees, in view of a recent misinterpretation of the existing instructions. we have added the adjective "separate" to the second sentence to correct a latent ambiguity identified by Northeast Utilities.

Since the form U5S is an annual updating of the initial registration statement on Form U5B, Exhibits B and C follow the initial form for continuity. A comment noted that similar requirements appear in Regulation S–K Item 601(b) (3) and (4) (17 CFR 229.601(b) (3) and (4)) and suggested the adoption of Regulations S–K. On review, it became apparent that provisions limiting the pertinent parts of that regulation to filings under other Acts precluded reliance on Regulation S–K for Form U5S. The preparers of the report are familiar with the present requirements, while Item 601(b) specifies a somewhat different classification of essentially the same documents. The suggestion nevertheless has merit and should be considered when Regulation S–K is next reviewed.

Paperwork Reduction Act

The information collection required by these amendments has been cleared through November 30, 1986, by the Office of Management and Budget and given clearance number 3235–0164.

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Chairman of the Commission has certified that the amendments proposed herein will not, if adopted, have a significant economic impact on a substantial number of small entities. The Commission did not receive any comments on that certification.

Statutory Basis

The Commission amends 17 CFR Part 250 and adopts a revised Form U5S pursuant to the authority contained in sections 5(b), 9(c) and 14 of the Act, 15 U.S.C. 79e(b), 79i(c) and 79m.

List of Subjects in 17 CFR Parts 250 and 259

Accounting, Reporting and recordkeeping requirements, Securities, Utilities.

Text of Amendments

The Commission hereby amends Part 250, of Chapter II, Title 17, Code of Federal Regulations, and adopts a revised Form U5S as set forth below. The text of Form U5S does not appear in the Code of Federal Regulations.

PART 250—GENERAL RULES AND REGULATIONS, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

1. Paragraph (b) (1), (2), and (3) of § 250.48 is revised to read as follows:

§ 250.48 Certain exemptions in connection with appliance sales and loans to officers or employees.

* * * * *

(b) * * *

(1) If such transaction is made pursuant to a personnel policy of general application adopted in writing by the board of directors of such company, or by a committee or executive officer authorized by the board of directors so to act and communicated to the class of employees to which it applies; and does not cause the total amount of guarantees and loans of all companies in the holding-company system to or for the account of such employee, outstanding at the time of the transaction, to exceed the limits specified in the applicable personnel policy.

(2) The exemption also extends to securities or guarantees incident to bona fide advances to the employee for travel or other reimbursable expenses and current indebtedness of the employee for goods or services sold by the system companies in the ordinary course of business.

(3) Each company intending to avail itself of this exemption subsequent to the effective date of this rule shall file, as an exhibit or as an amendment to the system's annual report on Form U5S, a copy of such personnel policy.

* * * * *

PART 259—FORMS PRESCRIBED UNDER THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

2. By amending the annual report on Form U5S to provide in full as follows:

OMB Approval

3235–0164 Expires 11/30/86

Securities and Exchange Commission, Washington, D.C.—Form U5S, Annual Report

For the year ended December 31, 19—, or fiscal year ended ————

Filed pursuant to the Public Utility Holding Company Act of 1935 by

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(Name and address of each registered holding company in the system)

General Instructions

1. Use of Form.—An annual report covering the preceding calendar or fiscal year shall be filed on Form U5S with the Commission on or before the first day of May in each year, but no later than 120 days after the close of fiscal year of a holding company reporting a year which does not end on December 31, for each holding company registered pursuant to section 5 of the Public Utility Holding Company Act of 1935 ("Act"). Where a holding company system includes more than one registered holding company, a single report shall be filed on behalf of all registered holding companies in the system. A subsidiary holding company which is exempt from registration under section 3(a)(2) of the Act and Rule 2(b) is not a registered holding company and should not sign the report.

2. Formal Requirements.—

(a) Two copies of the report on this form, including the exhibits specified, shall be filed with the Commission. At least one of such copies shall be manually signed and filed at the place designated by the Commission for filings under the laws it administers. The second copy shall be addressed to the Division or Office responsible for administering the Act.

Every amendment to the annual report shall comply with the formal requirements governing an original annual report with respect to the number of copies filed, signature and similar matters. Each such amendment should be numbered and contain an index of the contents thereof.

(b) The annual report, and where practicable all documents filed as part thereof, shall be on good quality, unglazed white paper, 8½" x 11" in size. Tabulations may be placed either vertically or horizontally on a page, may utilize facing pages, and may be

reduced. All papers included in the annual report, except exhibits not especially prepared for such purpose, shall have a side margin of at least 1½" for binding, and each copy should be firmly bound on the left side.

(c) The report or any portion thereof may be prepared by any process. All copies shall be legible and suitable for repeated photocopying. Accordingly, items in tabulations which must be subtracted rather than added shall be distinguished in a manner which will not be obscured by black and white reproduction.

(d) The report shall contain the item number and caption of each item in the form, but shall omit all instructions and text. If any item is inapplicable or the answer thereto is negative, it shall be so stated. These items may be collected on a single page to economize on the space required. Information requested in tabular form shall be supplied in substantially the form indicated.

3. Incorporation by Reference.—Incorporation by reference is permitted only where specifically provided in the form.

4. Information Unknown or Not Available.—Information required need be given only insofar as it is known or can be obtained by the system company without unreasonable effort or expense. Omissions should be explained briefly.

5. Definitions.—"Holding company system" or "system" as used in this form means the parent registered holding company together with all its subsidiary companies, including all subsidiary registered holding companies and all mutual service companies of which such registered holding company or any subsidiary company thereof is a member company. A "system company" means any company in the holding company system. Unless the context clearly indicates the contrary, all terms used in this form and the instructions have the same meaning as in the Public Utility Holding Company Act of 1935 and in the rules and regulations issued thereunder.

6. Any system company may be identified elsewhere in the report by an abbreviation stated in Item 1.

7. The report is for the system's fiscal year and references to the period covered mean that year. The form has been drawn for the calendar year almost universally used, but a system using a different fiscal year shall substitute the date of the end of its fiscal year for December 31.

ITEM 1.—SYSTEM COMPANIES AND INVESTMENT THEREIN AS OF DECEMBER 31, 19—

Name of company (add abbreviation used herein)	Number of common shares owned	Percent of voting power	Issuer book value	Owner's book value

Instructions to Item 1

1. List the parent holding company and all statutory subsidiaries, direct or indirect, including registered holding companies, mutual service companies, inactive and nonutility companies and statutory subsidiaries which have pending applications for exemption. Inactive companies should be indicated by an asterisk (*).

2. Subsidiaries of a single subsidiary shall be listed under that subsidiary and identified as such by indentation or otherwise. Subsidiaries of more than one system company shall be identified by a footnote showing the owners, and the division of the investment, as tabulated, among such owners.

3. Noncorporate subsidiaries, such as a trust or partnership, shall be identified by a footnote, stating the form of organization and the form of equity investment, the amount of which shall be included in the tabulation as though it were common stock.

4. Subsidiaries added during the year shall be identified by footnote, stating the jurisdiction under the laws of which the subsidiary was organized, its date of organization, the date of acquisition, if different and briefly describing the business of the subsidiary. Changes in the status of an existing subsidiary during the year shall be identified in the same manner.

5. Voting power refers to the percentage of votes for the election of directors, as of the end of the year, without regard to voting rights which other classes of securities might have on hypothetical contingencies, such as dividend defaults. Applicable qualifications, such as other shareholders' cumulative voting rights or special provisions for selection of directors (or equivalent representatives for trusts or partnerships) shall be stated briefly by footnote.

6. The line in the tabulation stating the company name shall show the common stock investment, or equivalent. Investments, if any, in other equity securities, in unsecured debt and in secured debt, shall be summarized, in aggregate amount, by those three categories, on additional lines under the company name. The book values specified refer to the investment, as defined in Rule 26, with respect to the owner, and the balance sheet amount with respect to the issuer, in both cases including applicable paid in capital and retained earnings.

To the extent convenient, the other investments may be described in the tabulation or by footnote. Investments consisting of numerous series, however, shall be described in schedules annexed to the Form U5S, which may be reproductions of issuer's schedules included in its reports to the Federal Energy Regulatory Commission, a state commission or this commission, with any needed additions or annotations. The description will include the principal amount, interest or dividend rate, and maturity date, and distinguish between the amounts owned within the system and those otherwise outstanding. The amount of arrears of dividends or interest, if any, excluding unmatured accruals will be shown.

Item 2. Acquisitions or Sales of Utility Assets

Excluding transactions reported in a certificate filed pursuant to Rule 24, provide a brief description of acquisitions or sales, if any, by each system company, of utility plant in service or under construction of any electric utility company or retail gas utility company for the production, transmission or distribution of electric energy or distribution of natural or manufactured gas, stating the name of the system company (both system companies if the transfer is within the system), the consideration, a brief description of the transaction, the location and the exemption claimed for transactions which have the effect of adding or disposing of a discrete territory separately served or to be served at retail by another utility company, cooperative or government (as defined in Section 2(c) of the Act), and transactions which involve a consideration of more than one million dollars including reasonably estimated completion costs incurred or eliminated by transfer of facilities under construction. Other transactions need not be identified.

Instructions to Item 2

1. The exemption claimed shall be identified by reference to the Section of the Act or rule relied on. If Section 9(b) is relied on, the State commission order shall be identified and a copy included as an exhibit.

2. This item is directed to utility plant. Do not include disposal of abandoned or salvaged facilities, even if the purchaser

is to effect the removal or conversion to non-utility use.

Item 3. Issue, Sale, Pledge, Guarantee or Assumption of System Securities

Excluding transactions reported in a certificate filed pursuant to Rule 24, or described in Item 2 as part of the consideration for an acquisition, and transactions of a subsidiary exempted as such under section 3(d) of the Act, provide a brief description of issuances, sales or pledges of securities of system companies or guaranty or assumption by system companies or securities of other persons, including system companies of exempted subsidiaries, stating the name of the issuer, the name of the system company if different, describing the securities, the date and form of the transaction, the consideration and the exemption claimed.

Instructions to Item 3

1. Recurrent transactions shall be reported by system companies in the aggregate, stating only the total balance of the end of the year, the highest balance during the year, with its date, and the effective average interest rate, including commitment fees and other charges of the lenders, for the year. If such borrowings were secured by pledge or lien, the security shall be described and the secured borrowings shall be stated in the same manner as specified above, but separately. If short-term borrowing subject to this instruction is included in the borrowing reported in the Form 10K, schedule 9, that schedule may be incorporated by reference, without segregation, even though it may include borrowing reported under Rule 24.

2. Pledges and guarantees incident to the procurement of surety bonds, workmen's compensation deposits and comparable obligations incurred in the ordinary course of the system company's business may similarly be reported in the aggregate, stating the balance at the end of the year and the highest amount outstanding during the year. Describe the purposes thereof and any consideration received by a system company, other than accomplishment of the purpose described on reimbursements for administrative costs of transaction.

3. Issuance and concurrent retirement of securities as a formal means of satisfying indenture or charter requirements need not be reported.

4. The exemption claimed shall be indicated by reference to the section of the Act or rule relied on.

Item 4. Acquisition, Redemption or Retirement of System Securities

Excluding short term debt, and transactions of a subsidiary exempted as such under Section 3(d) of the Act, provide a brief description of any system securities acquired, redeemed, or retired, stating the name of the issuer, the name of the system company acquiring or retiring the securities, if different, the consideration, whether the securities have been extinguished or are held for further disposition, and the authorization or exemption relied on.

Instructions to Item 4

1. Securities paid on maturity, or retired by sinking fund or otherwise pursuant to indenture or charter provisions or acquired in anticipation of such requirements pursuant to Rule 42(c)(4) or orders authorizing the issuance of redeemable preferred stock, and securities redeemed in a transaction reported in a certificate filed pursuant to Rule 24, shall be reported in the aggregate, by company, distinguishing only bonds, unsecured debt and preferred stock. Schedules shall be annexed to the report, which may be reproductions of the issuer's reports to the Federal Energy Regulatory Commission, a state commission or this Commission, with any needed additions or annotations, to identify the annual amount retired or acquired and consideration for each series or issue. Issuance and concurrent retirement of securities to formally satisfy indenture or charter provisions may be omitted, and only the aggregate consideration for each issue or series need be stated.

2. If the consideration consisted in whole or in part of other than cash, set forth separately the cash consideration, and the dollar amount of securities or other property. The dollar amount of securities should be stated at the approximate book value thereof on the books of issuer as of the date of the transaction. Other property should be stated at book cost on the books of the owner thereof immediately prior to the transaction.

3. If securities acquired in a prior year are retired in the year of the report, their retirement shall be reported.

4. Exemptions claimed shall be identified by reference to the section of the Act or rule, and authorization by reference to the Holding Company Act Release Number, except the reference to such number may be omitted with respect to redeemable preferred stock.

Item 5. Investments in Securities of Nonsystem Companies

For each system company, excluding subsidiaries exempted from regulation as such pursuant to section 3(d), securities representing obligations of customers incurred in the ordinary course of business, and temporary cash investments acquired under Rule 40(a)(1), (2) or (3), report as of the end of the year:

1. Aggregate amount of investments in persons operating in the retail service area of the owner, or of its subsidiaries, and not exceeding $100,000 in each person. State the number of persons included and describe generally the kind of persons included.

2. With respect to securities owned not included in category 1, state the name of the issuer, describe the securities, including number of shares and percentage of voting power as to equity securities, indicate the general nature of the issuer's business, and state the owner's book value of the investment.

Instructions to Item 5

1. The "person" whose securities are owned may be any form of entity, but for purposes of category 1, the amount of the investment shall be calculated on a consolidated basis including all persons known to be under common control, and all investments of the system in that person shall be aggregated.

2. Reports of the owner to the Federal Energy Regular Regulatory Commission, a state commission or this Commission, with any necessary additions or annotations, may be annexed to the report to provide, in whole or in part, the information specified.

Item 6. Officers and Directors

Except for officers and directors of subsidiaries exempted under section 3(d) of the Act:

Part I. As of December 31, 19——

1. List the names and principal business address of the officers and directors of all system companies as of the end of the calendar or fiscal year.

2. Under the column for each system company, designate by appropriate symbols positions held in such company.

Names of System Companies with Which Connected						

Part II. With respect to each officer and director with a financial connection within the provisions of Section 17(c) of the Act, show:

Name of officer or director	Name and location of financial institution	Position held in financial institution	Applicable exemption rule
(1)	(2)	(3)	(4)

This information may be included in the Part I tabulation, if feasible.

Part III. State the disclosures made in each system company's most recent proxy statement and annual report on Form 10–K with respect to:

(a) The compensation of directors and executive officers of system companies;

(b) Their interest in the securities of system companies including options or other rights to acquire securities;

(c) Their contracts and transactions with system companies;

(d) Their indebtedness to system companies;

(e) Their participation in bonus and profit-sharing arrangements and other benefits;

(f) Their rights to indemnity.

If any executive officers or directors of system companies are not included in the specified reports under the Securities Exchange Act of 1934, provide the same information, as though the company with which they serve were a division of the first direct or indirect parent filing a proxy statement and Form 10K under that Act.

Instructions to Item 6

1. The data specified shall be physically in the report and shall be substantially the same, without omission, as that reported under the securities laws. It may be edited to eliminate repetition or duplication and to put related information together. If officers and directors participate in benefits of more general application and the filings referred to rely on cross reference to a general description of the benefits, that description may be edited to eliminate irrelevant aspects. Contracts, documents and other exhibits may be incorporated by reference. Any material change after the date of publication of the source report shall be noted in Item 6.

2. The proxy statement and Form 10–K for the report year will ordinarily be filed before the filing date specified for the Form U5S. If the filing of one or more of those reports is delayed for any reason, the data therefrom specified in Item 6 shall be omitted and filed by amendment concurrently with the filing of the delayed report.

3. The term "executive officer" shall mean an executive officer as defined in the rules under the Securities Act of 1933 (17 CFR § 230.405) as that rule may be amended or replaced.

Item 7. Contributions and Public Relations

Excluding any service company filing an annual report on Form U–13–60, and any subsidiary exempted as such under Section 3(d), state, for parent holding company and for each subsidiary, the expenditures, disbursements or payments during the year, in money, goods or services, directly or indirectly to or for the account of:

(1) Any political party, candidate for public office or holder of such office, or any committee or agent therefor; or

(2) Any citizens group, or public relations counsel identifying the total paid to or for the account of each ultimate beneficiary during the year, the purpose of the payment and the account of the company to which it was charged, except that payments to an ultimate beneficiary of less than $10,000 during the year in category (2) for similar purposes, may be aggregated by stating the number of beneficiaries, the purposes and the account charged.

Instructions to Item 7

1. The current definitions and regulations of the Federal Election Commission shall be followed in determining the extent to which expenses incurred by the company or its employees or agents with respect to political action committees or other activities, whether Federal or local, should be included in the amounts to be reported in category 1. The reporting company's applicable accounting policies will be followed in including incidental expenses or overhead in the other categories.

2. Each reporting subsidiary shall supply the parent holding company with its Item 7 report, signed by the officer of the subsidiary responsible for its accounts and records. The parent holding company shall keep these reports with its copy of the Form U5S.

Item 8. Service, Sales and Construction Contracts

Excluding contracts for the purchase, sale or interchange of electricity or gas, transactions included in the annual report on Form U–13–60 of a service company, and the sharing of costs of jointly owned facilities or jointly employed personnel:

Part I. Furnish the information required by the following table as to contracts for services, including engineering or construction services, or goods supplied or sold by a system company to another system company, and state, in the tabulation or by footnote, the date of the contract and whether it remained in effect at year end.

Transaction	Serving company	Receiving company	Compensation

Part II. Does any system company have a contract to purchase services or goods from any affiliate (other than a system company), or from a company in which any officer or director of the receiving company is a partner or owns 5% or more of any class of equity securities? If the answer to Part II is yes, and the contract has not already been reported in Item 6, report such contracts in substantially the same detail as specified for Part I, also describing the affiliation.

Part III. Does any system company employ any other person for the performance on a continuing basis of management, supervisory or financial advisory services?

If the answer to Part III is yes, state the name of each such person, describe the contract, and the scope of the services and the annual consideration.

Instructions to Item 8

1. Similar and related transactions between the same companies should be aggregated into annual totals.

2. The tabulation may omit: (a) One or more contracts if the aggregate consideration passing between the same companies is less than $100,000, and a general description of the omitted kinds of contracts is given; (b) utility service exempted by Rule 81, and (c) the non-recurrent transactions exempted by Rule 85; or Rule 87 (a)(3) and (b)(2), (4) or (5).

3. A purchase of goods or services by a system company necessarily involves an agreement as to price and terms between buyer and seller, whether expressed or implied. The reference to the contract in the text is not an exemption of informal or tacit agreements for continuous or recurrent transactions, which are expressly prohibited by Rules 84 and 86, with the limited exceptions made by Rules 85 and 87.

4. Jointly owned facilities are facilities, such as a generating plant, owned as cotenants by two or more associate companies which receive the output of such facilities for their respective use, and jointly employed personnel are employees or independent contractors concurrently working for and separately compensated by their respective employers. The exception does not apply to use of separate facilities or employees of one company to render services to an associate

company for a charge, even if limited to a calculated cost reimbursement. Instruction 2, however, may permit omission of some such contracts.

Item 9. Financial Statements and Exhibits

List all financial statements and exhibits filed as a part of this annual report.

Financial statements

Consolidating financial statements for the parent holding company and each of its subsidiaries for the year of the report, including a balance sheet, income statement, statement of retained earnings and statement of changes in financial position. The plant and related depreciation and amortization accounts shall be supported by classified schedules as prescribed below. The individual financial statements shall be those included in the audited consolidated financial statements reported for the same year in the Form 10–K or annual reports to shareholders incorporated therein and in substantially the same form. They shall be reconciled to said consolidated financial statements by an elimination column, the entries in which shall be keyed to identify by item, offsetting debits and credits.

Exhibits

Exhibit A. The report shall incorporate by reference the annual report of each system company filed for the same year under the Securities Exchange Act of 1934. A copy of such reports including annual reports to shareholders incorporated therein shall be included in the duplicate copy of the Form U5S addressed to the Division administering the Act, but not in the filed copy. Exhibits B and C may also be incorporated by reference.

Exhibit B. With respect to the parent holding company and each subsidiary company thereof, a copy of the charter, articles of incorporation, trust agreement, voting trust agreement, or other fundamental document of organization, and a copy of its by-laws, rules and regulations, or other instruments corresponding thereto. If such documents do not set forth fully the rights, priorities and preferences of the holders of each outstanding class of capital stock and those of the holders of any warrants, options or other rights to acquire capital stock, and of any limitations on such rights, there shall also be included a copy of each certificate, resolution or other document establishing or defining such rights and limitations. Each such document shall be in the amended form effective at the date of filing of the report or shall be accompanied by copies of any amendments to it then in effect.

Exhibit C. (a) With respect to each outstanding class of funded debt, a copy of the indenture or other fundamental document defining the rights of the holders of such security, and a copy of each contract or other instrument evidencing the liability of the parent holding company or a subsidiary company thereof as endorser or guarantor of such security. Include a copy of each amendment of such document and of each supplemental agreement, executed in connection therewith. If there have been any changes of trustees thereunder, such changes, unless otherwise shown, should be indicated by notes on the appropriate documents. No such indenture or other document need be filed in connection with any such issue if the total amount of securities that are now, or may at any time hereafter, be issued and outstanding thereunder does not exeed either $1,000,000 or an amount equal to 10% of the total of the debit accounts shown on the most recent balance sheet of the company which issued or guaranteed such securities or which is the owner of property subject to the lien of such securities, whichever of said sums is the lesser.

(b) As to each outstanding and uncompleted contract or agreement entered into by the parent holding company or any subsidiary company thereof relating to the acquisition of any securities, utility assets (as defined in section 2(a)(18) of the Act), or any other interest in any business, submit a copy of such contract or agreement and submit details of any supplementary understandings or arrangements that will assist in securing an understanding of such transactions.

Exhibit D. A copy of the tax allocation agreement for the year of the report pursuant to Rule 45(c).

Exhibit E. Copies of other documents prescribed by rule or order, such as Rule 48(b), for incorporation into the annual report.

Exhibit F. Schedules supporting items of the report.

Instructions for Financial Statements

1. The opinion of the independent accountants as to the consolidated financial statements and the footnotes to such statements shall be included in Form U5S. The opinion need not extend to the components of the consolidating statements.

2. If the statements of certain companies are customarily omitted from the consolidated statements of the registrant and its subsidiaries, the statements of such companies may be omitted from the consolidating statements required herewith, if statements for such companies are annexed.

3. In the balance sheets, equity securities, which are minority interests in the consolidated balance sheet, shall be shown separately from equity securities, even of the same class, which are eliminated in consolidation.

4. The consolidating financial statements may be divided into subgroups in order to adjust the number of columns needed on a page or facing pages. In such groupings, consolidations shall first be effected for each group consisting of a subsidiary and companies all of whose common stock is owned directly or indirectly by that subsidiary. Other inactive subsidiaries may be combined as a single group, and all of the financial statements of that group may be included on a single page. Further groupings shall combine companies with similar businesses.

5. The elimination column need not be supported by a recapitulation of the items in journal entry form, but such entries, in a form which will permit identification of the source by company of each elimination shall be kept with the parent holding company's copy of the Form U5S.

6. Utility plant accounts, including for the purpose of this instruction a natural gas company under the Natural Gas Act or any company regulated as a utility under state law, shall be supported by reproductions of the classified plant accounts included in the annual report of such company to its utility commission, and the related depreciation or amortization reserve schedules, together with any such schedules of other property or investments.

Signature

Each undersigned system company has duly caused this annual report to be signed on its behalf by the undersigned thereunto duly authorized pursuant to the requirements of the Public Utility Holding Company Act of 1935. The signature of each undersigned company shall be deemed to relate only to matters having reference to such company or its subsidiaries.[1]

Date _____

By _____

(Signature and printed name and title of signing officer)

By the Commission.

[1] Where the annual report is being filed on behalf of more than one system company, there shall be a separate signature for each such company by its authorized officer.

Date: February 2, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-3374 Filed 2-7-84; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 5f

[T.D. 7942]

Income Tax; Elections and Miscellaneous Matters

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains rules relating to elections and miscellaneous matters under section 224 of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), as amended by the Technical Corrections Act of 1982 (TCA). The temporary regulations provide guidance to taxpayers subject to section 224. The text of § 5f.338-1 of the temporary regulations set forth in this document also serves as the text of the proposed regulations cross-referenced in the notice of proposed rulemaking in the Proposed Rules section of this issue of the **Federal Register.**

DATE: These temporary regulations are generally effective as of February 7, 1984, and apply to stock acquisitions made after August 31, 1982 (§§ 5f.338-1 and 5f.338-3(b)). There are two exceptions (§§ 5f.338-2 and 5f.338-3(a). The transitional election rule applies to acquisitions after August 31, 1980, and before September 1, 1982 (§ 5f.338-2). A LIFO recapture rule applies to acquisitions subject to section 338 that occur before 1983. (§ 5f.338-3(a)).

FOR FURTHER INFORMATION CONTACT: Duane H. Pellervo of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3458, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains temporary regulations relating to elections under section 338 of the Internal Revenue Code of 1954 (the "Code"), as added by section 224 of TEFRA (Pub. L. 97-248; 96 Stat. 324), and as amended by section 306 of the Technical Corrections Act of 1982 (Pub. L. 97-448; 96 Stat. 2365). The temporary regulations also contain a special rule coordinating section 224 of TEFRA with section 101 of the Miscellaneous Revenue Act of 1982 (Pub. L. 97-362, 96 Stat. 1726), which provides a transitional rule for the application of the LIFO recapture provisions of section 403 of the Crude Oil Windfall Profit Tax Act of 1980 (Pub. L. 96-223, 94 Stat. 229). A special rule exempting the acquisition of certain financial institutions from the provisions of section 224 of TEFRA is also provided. These temporary regulations will remain in effect until superseded by later temporary or final regulations relating to these matters. These temporary regulations, which amend other temporary regulations published in the **Federal Register** on November 22, 1982 (47 FR 52433), are contained in 26 CFR Part 5f, Temporary Income Tax Regulations under TEFRA. Certain provisions of these temporary regulations were announced in a news release. IR-83-36 (Feb. 25, 1983).

Section 338 of the Code

Section 224 of TEFRA adds a new section 338 to the Code and repeals the rules under section 334(b)(2). New section 338 generally applies if a corporation makes a qualified purchase of stock in another corporation (target). In general, under section 338(d)(3), a qualified stock purchase is the purchase of 80% control of the target over a 12-month period. At the election (or "deemed election") of the purchasing corporation, the target is deemed to have sold its assets in a single transaction under section 337 at the end of the first day on which there is a qualified stock purchase (the "acquisition date"). The target is subsequently treated as a new corporation ("new target") which purchased those assets at the beginning of the following day. The target is deemed to have sold (and purchased) those assets for an amount equal to the purchasing corporation's basis in target's stock on the acquisition date, with certain adjustments. The rules of section 338 apply if the acquisition date of a target occurs after August 31, 1982. The rules also apply, with certain limitations, to a target for which the acquisition date occurs after August 31, 1980, and before September 1, 1982, if a transitional rule election under section 338 is made within a specified period of time.

The taxable year of "old" target ends immediately after its deemed asset sale. Thus, any tax liability triggered by the deemed sale is reported in the final income tax return of old target. As a general rule, the target's deemed sale cannot be reported in a consolidated return of the purchasing corporation since old target generally cannot be a member of the purchaser's affiliated group. H.R. Rep. 97-760, 97th Cong., 2d Sess. 539 (1982) (Conference Report).

Section 306(a)(8) of the Technical Corrections Act of 1982 (TCA) amended section 224 of TEFRA to clarify that, with certain exceptions, tax liability resulting from the target's deemed sale of assets is excluded from the selling corporation's consolidated return (if any). For acquisitions occurring after August 31, 1982, this result is achieved by treating a target as disaffiliated from all affiliated groups with respect to its deemed sale of assets. (For acquisitions occurring during the transitional rule period, the TCA mechanism for excluding deemed sale tax liability from the selling corporation's consolidated return also permits inclusion of such liability in the purchasing corporation's consolidated return. Transitional rule elections are discussed under a separate heading below.) In the case of a post-August 31, 1982 acquisition, a separate final return of old target must be filed to report tax liability arising from the deemed sale of assets if target is included in the seller's consolidated return for the acquisition date. (Target is included in that consolidated return for the acquisition date, and thus must file a separate return for the deemed sale, if target is affiliated with the group including the selling corporation (selling group) at the beginning of the acquisition date. See § 5f.338-1(f)(3).) The temporary regulations provide that target is disaffiliated immediately before the deemed sale, which occurs at the close of the acquisition date and is considered the last transaction of old target. The deemed sale is considered to occur in a separate taxable year, and target's attributes carry over to that year from the consolidated return of the selling group (and, similarly, carry back from that year) under the rules applicable to corporations leaving a consolidated return group. The separate taxable year rule is subject to one exception: Solely for purposes of determining the number of years in a carryover or carryback period, the deemed sale is considered to occur in the same taxable year of target as is represented by the seller's consolidated return for the period including the acquisition date.

Because the "deemed sale return" is considered the final return of old target, any tax attributes that cannot be used in that return (or carried back to a prior return) are extinguished. Except for carryover items, target's deemed sale return includes only items resulting from the deemed sale. Although target, for the

deemed sale, may not be included in any consolidated return filed by the purchasing corporation, target generally will be considered a component member of the purchaser's controlled group for purposes of determining, among other items, the taxable income bracket amounts available in calculating tax liability on the deemed sale return.

These temporary regulations provide that a target is not subject to the disaffiliation rule if it is the common parent of a group of corporations filing consolidated returns or a subsidiary in a consolidated return group the common parent of which is also a target. In such cases, a final consolidated return for the taxable year which ends at the close of the acquisition date must be filed by the common parent target, and the deemed sale of such common parent is reported in the final consolidated return. If a subsidiary of that common parent is also a target with a deemed sale occurring on the same acquisition date, that deemed sale also is reported in the final consolidated return of the group. As a further exception to the disaffiliation rule, items resulting from the deemed sale may be included in a selling group's consolidated return under a binding contract rule discussed below.

Under regulations to be prescribed at a later date pursuant to section 338(h)(9), as added by the TCA, an election may be made for the target to recognize gain or loss on its deemed sale as if it were an actual sale of assets, with any resulting tax included in the selling group's consolidated return. To the extent provided by regulations, the selling corporation would recognize no gain or loss on the actual sale of target's stock. An election under this provision may be made only when regulations are issued, and only as provided in such regulations.

Elections for Acquisitions Occurring After August 31, 1982

In General

Rules for making elections under section 338(g) for post-August 31, 1982, acquisitions are provided in § 5f.338–1 of these temporary regulations. As published in the **Federal Register** on November 22, 1983, § 5f.338–1 provided generally that no election would be due before 30 days after publication of regulations specifying the rules for making an election. As revised by this document, § 5f.338–1(c) provides that no election will be due before 60 days after the date of publication of the next set of temporary regulations under section 338. It is contemplated that such regulations will be issued within 60 days. Additional time is provided in § 5f.338–1 (j) and (k) for foreign and certain other corporations. A special rule for foreign corporations under which a section 338 election is not required until relevant for United States tax purposes applies when the purchasing corporation, the target, and certain related corporations have minimal or no contacts with the United States tax system during the acquisition period of target. In such cases, a section 338 election is not due until a specified time after significant U.S. contacts are established. See § 5f.338–1(k)(2).

The next set of temporary regulations, which will be in the form of questions and answers, will include substantive guidance as to some of the major consequences of a section 338 election in a domestic context. In light of section 338(g)(3), which provides that section 338 elections, once made, are irrevocable, taxpayers should be aware that any elections made prior to the issuance of those questions and answers will be binding and subject to the rules set forth in those temporary regulations and any future regulations.

Pursuant to an amendment made by section 306(a)(8)(B) of the TCA, these temporary regulations also provide that an election made before March 1, 1983, may be revoked before March 1, 1983. (A procedure for revoking an election, in § 5f.338–1(g), was previously announced in a news release issued on February 25, 1983 (IR–83–36).)

Suspension of Time To Elect Under Section 338

Under § 5f.338–1(j)(1) of the temporary regulations, the last day for making a section 338 election is suspended in certain cases until the date specified in regulations to be published under section 338(h)(6)(B). This suspension is necesssary because of the absence of regulations explaining the provisions of section 338(h)(6)(B). Under section 338(g)(6)(B), the consistency rules of section 338 (e) and (f) (which operate to force, or prohibit, a section 338 election in certain cases) are applicable to foreign and certain other types of corporations to the extent and subject to the conditions provided in regulations. Thus, for example, if an election were required prior to the issuance of regulations under section 338(h)(6)(B) for a target that had a foreign target affiliate for which a qualified stock purchase was made, the purchasing corporation would be required to make a decision regarding a section 338 election for target without knowledge of the consequences of that election to its foreign target affiliate under section 338(f)(1). The purchasing corporation could find itself in a similar position if the qualified stock purchase of a foreign target was followed, several months later, by the qualified stock purchase of its domestic target affiliate sister corporation. Until regulations under section 338(h)(6)(B) are published, the purchasing corporation will not know whether failure to elect for the foreign target will bar a later election for the domestic target by reason of section 338(f)(2). Because it would be unfair to place purchasing corporations in such a position, the time requirement for elections is suspended for acquisitions that could be affected by regulations under section 338(h)(6)(B). Subject to a special precedural requirement, a purchasing corporation is permitted to make an election notwithstanding the suspension. Such an election will be subject to all of the provisions of section 338 as well as the provisions of regulations issued or to be issued thereunder, including regulations under section 338(h)(6). The suspension is not available if one of the principal purposes for the acquisition of stock in a corporation is to qualify for the suspension.

Time for Filing Final Return of Old Target; Taxable Year and Method of Accounting of New Target

The temporary regulations clarify that old target's final return reflecting the deemed sale generally is due on the 15th day of the third calendar month following the month in which the acquisition date occurs. Special rules are provided for DISCs and certain foreign corporations. New target is not presumed to follow old target's annual accounting period and may choose any taxable year that is consistent with section 441 and any other applicable provisions of the Code and regulations. Similarly, new target may adopt any method of accounting that is consistent with section 446 and any other applicable provisions of the Code and regulations. In neither case is the prior consent of the Commissioner required.

Waiver of Additions to Tax; Certain Elections Considered Timely

Certain additions to tax or additional amounts ("additions") may arise by reason of a section 338 election. For example, an election may be made for a target which, by reason of that election, has a final return retroactively due before that election is filed, resulting, technically, in additions to tax for failure to file a return and for failure to pay tax shown on a return. The temporary regulations waive certain additions, arising on or before the 60th day after the date of publication of the

next set of temporary regulations under section 338, which would not exist but for a section 338 election. This waiver is conditioned on corrective action being taken on or before such day. Only additions that are excusable upon a showing of reasonable cause are waived under this rule. Interest on any underpayment of tax will run from the due date of the particular return.

The temporary regulations provide that any election or other action that must be specified in a timely filed return for the taxable period covered by a late-filed return to which the waiver rule applies will be considered timely if specified in the late-filed return. A special rule is provided for a new target included in the purchaser's consolidated return.

Selling Group Tax Liability: The Binding Contract Rule.

As an exception to the general rule that old target's deemed sale may not be included in a consolidated return filed by the selling group, the binding contract rule in section 306(a)(8)(A)(ii) of the TCA permits the deemed sale to be included in that consolidated return.

The deemed sale will be reported in such a return if the purchasing corporation acquired stock of a target (which was counted as part of a qualified stock purchase) pursuant to a binding stock purchase contract entered into after September 2, 1982, and before January 13, 1983, and if the purchasing corporation is able to establish by clear and convincing evidence that the contract was negotiated on the contemplation that any tax liability of target resulting from its deemed sale of assets would be reported in the selling group's consolidated return. The regulations explain how the binding contract rule is asserted, and provide standards for determining whether the clear and convincing evidence test has been satisfied.

The regulations specify that the clear and convincing evidence requirement is not considered satisfied if the purchasing corporation is contractually obligated to indemnify the selling group in the event that the selling group is legally obligated to pay any tax resulting from the deemed sale. Such an indemnification provision presupposes that the stock sale price was calculated on the assumption that the purchasing corporation was liable for any deemed sale tax.

The binding contract rule does not apply if the purchasing corporation fails to notify the selling group, within the time and in the manner prescribed by these regulations, of its intent to assert the rule. Even though the selling group agrees to a contract that qualifies under the binding contract rule, it cannot be forced to file a consolidated return unless the consolidated return regulations impose that obligation. If a consolidated return is not filed, the binding contract rule is inapplicable and the selling group is not statutorily liable for tax on the deemed sale. Under these circumstances, tax liability for the deemed sale must be reported in the final separate return of old target for its taxable year ending at the close of the acquisition date.

Transitional Rule Elections

In General

A purchasing corporation may elect to apply section 338 to an acquisition occurring in the two-year period ending on August 31, 1982, by making a transitional rule election under section 338 in the manner prescribed in § 5f.338–2 of these temporary regulations. The consistency rules of section 338 (e), (f), and (i) and the provisions of section 338(h) (4), (6), (8), and (9) do not apply to transitional rule elections. These regulations amend § 5f.338–2, as published in the **Federal Register** on November 22, 1982, in several ways, such as by adding a new procedure for selecting the deemed sale date and by providing generally that a copy of the statement of election must be attached to the first income tax return of new target as well as to the last return of old target. (If both of these taxable periods are included in a single consolidated return of the purchasing corporation, the statement of election is simply attached to that consolidated return.) Elections filed on or before February 28, 1983, in accord with § 5f.338–2 as originally promulgated, are valid and need not be amended. If the purchasing corporation or the target is a foreign corporation, a statement of transitional rule election that constitutes a reasonable attempt to comply with the requirements of these regulations will be valid.

Selected Deemed Sale Date

The temporary regulations provide procedures for selecting the date of the deemed section 338 asset sale, which under section 306(a)(8)(B)(i) of the TCA can be no earlier than the day after the acquisition date. (These procedures codify rules announced in a new release issued on February 25, 1983. IR–83–36.) Two important consequences flow from the separation of the deemed sale date from the actual stock acquisition date. First, while old target cannot be included in the seller's consolidated return for the deemed sale date, old target may be included in the purchasing corporation's consolidated return for that date, with the result that tax triggered by the deemed sale is reported in the purchaser's return. Second, the basis of target's assets after the election is made must be adjusted for operations of target between the acquisition date and the deemed sale date in a manner similar to the adjustment prescribed in regulations under the last sentence of section 334(b)(2), as in effect on August 31, 1982. (Such adjustments are not required with respect to acquisitions after August 31, 1982, since in such cases the deemed sale date is always the acquisition date.)

Time for Filing Return; Waiver of Additions to Tax

The final return of old target generally is due on the 15th day of the third calendar month following the month in which the deemed sale occurs. (Special rules are provided for DISCs and certain foreign corporations.) The rule summarized above for waiver of additions to tax (and additional amounts) also applies to transitional rule elections.

Date of Section 338 Election for Purposes of Special LIFO Recapture Rule

The Miscellaneous Revenue Act of 1982 (MRA) amended the LIFO recapture provisions of the Crude Oil Windfall Profit Tax Act of 1980 to provide generally that, for a plan of liquidation adopted in 1982, the LIFO recapture amount is reduced by $1 million. The MRA specifically provided that the $1 million exemption applies to a section 338 election if the election is made during 1982. Because no guidance on making elections for post-August 31, 1982, acquisitions was available to taxpayers in 1982, § 5f.338–3(a) of these temporary regulations provides that any election (including a transitional rule election) that could have been made in 1982 will be treated as if made in 1982 for purposes of the LIFO recapture rule if a timely election under section 338 is actually made. For transitional rule section 338 elections, this special rule will apply only if a 1982 deemed sale date is selected.

Election Out for Financial Institutions

Under section 224(d)(3) of TEFRA, the purchasing corporation may elect not to have section 224 of TEFRA apply to the acquisition of a financial institution even though the acquisition date occurs after August 31, 1982, if certain requirements are satisfied. The principal effect of such an election is that section 334(b)(2), as in effect on August 31, 1982,

rather than section 338 will apply to the determination of the basis of the assets of the acquired financial institution. The procedure for electing out of section 224 is provided in § 5f.338–3(b).

Regulatory Flexibility Act; Executive Order 12291; and Paperwork Reduction Act of 1980

No general notice of proposed rulemaking is required by 5 U.S.C. 553(b) for temporary regulations. Accordingly, the Regulatory Flexibility Act does not apply and no Regulatory Flexibility Analysis is required for this rule. The Commissioner of Internal Revenue has determined that this temporary rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. The reporting requirements added by this document have been submitted to the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act of 1980. The reporting requirements have been approved by OMB.

Drafting Information

The principal author of these temporary regulations is Duane H. Pellervo of the Legislation and Regulations 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 regulations, both on matters of substance and style.

List of Subjects in 26 CFR Part 5f

Income taxes, Tax Equity and Fiscal Responsibility Act of 1982.

Adoption of Amendments to the Regulations

Accordingly, Part 5f of Title 26 of the Code of Federal Regulations is amended as follows:

Paragraph 1. Section 5f.338–1 is revised to read as follows:

§ 5f.338–1 Elections under section 338(g) of the Internal Revenue Code of 1954.

(a) *Scope.* This section prescribes rules relating to elections under section 338, as added by TEFRA and as amended by the Technical Corrections Act of 1982. This section also prescribes rules under certain related provisions not included in the Internal Revenue Code. This section only applies with respect to acquisitions for which the acquisition date (determined without section 224(d)(5) of TEFRA) occurs after August 31, 1982.

(b) *Definitions—(1) TEFRA.* "TEFRA" is the Tax Equity and Fiscal Responsibility Act of 1982.

(2) *Acquisition date.* The "acquisition date" of a corporation is the first day on which there is a qualified stock purchase of such corporation. Thus, in the event of a series of stock purchases over a period of time, the acquisition date is the first day on which the aggregate of the stock purchases satisfies the requirements of section 338(d)(3).

(3) *Common parent.* The term "common parent" has the same meaning as in section 1504.

(4) *Purchasing corporation.* The term "purchasing corporation" has the same meaning as in section 338(d)(1).

(5) *Qualified stock purchase.* The term "qualified stock purchase" has the same meaning as in section 338(d)(3).

(6) *Selling group; purchasing group.* The "selling group" is the affiliated group (as defined in section 1504) that is eligible to file a consolidated return that includes the target for the acquisition date and that does not have a target as common parent for the taxable year including the acquisition date. See § 5f.338–1(f)(3) (i) and (ii). The "purchasing group" is the affiliated group that includes the purchasing corporation.

(7) *Old target; new target.* The "target" is the target corporation as defined in section 338(d)(2). "Old target" refers to the target for periods ending as of the close of the date of the target's deemed sale of assets. "New target" refers to the target for subsequent periods.

(8) *Old target's final return.* "Old target's final return" is the income tax return of old target that includes the deemed sale of assets under section 338. If the disaffiliation rule of paragraph (f)(3)(i) of this section applies, target's "deemed sale return" is considered old target's final return.

(c) *Time and manner of making election.* The purchasing corporation makes an election under section 338(g) only by filing, not later than 75 days after the acquisition date (or, if later, the 60th day after the date of publication of the next set of temporary regulations under section 338), a statement of election with the Internal Revenue Service Center with which it files its annual income tax return. If the purchasing corporation is considered to have made a qualified stock purchase of more than one corporation by reason of section 338(h)(3)(B), then a statement of election is required only for the corporation the stock of which is directly purchased. For a special suspension of time to elect under section 338, see paragraph (j) of this section. For special rules applicable to certain foreign corporations and DISCs, see paragraph (k) of this section.

(d) *Statement of election.* The statement of election under section 338 must be made by the purchasing corporation on Form 8023. If the form is not yet available, a statement prepared by the purchasing corporation will be satisfactory. The heading of the statement should prominently identify the statement as an election under section 338. Except as provided in paragraphs (j)(2) and (k) (4) and (5) of this section, the statement must—

(1) Contain the name, address, and employer identification number of the purchasing corporation and the target,

(2) Identify the election as an election under section 338(g) of the Code,

(3) For elections filed after May 8, 1984, specify the acquisition date, and

(4) Be signed by a person who states under penalties of perjury that he or she is authorized to make the election on behalf of the purchasing corporation.

(e) *Schedule of corporations; copy of statement attached to returns of target—*(1) *Schedule of corporations subject to election.* A schedule must be attached to the statement of election providing the name, address, and employer identification number of each corporation subject to the election by reason of section 338(h)(3)(B). Failure to attach the schedule will not invalidate the election.

(2) *Copy of statement of election attached to returns of target.* A copy of the statement of election under section 338 must be attached to old target's final return and to the first return of new target. Alternatively, if the target is a foreign corporation not subject to United States tax (as defined in paragraph (k)(3)(iii) of this section), a copy of the statement of election must be attached to the return(s) specified in paragraph (k)(6) of this section. Failure to attach the statement to these returns will not invalidate the election.

(f) *Certain consequences of section 338 election—*(1) *Exclusion of old target's deemed sale from purchasing group's consolidated return.* Notwithstanding the provisions of § 1.1502–76(b)(5) (i)(relating to elective inclusion in an affiliated group), old target is not includible in a consolidated return of the purchasing group with respect to its deemed sale of assets under section 338.

(2) *Old target's final taxable year not otherwise included in consolidated return of selling group—*(i) *General rule.* If a valid election under section 338 is made for a target that is not includible

in any consolidated return for a period that includes the acquisition date, then a final return must be filed for old target's taxable year that ends at the close of the acquisition date by reason of the section 338 election. Any tax liability resulting from the deemed sale of assets under section 338 is reported in that final return and may not be included in any consolidated return of the purchasing group.

(ii) *Old target the common parent of affiliated group or a subsidiary in a group with a common parent target.* If a valid election under section 338 is made for a target that is the common parent of an affiliated group, the final return specified in paragraph (f)(2)(i) of this section may be a consolidated return of that group. If such a final consolidated return is filed, any tax liability resulting from the deemed sale of such target, as well as from any deemed sales occurring on the same date of subsidiaries in target's group, is reported in that consolidated return (along with any tax liability on other income of the group for the taxable year ending at the close of the acquisition date) and may not be included in any consolidated return of the purchasing group. Thus, the final consolidated return of the common parent target is also the final return for each subsidiary of such target that is also a target with the same acquisition date.

(3) *Old target's final taxable year otherwise included in consolidated return of selling group*—(i) *General rule.* If a valid election under section 338 is made for a target that is includible in a consolidated return filed by the selling group for a period that includes the acquisition date, then old target is disaffiliated from that group immediately before its deemed sale of assets under section 338 and must file a final return including only the items resulting from the deemed sale and the carryover items specified in paragraph (f)(3)(iv) of this section ("deemed sale return"). The deemed sale occurs at the close of the acquisition date and is the last transaction of old target. If a "deemed sale return" must be filed, then any transactions of old target occurring on the acquisition date prior to the deemed sale are reported in the selling group's consolidated return.

(ii) *Old target includible in selling group's consolidated return.* Old target is considered to be includible in a consolidated return filed by the selling group for a period that includes the acquisition date if target is an includible corporation (within the meaning of section 1504) with respect to that group at the beginning of the acquisition date and if the 30-day rule option in § 1.1502–76(b)(5)(ii) (relating to elective exclusion from an affiliated group), is not exercised. For the definition of "selling group," see paragraph (b)(6) of this section.

(iii) *Separate taxable year.* The deemed sale of old target reported in the "deemed sale return" under this subparagraph (3) occurs in a separate taxable year, except that such sale is treated as occurring in the same taxable year of target as is represented by the selling group's consolidated return (for the period including the acquisition date) for purposes of determining the number of years in a carryover or carryback period.

(iv) *Carryover and carryback of tax attributes.* Target's attributes may be carried over to, and carried back from, the "deemed sale return" under the rules applicable to a corporation that ceases to be a member of an affiliated group during a consolidated return year. See generally §§ 1.1502–21 and 1.1502–79.

(v) *Old target is a component member of purchasing corporation's controlled group.* For purposes of its deemed sale return, target is a component member of the controlled group of corporations including the purchasing corporation unless target is treated as an excluded member under section 1563(b)(2).

(vi) *Exception.* This subparagraph (3) does not apply if the binding contract rule of paragraph (l) of this section applies.

(4) *EIN not affected.* New target shall use the same employer identification number old target used.

(5) *Liquidating target before election.* Liquidating target on or after the acquisition date and before the filing of an election under section 338 has no effect on the validity of the election. If target liquidates on the acquisition date, the liquidation will be considered to occur on the following day and immediately after new target's deemed purchase of assets.

(6) *Due date for old target's final return*—(i) *General rule.* Old target's final return (as defined in paragraph (b)(8) of this section) is due on the 15th day of the third calendar month following the month in which the acquisition date occurs. If old target is sold by a selling group, § 1.1502–76(c) may be applicable to old target's final return.

(ii) *Exceptions.* If the final taxable period of old target is includible in the consolidated return of the selling group by reason of the binding contract rule of paragraph (l) of this section, the due date of that consolidated return controls. For special rules applicable to certain foreign corporations and DISCs, see paragraph (k)(7) of this section.

(7) *New target's taxable year and method of accounting*—(i) *Selection.* Except as otherwise provided in the Code and the Income Tax Regulations, new target may adopt, without obtaining prior approval from the Commissioner, any taxable year that meets the requirements of section 441 and any method of accounting that meets the requirements of section 446.

(ii) *First return due on or before the 60th day after the date of publication of the next set of temporary regulations under section 338.* Notwithstanding § 1.441–1(b)(3), a new target may adopt a taxable year for which the first return is due on or before the 60th day after the date of publication of the next set of temporary regulations under section 338 (not including extensions of time) by filing its first return as new target for the desired taxable year on or before the 60th day after the date of publication of the next set of temporary regulations under section 338.

(8) *Example.* The provisions of this paragraph (f) may be illustrated by the following example. A capital letter refers to a domestic corporation.

Example. S is the common parent of an affiliated group that includes T. The S group files calendar year consolidated returns. At the close of June 30, 1983, P purchases all of the T stock from S. P makes a timely election under section 338(g), and the tax resulting from T's deemed sale of assets is triggered to T as of the close of the acquisition date (June 30). T is considered disaffiliated for purposes of reporting the deemed sale. Accordingly, T is included in the consolidated return of the selling group for the acquisition date except that the tax liability resulting from the deemed sale of assets will be reported in a separate "deemed sale return" of T. The result would be the same if P purchased the T stock at 10 a.m. on June 30, 1983. See paragraph (f)(3) (i) and (ii) of this section. Provided that T is not treated as an excluded member under section 1563(b)(2), T is a component member of P's controlled group for the taxable year represented by the deemed sale, and the taxable income bracket amounts available in calculating tax on the deemed sale return must be limited accordingly. If the S group does not file consolidated returns and if old T filed on the calendar year, a separate return must be filed for old T for its short taxable year beginning on January 1, 1983, and ending on June 30, 1983, which would include the deemed sale.

(g) *Revoking election made before March 1, 1983*—(1) *In general.* An election under section 338(g) made before March 1, 1983, that meets all the requirements of paragraphs (c) and (d) of this section may be revoked by filing a statement of revocation before March 1, 1983, with the Internal Revenue

Service Center with which the statement of election was filed. Technical Corrections Act of 1982, section 306(a)(8)(B)(i) (Pub. L. 97–448; 96 Stat. 2365). (A statement filed with the Internal Revenue Service that does not meet all the requirements of paragraphs (c) and (d) of this section is not a valid election and need not be revoked.) The revocation of an election does not bar a later, timely election under section 338 with respect to the same acquisition. The heading of the statement of revocation should prominently identify the statement as a revocation of section 338 election, and a copy of the statement of election previously filed must be attached. The statement of revocation must—

(i) Identify the purchasing corporation and the target by name, address, and employer identification number,

(ii) Indicate that the previously filed election under section 338 is revoked, and

(iii) Be signed by a person who states under penalties of perjury that he or she is authorized to revoke the election on behalf of the purchasing corporation.

(2) *Perfection of revocation.* A statement of revocation filed before March 1, 1983, that sufficiently identifies the prior election and is signed by a person authorized to revoke the election but does not meet all of the requirements of paragraph (g)(1) of this section will nonetheless be considered valid if a statement of perfection is filed with the appropriate Internal Revenue Service Center not later than May 8, 1984. The statement of perfection must contain the information omitted from the original statement of revocation and be signed in the manner required for a statement of revocation. A copy of the previously filed statement of revocation must be attached to the statement of perfection.

(h) *Waiver: certain additions to tax and times to act, etc.*—(1) *Waiver of certain additions to tax arising on or before the 60th day after of publication of the next set of temporary regulations under section 338.* An addition to tax or additional amount (addition) under Subchapter A of Chapter 68 arising on or before the 60th day after the date of publication of the next set of temporary regulations under section 338, by reason of circumstances that would not exist but for an election under section 338, is waived if (i) under the particular statute the addition is excusable upon a showing of reasonable cause and (ii) corrective action is taken on or before the 60th day after the date of publication of the next set of temporary regulations under section 338. The Service should be notified at the time of correction (*e.g.*, by attaching a statement to a return that constitutes corrective action) that the waiver rule of this paragraph (h) is being asserted.

(2) *Elections or other actions required to be specified on a timely filed return*—(i) *In general.* If the addition to tax for failure to file a return is waived under paragraph (h)(1) of this section, then any election or other action that must be specified on a timely filed return for the taxable period covered by the late filed return described in that paragraph (h)(1) will be considered timely if specified on that late-filed return.

(ii) *New target in purchasing group's consolidated return.* If new target is includible for its first taxable year in a consolidated return filed by the purchasing group on or before the 60th day after the date of publication of the next set of temporary regulations under section 338, then any election or other action that must be specified in a timely filed return for new target's first taxable year (but which is not specified in the consolidated return) will be considered timely if specified in an amended return (or, if the contents of the return itself are not affected by the election or other action, a separate statement), filed on or before the 60th day after the date of publication of the next set of temporary regulations under section 338, with the Internal Revenue Service Center with which the consolidated return was filed. If the election is made on a separate statement, such statement must cite this provision and must include the name, address, and EIN of the parent corporation of the purchasing group.

(3) *Moot return not required.* If a timely election under section 338 is made, then an income tax return need not be filed for the taxable year of old target which, had an election not been made, would have included any day after the acquisition date.

(4) *Examples.* The provisions of this paragraph (h) may be illustrated by the following examples. A capital letter refers to a domestic corporation.

Example (1). T is an unaffiliated corporation filing income tax returns on the basis of a fiscal year ending October 31. At the close of September 20, 1982, T is acquired by P. P does not file consolidated returns. P files an election under section 338 on or before the 60th day after the date of publication of the next set of temporary regulations under section 338, which causes T's taxable year to end as of the close of September 20, 1982. An income tax return for T's taxable period ending on September 20, 1982, was due on December 15, 1982. Additions to tax for failure to file a return and to pay tax shown on a return will not be imposed if T's return is filed and the tax paid on or before the 60th day after the date of publication of the next set of temporary regulations under section 338. (This waiver applies even if the acquisition date coincides with the last day of T's former taxable year, *i.e.*, October 31, 1982.) Interest on any underpayment of tax for old T's short taxable year ending September 20, 1982, will run from December 15, 1982. A statement indicating that the waiver rule of § 5f.338–1(h) is being asserted should be attached to T's return.

Example (2). Assume the same facts as in Example (1). Assume further that new T adopts the calendar year. Under paragraph (f)(7)(ii) of this section, a calendar year will be properly adopted if new T files its first return on or before the 60th day after the date of publication of the next set of temporary regulations under section 338, indicating that a calendar year is adopted for new T (including the period beginning on September 21, 1982, and ending on December 31, 1982). Any additions to tax or additional amounts described in this paragraph (h) which arise by reason of the late filing of a return for the period ending on December 31, 1982, are waived, since they are based on circumstances that would not exsit but for the section 338 election. Notwithstanding this waiver, however, the return is still considered due on March 15, 1983, and interest on any underpayment runs from that date. Although prior to the election old T had a return due on January 15, 1983, that return need not be filed since a timely election under section 338 was made. See paragraph (h)(3) of this section.

(i) [Reserved]

(j) *Suspension of time to elect under section 338 in certain cases*—(1) *In general.* The last day for making an election under this section is suspended until the date specified in a Treasury decision setting forth regulations under section 338(h)(6)(B) if—

(i) the target (A) is a foreign corporation, a DISC, a corporation described in section 934(b), or a corporation to which section 936 applies, and (B) has a target affiliate or

(ii) the target has a target affiliate that either (A) is a foreign corporation, a DISC, a corporation described in section 934(b), or a corporation to which section 936 applies, or (B) owns stock in a foreign corporation or a domestic corporation that is a DISC or described in section 1248(e).

(2) *Option to make election notwithstanding suspension.* A purchasing corporation may opt to make an election notwithstanding the suspension by filing a statement of election within the latest time prescribed in paragraph (c) or (k) of this section. Such statement of election must include, in addition to the other requirements specified in this section, a declaration that the election is made pursuant to the option in "§ 5f.338–1(j)(2)" to make the section 338 election notwithstanding the suspension. A statement of election that does not contain this declaration is invalid unless

the purchasing corporation files a perfecting declaration on or before the 60th day after the date of publication of the next set of temporary regulations under section 338, with the Internal Revenue Service Center with which it filed the statement of election. The perfecting declaration must be signed by a person who states under penalties of perjury that he or she is authorized to make the declaration on behalf of the purchasing corporation, and a copy of the previously filed statement of election must be attached. An election made pursuant to this paragraph (j)(2) is subject to all of the provisions of section 338 as well as the provisions of regulations issued or to be issued thereunder, including regulations under section 338(h)(6).

(3) *Exception.* The suspension will not apply to a target if one of the principal purposes for the acquisition of stock is to qualify for the suspension.

(4) *Target affiliate.* For the definition of target affiliate, see paragraph (k)(3)(ii) of this section.

(k) *Special rules for foreign corporations or DISCs*—(1) *Election by foreign purchasing corporation not subject to U.S. tax.* Except as otherwise provided in this paragraph (k) or in paragraph (j) of this section, a foreign purchasing corporation not subject to United States tax for its taxable year that includes the acquisition date is required to file a statement of election under section 338 on or before the 15th day of the sixth calendar month following the month in which the acquisition date occurs (or, if later, the 60th day after the date of publication of the next set of temporary regulations under section 338). The statement of election must be filed with the Philadelphia Service Center, Philadelphia, Pennyslvania 19255.

(2) *Election not required until relevant*—(i) *General rule.* A qualifying foreign purchasing corporation is not required to file a statement of election for a qualifying foreign target before the 180th day after the close of the purchasing corporation's taxable year within which a triggering event occurs.

(ii) *Qualifying foreign purchasing corporation.* A purchasing corporation is a "qualifying foreign purchasing corporation" only if, during the acquisition period of a qualifying foreign target, all the corporations in the purchasing corporation's affiliated group (as defined in section 338(h)(5)) are foreign corporations that are not subject to United States tax.

(iii) *Qualifying foreign target.* A target is a "qualifying foreign target" only if the target and its target affiliates are foreign corporations that, during the acquisition period of target, are not subject to United States tax (and will not become subject to United States tax during such period by reason of a section 338 election). A target affiliate is taken into account for purposes of the preceding sentence only if, during the acquisition period of target, it is or becomes a member of the affiliated group (as defined in section 338(h)(5)) that includes the purchasing corporation of target.

(iv) *Triggering event.* A triggering event occurs in the taxable year of the qualifying purchasing corporation in which either that corporation or any corporation in its affiliated group (as defined in section 338(h)(5)) becomes subject to United States tax.

(v) *Special rule.* For purposes of this paragraph (k)(2), a corporation is considered "subject to United States tax" if it is subject to a tax described in paragraph (k)(3)(iii) of this section or if it is a controlled foreign corporation, a foreign investment company, or a foreign corporation the stock ownership of which is described in section 552(a)(2).

(3) *Definitions.* For purposes of this paragraph (k)—

(i) *Acquisition period.* The "acquisition period" is the period beginning at the end of the day before the first day of the "12-month acquisition period" (as defined in section 338(h)(1)) and ending at the beginning of the day following the acquisition date.

(ii) *Target affiliate.* The term, "target affiliate," has the same meaning as in section 338(h)(6) (applied without section 338(h)(6)(B)(i)).

(iii) *United States tax.* "United States tax" is a tax under Subtitle A of the Internal Revenue Code of 1954 (other than a tax under section 881 thereof). Subtitle A relates to income taxes.

(4) *Statement of election may be filed by United States shareholders in certain cases.* The United States shareholders (as defined in section 951(b)) may file a statement of election on behalf of a foreign purchasing corporation described in paragraph (k)(1) of this section if such corporation is also a controlled foreign corporation (as defined in section 957(a)). The statement of election must include the name, address, taxpayer identification number, and stock interest of each United States shareholder. In lieu of the requirement of paragraph (d)(4) of this section, the statement must be jointly signed by each United States shareholder, with each such shareholder stating under penalties of perjury that he or she holds the stock interest specified for such shareholder in the statement of election. (As an alternative to a jointly signed statement of election, the shareholder signatures may be contained in separate statements attached to the statement of election.) If a United States shareholder is not an individual or has delegated authority to sign the statement of election, the statement must be signed by a person who states under penalties of perjury that he or she is authorized to execute the statement on behalf of the United States shareholder. A copy of the statement of election must be attached to the Form 5471 (information return with respect to a foreign corporation) filed with respect to the purchasing corporation by each United States shareholder for the purchasing corporation's taxable year that includes the acquisition date (or, if paragraph (k)(2) of this section applies to the election, for the purchasing corporation's taxable year within which it becomes a controlled foreign corporation). The provisions of § 1.964–1(c) (including § 1.964–1(c)(7)) do not apply to an election made by the United States shareholders.

(5) *EIN not required for certain corporations.* Paragraph (d)(1) of this section requires that the employer identification numbers (EINs) of the purchasing corporation and target be specified in the statement of election. This requirement does not apply for a corporation that does not have, and is not otherwise required to have, an EIN.

(6) *Copy of statement of election for certain foreign target corporations attached to return.* If a valid election under section 338 is made for a foreign target corporation not subject to United States tax, a copy of the statement of election must be attached to the first United States income tax return of such target or the first Form 5471 each United States person files with respect to such target subsequent to the acquisition date. Failure to attach the statement to these returns will not invalidate the election.

(7) *Special rules for due date of old target's final return*—(i) *Old target a foreign corporation subject to United States tax.* The final return of old target is due on the 15th day of the sixth calendar month following the month in which the acquisition date occurs if old target is subject to United States tax for its taxable year that includes the acquisition date but does not have an office or fixed place of business in the United States during such period.

(ii) *Old target a foreign corporation not subject to United States tax.* A final return of old target is not required if old target is not subject to United States tax

for its taxable year including the acquisiton date.

(iii) *Old target a DISC.* The final return of old target is due on the 15th day of the ninth calendar month following the month in which the acquisition date occurs if old target is a DISC for its taxable year that includes the acquisition date.

(l) *Binding contracts entered into after September 2, 1982, and before January 13, 1983*—(1) *In general.* This paragraph (l) is prescribed under section 306(a)(8)(A)(ii) of the Technical Corrections Act of 1982. Notwithstanding the disaffiliation rule of paragraph (f)(3)(i) of this section, the target's deemed sale of assets is reported in the selling group's consolidated return for a period including the acquisition date if—

(i) Any portion of the stock of target that is part of the qualified stock purchase is acquired by the purchasing corporation pursuant to a binding contract (the "contract") entered into after September 2, 1982, and before January 13, 1983, and

(ii) The purchasing corporation establishes by clear and convincing evidence that the contract was negotiated on the contemplation that any tax liability resulting from the target's deemed section 338 sale would be reported in the selling group's consolidated return.

(2) *Clear and convincing evidence*—(i) *Requirement considered satisfied.* The purchasing corporation is considered to have satisfied the clear and convincing evidence requirement of paragraph (l)(1)(ii) of this section if, in the absence of contradictory evidence—

(A) Language in the contract plainly and unequivocally provides that the Federal income tax liability resulting from the deemed section 338 sale will be reported in the selling group's consolidated return;

(B) Documents contemporaneous with the negotiation of the contract plainly and unequivocally provide that the Federal income tax liability resulting from the deemed section 338 sale will be reported in the selling group's consolidated return, provided that the provisions of such documents relating to the selling group's liability were relied upon by both the buyer and seller in computing the contract selling price; or

(C) A statement, signed under penalties of perjury by a person authorized to act on behalf of the common parent of the selling group that files a consolidated return for a period including the acquisition date, plainly and unequivocally provides that the contract was negotiated on the contemplation that the Federal income tax liability resulting from the deemed section 338 sale would be reported in the selling group's consolidated return.

(ii) *Requirement not considered satisfied.* In no event will the purchasing corporation be considered to have satisfied the clear and convincing evidence requirement if the stock sale contract (or collateral documents) requires the purchasing corporation to indemnify the selling group for any Federal income tax liability resulting from the deemed section 338 sale in the event that applicable law or regulations impose that liability on the selling group.

(3) *Manner of asserting binding contract rule*—(i) *In general.* The purchasing corporation asserts the binding contract rule of this paragraph (l) by filing a "binding contract statement" with the statement of election under section 338 (or with a copy of a previously filed statement of election, provided that the binding contract statement and such copy are filed with the appropriate Internal Revenue Service Center on or before the due date for making the section 338 election).

(ii) *Contents of binding contract statement.* The binding contract statement must—

(A) Contain the name, address, and employer identification number of the common parent of the selling group;

(B) State that the binding contract rule is asserted;

(C) Indicate the date of entry into the binding contract;

(D) Set forth the facts which demonstrate that the parties contemplated selling group liability for target's deemed sale of assets; and

(E) Be signed by a person who states under penalties of perjury that he or she is authorized to make the binding contract statement on behalf of the purchasing corporation.

(iii) *Notice to common parent or selling corporations.* The binding contract rule does not apply unless, on or before the due date for filing a statement of election, a copy of the binding contract statement and the statement of election are provided the common parent of the selling group or each selling corporation.

(4) *Binding contract rule inapplicable if no consolidated return.* If a consolidated return including the target for a period including the acquisition date is not filed by the selling group (or if such return is filed but is properly withdrawn), then old target's final return is a separate return for its year ending on the acquisition date.

(The reporting requirements of this section have been assigned OMB Control Number 1545-0702)

Par. 2. Section 5f.338-2 is revised to read as follows:

§ 5f.338-2 Transitional rule elections.

(a) *In general*—(1) *Scope.* This section prescribes rules relating to section 338 "transitional rule" elections permitted by reason of section 224(d)(2) of TEFRA, as amended by section 306(a)(8)(B) of the Technical Corrections Act of 1982. See also section 224(d) (4) and (5) of TEFRA as added by such section 306(a)(8)(B). In general, a transitional rule election may be made for a corporation for which the acquisition date occurs after August 31, 1980, and before September 1, 1982.

(2) *Definitions.* The definitions contained in § 5f.338-1(b) also apply to this section.

(b) *Manner of making election.* The purchasing corporation makes a transitional rule election only by filing a statement of election not later than February 28, 1983, with the Internal Revenue Service Center with which it files its annual income tax return.

(c) *Statement of election*—(1) *General rule.* The heading of the statement of election should prominently identify the statement as a transitional rule election under section 338. Form 8023 is not used for this purpose. The statement must—

(i) Contain the name, address, and employer identification number of the purchasing corporation and the target,

(ii) Identify the election as an election under section 338(g) of the Code that is permitted by section 224(d)(2) of TEFRA, and

(iii) Be signed by a person who states under penalties of perjury that he or she is authorized to make the election on behalf of the purchasing corporation.

(2) *Purchasing corporation or target a foreign corporation.* If the purchasing corporation or the target is a foreign corporation, then a statement of transitional rule election filed not later than February 28, 1983, that constitutes a reasonable attempt to comply with the rules of paragraphs (b) and (c)(1) of this section will be valid.

(d) *Copy of statement of election attached to returns of target.* A copy of the statement of transitional rule election must be attached to old target's final return and to the first return of new target. Alternatively, if the target is a foreign corporation not subject to United States tax (as defined in § 5f.338-1(k)(3)(iii)), a copy of the statement of election must be attached to the return(s) specified in § 5f.338-1(k)(6). Failure to attach the statement to these returns will not invalidate the election.

(e) *Certain consequences of transitional rule election*—(1) *Taxable*

year ends at close of selected deemed sale date. Old target's taxable year ends at the close of the deemed sale date selected under paragraph (f) of this section. Because that date is never earlier than the day after the acquisition date, old target's tax liability resulting from its deemed sale of assets may not be included in the consolidated return of a selling group but may be included in the consolidated return of the purchasing group.

(2) *EIN not affected.* New target shall use the same employer identification number as old target used.

(3) *Rules similar to old section 334(b)(2); certain provisions of section 338 inapplicable.* If a transitional rule election is made, then—

(i) A rule similar to the last sentence of section 334(b)(2) (as in effect on August 3, 1982) applies, and

(ii) Subsections (e), (f), and (i) of section 338 and paragraphs (4), (6), (8), and (9) of section 338(h) do not apply.

(4) *Liquidating target before election.* Liquidating target on or after the deemed sale date (or after August 31, 1982, if later) and before the filing of a transitional rule election under section 338 has no effect on the validity of the election. If target liquidates on the deemed sale date, the liquidation will be considered to occur on the following day and immediately after new target's deemed purchase of assets.

(5) *Due date for old target's final return*— (i) *General rule.* Old target's final return is due on the 15th day of the third calendar month following the month in which the deemed sale date occures. If old target is sold by a selling group, § 1.1502–76(c) may be applicable to old target's final return.

(ii) *Exceptions.* If the final taxable period of old target is includible in the consolidated return of the purchasing group, the due date of that consolidated return controls. For special rules applicable to DISCs and certain foreign corporations, see § 5f.338–1(k)(7) (applied by replacing the phrase, "acquisition date," wherever it occurs, with the phrase, "deemed sale date")

(6) *New target's taxable year and method of accounting.* The rules of § 5f.338–1(f)(7) also apply to transitional rule elections.

(f) *Selection of deemed sale date by purchasing corporation*—(1) *In general.* The date of the target's deemed sale of assets under seciton 338(a) is the date selected by the purchasing corporation in the statement of transitional rule election or in a deemed sale date statement, rather than the acquisition date specified in section 338(h)(2). For purposes of determining whether the transitional election rules apply to the particular acquisition and for purposes of determining when target can be included in the consolidated return filed by the affiliated group that includes the purchasing corporation, the acquisition date rather than the selcted deemed sale date controls.

(2) *Date selcted as deemed sale date*—(i) *In general.* The purchasing corporation may select any deemed sale date in the statement of transitional rule election or deemed sale date statement, so long as such date—

(a) Is after the later of the acquisition date or June 30, 1982, and

(B) Is no later than (*1*) the date the statement of transitional rule election specifying a deemed sale date is filed or (*2*) if a deemed sale date is selected in a deemed sale date statement filed subsequent to the filing of a statement of transitional rule election (whether or not that election specified a deemed sale date), not later than the earlier of the date the deemed sale date statement is filed or February 28, 1983.

(ii) *Unspecified deemed sale date.* If a timely filed statement of transitional rule election does not specify a deemed sale date and a deemed sale date statement is not filed, the date of filing the election is considered the selected deemed sale date.

(iii) *Filing date.* For purposes of determining the date on which the deemed sale occurs, the date of mailing a statement, as evidenced by the postmark date, is considered the date of filing.

(3) *Selecting deemed sale date after filing transitional rule election*—(i) *Deemed sale date statement.* A purchasing corporation may select a deemed sale date after timely filing a valid statement of transitional rule election, whether or not that election specifies a deemed sale date, by filing a deemed sale date statement on or before May 8, 1984, with the Internal Revenue Service Center with which it filed the election. A copy of the statement of transitional rule election must be attached. The deemed sale date statement should contain the name, address, and employer identification number of the purchasing corporation and the target, identify the deemed sale date, and be signed by a person who states under penalties of perjury that he or she is authorized to select a deemed sale date on behalf of the purchasing corporation. The EIN requirement does not apply for a corporation that does not have, and is not otherwise required to have, an EIN.

(ii) *Revoking and filing new election.* As an alternative to the deemed sale date statement procedure, the purchasing corporation may revoke the previously filed election in accordance with paragraph (g) of this section and file a new election which specifies the desired deemed sale date. The prior election must be revoked and the new election filed before March 1, 1983.

(g) *Revoking election made before March 1, 1983.* A timely filed transitional rule election that meets all the requirements of paragraphs (b) and (c) of this section may be revoked only in the manner prescribed in § 5f.338–1(g).

(h) *Waiver: certain additions to tax and times to act, etc.* The rules of § 5f.338–1(h) also apply to transitional rule elections, except that § 5f.338–1(h)(3) is applied by substituting the phrase "deemed sale date" for the phrase "acquisition date."

(i) [Reserved]

(j) *Examples.* The provisions of this section may be illustrated by the following examples. In each example, a capital letter refers to a domestic corporation.

Example (1). (i) S is the common parent of an affiliated group that includes T. The S group files calendar year consolidated returns. At the close of May 31, 1982, S sells all of the stock of T to P, a calendar year corporation, and on November 10, 1982, P files a statement of transitional rule election with respect to T. The statement of election meets all the requirements of this section but does not specify a deemed sale date. P will file a separate return for the 1982 calendar year. Unless P takes action to specify a different date, the date of filing the statement of transitional rule election will be considered the selected deemed sale date. Thus, T's deemed sale occurs and its taxable year ends at the close of November 10, 1982. T's income from January 1, 1982, through May 31, 1982, is included in the consolidated return of the S group. Any income tax liability resulting from the deemed sale under section 338 is reported in old T's return for its final taxable period which begins on June 1, 1982, and ends on November 10, 1982. Under paragraph (e)(5)(i) of this section, this return is due on February 15, 1983. Assuming new T adopts the calendar year, another return will be required for the period from November 11, 1982, through December 31, 1982, which is T's first taxable period as "new target." Under paragraph (e)(6) of this section, new T may adopt the calendar year on its first income tax return if that return is filed on or before the 60th day after the date of publication of the next set of temporary regulations under section 338.

(ii) Because a return would not be due on February 15, 1983, but for the transitional rule election under section 338, additions to tax under section 6651(a) (1) and (2) are waived if that return is filed and the tax shown thereon paid on or before the 60th day after the date of publication of the next set of temporary regulations under section 338. See paragraph (h) of this section. These additions to tax are also waived with respect to the return of new T due on March 15, 1983, if that return is filed

and the tax shown thereon paid on or before the 60th day after the date of publication of the next set of temporary regulations under section 338. Interest on any underpayment of tax, however, runs from the due date of these returns.

(iii) If P files a consolidated return for the 1982 calendar year, T's income for its final taxable period as old target and for its first taxable period as new target will be included in P's consolidated return, to which a copy of the statement of transitional rule election must be attached. See paragraph (d) of this section. The waiver rule applies only to additions that would not arise but for the section 338 election.

Example (2). Assume the same facts as in Example (1)(i), except that P wishes to select a deemed sale date other than November 10, 1982. If P files a proper deemed sale date statement under paragraph (f) of this section after February 28, 1983, and on or before May 8, 1984, P may select as the deemed sale date any date after June 30, 1982, and before March 1, 1983. If July 1, 1982, is selected as the deemed sale date and P does not join with T in filing a consolidated return for 1982, any income tax liability resulting from the deemed sale of assets (occurring at the close of July 1, 1982) is reported in old T's final return for its taxable period beginning on June 1, 1982, and ending on July 1, 1982. Under paragraph (e)(5)(i) of this section, that return is due on October 15, 1982. Assuming that new T adopts the calendar year as its taxable year, another return will be required for the period beginning on July 2, 1982, and ending on December 31, 1982, which is new T's first taxable period as new target. If these returns are filed on or before the 60th day after the date of publication of the next set of temporary regulations under section 338, additions to tax for failure to file a return and to pay tax shown on a return will be waived. The return of old T which, had an election not been made, woudl have been due on March 15, 1983 (for the period from June 1, 1982, to December 31, 1982) need not be filed. See paragraph (h) of this section. If P acquired all of the stock of T at the close of June 30, 1982, and selected July 1, 1982, as the deemed sale date, old T's final return would consist of July 1, 1982 (*i.e.*, only one day).

(The reporting requirements of this section have been assigned OMB Control Number 1545-0702)

Par. 3. A new § 5f.338-3 is added to read as follows:

§ 5f.338-3 Miscellaneous rules under section 224 of TEFRA.

(a) *Date of section 338 election for purposes of the LIFO recapture rule of the Miscellaneous Revenue Act of 1982*—(1) *In general.* Solely for purposes of section 403(b)(4)(D) of the Crude Oil Windfall Profit Tax Act of 1980, as added by section 101 of the Miscellaneous Revenue Act of 1982, an election under section 338(g) that could have been made during 1982 is considered to have been made during 1982 if an election under section 338(g) is actually made before the expiration of the time for making such an election.

(2) *Election that could have been made during 1982*—(i) *In general.* Except as provided in paragraph (a)(2)(ii) of this section, an election is considered one that could have been made during 1982 if the qualified stock purchase as defined in section 338(d)(3) occurred before January 1,1983.

(ii) *Transitional rule elections.* For transitional rule elections, an election is not considered made in 1982 unless the deemed sale date occurs in 1982. For selection of deemed sale date, see § 5f.338-2(f).

(b) *Certain acquisitions of financial institutions*—(1) *In general.* The amendments made by section 224 of TEFRA do not apply to the acquisition of control (within the meaning of section 368(c)) of a financial institution in certain cases if the purchasing corporation elects out under section 224(d)(3) of TEFRA.

(2) *Manner of electing out.* A purchasing corporation is considered to elect out only if the requirements of section 224(d)(3) of TEFRA are satisfied and the purchasing corporation files a statement of election-out within 30 days after adoption of the plan of complete liquidation of the financial institution specified in section 224(d)(3)(C) (or by May 8, 1984, if later) with the Internal Revenue Service Center with which it files its annual income tax return.

(3) *Statement of election-out.* The heading of the statement of election-out should prominently identify the statement as an election-out under section 224(d)(3) of TEFRA. The statement must—

(i) Contain the name, address, and employer identification number of the purchasing corporation and financial institution,

(ii) Identify the election as an election-out under section 224(d)(3) of TEFRA,

(iii) Specify the date of entry into the binding contract to acquire control of the financial institution,

(iv) Specify the date of final approval of the last regulatory authority granting final approval of the acquisition,

(v) Specify the date of adoption of the plan of complete liquidation of the financial institution, and

(vi) Be signed by a person who states under penalties of perjury that he or she is authorized to make the election on behalf of the purchasing corporation.

(4) *Copy of statement of election-out attached to return of purchasing corporation.* A copy of the statement of election-out should be attached to the income tax return of the purchasing corporation for its taxable year in which the liquidation begins. Failure to attach the statement to that return will not invalidate the election-out.

(5) *Financial institution.* For purposes of this section, a financial institution is an entity described in section 585 or 593 or a bank holding company within the meaning of section 2(a) of the Bank Holding Company Act of 1956.

(6) *Adoption of plan of complete liquidation; date of final approval.* The statement of election-out is valid only if a plan of complete liquidation of the financial institution is adopted within 90 days after the date of final approval of the acquisition by the last regulatory authority granting approval. The date of final approval by the last regulatory authority includes, where applicable, the expiration date of the period under 12 U.S.C. § 1849 within which the Attorney General is authorized to commence an action under the antitrust laws with respect to the acquisition (provided that no such action is commenced).

(7) *Election-out invalidates prior section 338 election.* A valid election-out invalidates a prior section 338 election made for the target financial institution. If a prior section 338 election has been made, the statement of election-out should indicate that such prior election is invalidated by the election-out.

(The reporting requirements of this section have been assigned OMB Control Number 1545-0702)

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

This Treasury decision is issued under the authority contained in sections 338 and 7805 of the Internal Revenue Code of 1954 (96 Stat. 324, 26 U.S.C. 338; 68A Stat. 917, 26 U.S.C. 7805, respectively).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: January 25, 1984.

John E. Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 84-3460 Filed 2-7-84; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 920

Maryland Permanent Regulatory Program; Approval of State Program Amendments

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

ACTION: Final rule.

SUMMARY: This document amends 30 CFR Part 920 to approve amendments to the Maryland permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

On October 28, 1982, and October 21 and November 23, 1983, Maryland submitted to OSM amendments to its approved permanent regulatory program. The general areas of revision to the State's regulations include definitions, permit application requirements and regulatory authority review procedures and decision, coal exploration, permit review and transfer of permit rights, designation of areas unsuitable for mining, roads, performance bonds, hydrologic balance, sediment control measures, explosives, special performance standards, and backfilling and grading.

After providing opportunity for public comment and conducting a thorough review of the program amendments in accordance with 30 CFR 732.17, the Director, OSM, has decided to approve the modifications contained in the amendments.

EFFECTIVE DATE: February 8, 1984.

FOR FURTHER INFORMATION CONTACT: David H. Halsey, Director, Charleston Field Office, Office of Surface Mining, 603 Morris Street, Charleston, West Virginia 25301, Telephone: (304) 347–7158.

ADDRESSES: Copies of the amendments to the Maryland program and all written comments received on the proposed amendments are available for public review at the OSM Headquarters Office, the OSM Charleston Field Office and the Office of the State Regulatory Authority listed below, Monday through Friday, 9:00 a.m. to 4:00 p.m., excluding holidays.

Office of Surface Mining Reclamation and Enforcement, 603 Morris Street, Charleston, West Virginia 25301.

Office of Surface Mining Reclamation and Enforcement, 1100 "L" Street, N.W., Room 5315, Washington, D.C. 20240.

Maryland Bureau of Mines, 69 Hill Street, Frostburg, Maryland 21532.

SUPPLEMENTARY INFORMATION: On March 3, 1980, OSM received a proposed regulatory program from the State of Maryland. This proposed program was conditionally approved by the Secretary of the Interior on December 1, 1980 (45 FR 79430–79451). On February 18, 1982, following submission of program amendments to satisfy the conditions of approval, the Maryland program was fully approved by the Secretary (47 FR 7214–7217).

Submission of Program Amendments

On October 28, 1982, the State submitted certain proposed regulations (Administrative Record No. MD 194) to replace those contained in its approved program. The general areas of revision to the State's regulations include definitions, permit application requirements and regulatory authority review procedures and decision, coal exploration, permit review and transfer of permit rights, designation of areas unsuitable for mining, roads, performance bonds, hydrologic balance, sediment control measures, explosives, special performance standards, and backfilling and grading. On November 16, 1982, OSM published a notice in the **Federal Register** to announce receipt of the amendments, public comment period and opportunity for public hearing (47 FR 51590). The public comment period closed on December 16, 1982. A public hearing scheduled for December 7, 1982, was not held because no one expressed an interest in participating. Following this opportunity for a public hearing and the public comment period, OSM met with the State on May 19, 1983, and presented to the State its tentative findings and possible deficiencies of the proposed regulations (Administrative Record No. MD 216). On June 13, 1983, the State submitted a letter stating its understanding of the action required to correct each deficiency (Administrative Record No. MD 217).

On October 21, 1983, the State submitted revisions to correct the deficiencies contained in the October 28, 1982 amendment (Administrative Record No. MD 219). Following this submission, OSM reopened the public comment period on November 7, 1983 (48 FR 51158). That comment period closed on November 22, 1983.

Following public comment and review of the revised regulations, OSM determined that a clarification of one provision would be necessary in order to effectively evaluate the proposed amendment. In addition, three revisions which the State had indicated would be made to the proposed amendment had not been made. This clarification and the three revisions were discussed with the State on November 23, 1983 (Administrative Record No. 225). On the same date, the State submitted the required clarification and regulation revisions (Administrative Record No. MD 226). These were made available for public comment and review on December 8, 1983 (48 FR 54996– 54997). The public comment period closed on December 23, 1983.

Director's Findings

Set forth below, pursuant to 30 CFR 732.15 and 732.17, are the Director's findings concerning the state program revisions submitted by Maryland to amend the approved Maryland regulatory program.

1. The Director initially determined that the October 28, 1982, revised definition of "disturbed area" found in the Annotated Code of Maryland (COMAR) .08.13.09.01B.(24) was less effective than the federal definition in that the State definition did not include the removal of vegetation. Following discussion of this deficiency at the May 19, 1983, meeting between the State and OSM (see Administrative Record No. MD 216), the State revised the definition to include the removal of vegetation and included the new definition in the October 21, 1983, regulation submission (Administrative Record No. MD 219). The Director finds the State's revised definition to be no less effective than the Federal definition.

2. The State regulations submitted on October 28, 1982, proposed to delete the requirements of COMAR .08.13.09 02I.(11)(c). This provision required submission of information concerning administrative and judicial proceedings relating to violations. The State indicated that although this provision would be deleted, it would revise the State's permit application form to require submission of the information formerly required by the regulation. On November 23, 1983, the State submitted information that indicated that the permit application had not been revised, but that the State was requiring and would continue to require this information. Pending receipt of the State's revised permit application form, the Director is unable to find the State provision to be no less effective than the Federal regulations at 30 CFR 778.14(c). Therefore, action on this proposed deletion is deferred pending receipt of that application form.

3. The October 28, 1982, regulations proposed to provide a waiver for the statement of results of test borings or

core samplings as required by COMAR .08.13.09.02K.(2)(d) if the Bureau of Mines determines it is unnecessary. In its letter of June 13, 1983, the State indicated that the waiver would be granted based on the availability of equivalent information as required by 30 CFR 780.22(d) or when no overburden is disturbed. Based on these clarifications, the Director finds the State provision to be no less effective than the Federal requirements.

4. The October 28, 1982, regulations proposed to delete the provision of COMAR .08.13.09.05A.(5) which requires that the proposed mining operation would not adversely affect any publicly owned parks or places included in the National Register of Historic Places unless approved by the appropriate jurisdictional agency. After discussion with OSM, the State agreed to retain this provision. The regulations submitted on October 21, 1983, did include this provision at COMAR .08.13.09.05A.(5), and the Director finds the State regulations to be no less effective than the Federal requirements.

5. The October 28, 1982, regulations proposed deletion of COMAR .08.13.09.05A.(12) which requires the protection of endangered or threatened species and their critical habitats. The October 21, 1983, regulations retain this provision and the Director finds the State regulations to be no less effective than 30 CFR 773.15(c)(10).

6. The October 28, 1982, regulations proposed to delete the provision of COMAR .08.13.09.05A.(13) which requires that activities be conducted so as to maximize the use of the coal. The October 21, 1983, regulations re-promulgated this provision. Therefore, the Director finds the State's regulations to be no less effective than the Federal provisions.

7. The October 28, 1982, regulations omitted the provision of 30 CFR 776.11(b)(2) which requires an exploration notice to include the name, address and telephone number of the representative who will be present on the exploration site. This provision was included in the State's submission of November 23, 1983 (Administrative Record No. MD 226) at COMAR .08.13.09.07B.(3). The Director finds the State's provision to be no less effective than the Federal provision.

8. The October 28, 1982, regulations proposed to delete the provision of COMAR .08.13.09.07H.(1) which requires the identification and protection of habitats of unique value for fish, wildlife, and other related environmental values. At the meeting held on May 19, 1983 (Administrative Record No. MD 216), the State indicated that the provision would be retained. However, the revised regulations submitted on October 21, 1983, did not contain this provision. On November 23, 1983 (Administrative Record No. MD 225), this omission was communicated to the State and the State submitted the required provision to OSM as a supplement to the October 21, 1983, regulations. Therefore, the Director finds the State's provision to be no less effective than the Federal regulation.

9. The October 28, 1982, regulations proposed a revision to COMAR .08.13.09.07H.(3) concerning blasting on coal exploration operations. OSM informed the State that the revision must specify that any blasting must be conducted in accordance with the approved regulatory program. On November 23, 1983 (Administrative Record No. MD 226) the State submitted a revision to its regulations at COMAR .08.13.09.07G.(5) requiring that all blasting shall be conducted in compliance with the approved regulatory program. The Director finds the revised regulation to be no less effective than the Federal requirements.

10. The October 28, 1982, regulations at COMAR .08.13.09.25A.(4) provide that blasting shall be conducted by or under the supervision of a person certified by the Maryland Bureau of Mines or any State with an equivalent blasting training program. OSM expressed concern that the "equivalent blasting training program" must be a program approved by the Secretary of the Interior under the provisions of SMCRA. On June 13, 1983, the State provided a policy statement (Administrative Record No. MD 217) which indicated that it interprets the term "equivalent" to mean that the program has been approved by the Secretary of the Interior. Based on this interpretation, the Director finds the State provision to be no less effective than the Federal requirements.

Disposition of Public Comments

Public comments on the revised Maryland program were solicited on three occasions. Comments were requested by publication of Federal Register notices on November 16, 1982, November 7, 1983, and December 8, 1983 (47 FR 51590, 48 FR 51158–51159 and 48 FR 54996–54997, respectively). No public comments were received.

Pursuant to section 503(b) of SMCRA and 30 CFR 732.17(h)(10)(i), comments were solicited from various Federal agencies on the proposed State permanent program amendments. Of those agencies invited to comment, responses were received from the following Federal agencies: U.S. Department of the Interior, Fish and Wildlife Service and Bureau of Mines; U.S. Department of Agriculture, Forest Service; U.S. Department of Defense, Army Corps of Engineers; and U.S. Environmental Protection Agency.

The following is a summary of comments received from Federal agencies on the revised Maryland regulations (Administrative Record Nos. MD 194, MD 219, and MD 226).

1. The U.S. Environmental Protection Agency (EPA) stated that COMAR .08.13.09.01B. (24) should include the term "borrow pit" in the definition of "disturbed area." The definition found in the State regulation is broad enough to include any area used as a "borrow pit" and is no less effective than the Federal definition.

2. The EPA stated the definition of "general area" found in COMAR .08.13.09.01B.(34) should include a reference to wetlands. The State's definition includes the surface and sub-surface water systems contained in the area surrounding the permit area. If this area contained a wetland, it would necessarily be included.

3. The EPA stated that COMAR .08.13.09.02I.(11) should apply to the parent company and any company of which the parent company is a subsidiary. In addition, EPA stated that the provision should apply to contractors and subcontractors. On September 28, 1983 (48 FR 44344–44400), the Federal regulations at 30 CFR 778.14 were revised to require that violation notices received by any subsidiary, affiliate or persons controlled by or under common control with the applicant be identified in the permit application. Prior to that time, only violation notices received by the applicant were required to be identified. In accordance with 30 CFR 732.17(d), OSM is now reviewing this provision and other recently revised Federal requirements and the approved State programs to determine which new provisions each State must include in its approved program. When the review is completed, each State will be informed of any required program amendments. However, the revised Federal requirements do not apply to contractors and subcontractors.

4. The EPA commented that COMAR .08.13.09.02k.(2)(d) should specify the methodology of the required overburden analysis. Neither 30 CFR 779.14(b)(1)(iv) nor 30 CFR 780.22(b)(2) which replaced it (48 FR 43987, 9/26/83) specifies the methodology required to implement the Federal provisions. Therefore, the State regulations is no less effective than the Federal provision.

5. The EPA stated that COMAR .08.13.09.02k.(2)(o) should describe the terrestrial ecosystem. A description of the terrestrial ecosystem is not required by 30 CFR 779.22(b), the counterpart to the State regulation. Therefore, the State provision is no less effective than the Federal provision.

6. The EPA stated that COMAR .08.13.09.22C.(4)(1) was not sufficiently specific to assure containment of acid-producing material or to guard against oxidation and thus acid seep development. The performance standards and requirements found in COMAR .08.13.09.22 are intended to complement other performance standards found throughout the Maryland regulations. This approach is consistent with that taken in the revision of the Federal requirements for roads found at 30 CFR 816.150(b). *See* 48 FR 22112, 5/16/83.

7. The EPA questioned the deletion of the provisions of COMAR .08.13.09.22C.(4)(n) which requires the use of temporary erosion control measures during the construction of roads. The State's regulations at COMAR .08.13.09.22A.(1) require that road construction minimize erosion and siltation and, therefore, is no less effective than 30 CFR 816.150(b)(1).

8. The U.S. Department of the Interior, Fish and Wildlife Service (FWS) stated that COMAR .08.13.09.04B.(4) should not delete the Wildlife Administration from the list of agencies to receive a copy of each permit application. The Federal regulations contain no provisions specifying what State agencies must receive copies of permit applications. Therefore, the State regulations are no less effective than the Federal requirements.

9. The FWS stated that the deletion of COMAR .08.13.09.05A.(12) was not in compliance with 30 CFR 786.19(o) or Section 7 of the Endangered Species Act of 1973, as amended. See Finding 5, above for a discussion of this issue.

10. The FWS stated that the deletion of COMAR .08.13.09.22C.(4) (m) and (n) appears to rescind the general environmental protection theme contained in COMAR .08.13.09.22A. The deletion of the specific performance standards does not rescind any environmental protection theme of the State regulations. The revised standards for the location, design, construction, reconstruction, use, maintenance and reclamation of roads contained in COMAR .08.13.09.22 are intended to complement the other performance standards found throughout COMAR .08.13.09. This approach is consistent with that taken in the revision of the Federal requirements for roads found in 30 CFR 816.150(b). *See* 48 FR 22112, 5/16/83.

11. The FWS stated that provisions of COMAR .08.13.09.22D.(3)(a) would result in overtopping of roads and/or creation of a backwater. The FWS stated that culverts should be designed for more than a one-year storm. The Federal requirements relating to roads were published in the **Federal Register** on May 16, 1983 (48 FR 22110–22124). In accordance with 30 CFR 732.17(d), OSM is now reviewing these provisions and the approved State programs to determine which revised provisions each State must include in its program. When the review is completed, each State will be informed of any required program amendments.

Additional Information

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

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

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

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

Environmental Protection Agency Concurrence: On November 23, 1983, the EPA transmitted its written concurrence on the Maryland program amendments submitted on October 28, 1982, and October 21, 1983, as they relate to air or water quality standards under the authority of the Clean Air Act, as amended (42 U.S.C. 1857 *et seq.*), and the Clean Water Act, as amended (33 U.S.C. 1251 *et seq.*). Since the revised regulations submitted by Maryland on November 23, 1983, did not involve changes to proposed air and water quality standards that EPA had already reviewed, it was not necessary to obtain EPA concurrence on those revisions.

List of Subjects in 30 CFR Part 920

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

Dated: February 2, 1984.

James R. Harris,

Director, Office of Surface Mining.

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

PART 920—MARYLAND

1. Part 920 is amended by adding a new § 920.15 as set forth below:

§ 920.15 Approval of amendments to State regulatory program.

(a) The following amendments were approved effective February 8, 1984. Maryland revised regulations and policy statements submitted October 28, 1982, as amended on October 21, and November 23, 1983.

[FR Doc. 84–3425 Filed 2–7–84; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–8–FRL 2521–6]

Approval and Promulgation of State Implementation Plans; PSD Redesignation—Fort Peck Reservation

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The purpose of this notice is to approve the redesignation of the Fort Peck Reservation in the State of Montana of Class I under EPA's regulations for Prevention of Significant Deterioration of air quality (PSD). Class I applies to areas where only small increases in ambient levels of particulates and sulfur dioxide are allowed.

EPA is taking this action in response to a request from Fort Peck Tribal Council. The request and EPA's response is made under the provisions of the Clean Air Act. The action is intended to provide significant deterioration of air quality on the Fort Peck Reservation.

DATES: This action will be effective on April 9, 1984.

ADDRESSES: Copies of the revision are available for public inspection between

8:00 a.m. and 4:00 p.m. Monday through Friday at the following offices:

Environmental Protection Agency, Region VIII, Air Programs Branch, 1860 Lincoln Street, Denver, Colorado 80295.

Environmental Protection Agency, Montana Office, Federal Office Building, 301 S. Park, Helena, Montana 59626.

FOR FURTHER INFORMATION CONTACT: Thomas O. Harris, Environmental Protection Agency, Federal Building, 301 South Park, Drawer 10096, Helena, Montana 59626, (406) 449–5486.

SUPPLEMENTARY INFORMATION: In an August 2, 1983 **Federal Register** notice (48 FR 34976), EPA proposed to approve the January 24, 1983 request of the Fort Peck Tribal Council to redesignate the Fort Peck Reservation to Class I (PSD). The notice specified that comments were to be submitted by September 1, 1983. No comments were received raising any issues regarding the Tribal Council's compliance with the applicable procedures.

As explained in the notice of proposed rulemaking, EPA must approve a redesignation request if the procedural requirements of section 164 of the Clean Air Act have been met. One set of comments was received from the U.S. Bureau of Land Management (BLM) District Office in Miles City, Montana. Those comments were primarily concerned about the impact of the redesignation on development of energy resources in the vicinity of the reservation. Since, under section 164 of the Act, EPA may evaluate a redesignation request only on procedural grounds, the comments of the BLM are not specifically addressed herein because they did not raise procedural issues.

The Fort Peck Tribal Council has complied with the procedural requirements of section 164 of the Clean Air Act, and since no objections to the proposed redesignation based on procedural grounds were received, EPA is approving the redesignation.

Under section 307(b)(1) of the Clean Air Act, petitions for review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from date of publication). This action may not be challenged later in proceedings to enforce its requirements (See 307(b)(2)).

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

List of Subjects in 40 CFR Part 52

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

This rulemaking is issued under the authority of section 164 of the Clean Air Act (42 U.S.C. 7474).

Dated: February 1, 1984.

William D. Ruckelshaus,

Administrator.

PART 52—[AMENDED]

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

Subpart BB—Montana

1. Section 52.1382 paragraph (c)(4) is added as follows:

§ 52.1382 Significant deterioration of air quality.

* * * * *

(c) * * *

(4) The Fort Peck Indian Reservation is designated Class I.

[FR Doc. 84–3262 Filed 2–7–84; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 145

[WH–FRL 2515–5]

Kansas Corporation Commission and Kansas Department of Health and Environment Underground Injection Control Program

AGENCY: Environmental Protection Agency.

ACTION: Approval of State Program.

SUMMARY: The State of Kansas has submitted applications under sections 1422 and 1425 of the Safe Drinking Water Act for the approval of an Underground Injection Control (UIC) program governing Class II oil and natural gas related injection wells. After careful review of the applications and comments received from the public, the Agency has determined that the State's injection well program for Class II wells meets the requirements of sections 1422 and 1425 of the Act. Therefore, these applications covering Class II injections are approved.

EFFECTIVE DATE: February 8, 1984.

FOR FURTHER INFORMATION CONTACT: Victor E. Ziegler, Ground Water Section, U.S. Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64106. PH: (816) 374–6514. Copies of the responsiveness summary are available from the above address.

SUPPLEMENTARY INFORMATION: Part C of the Safe Drinking Water Act (SDWA) provides for an Underground Injection Control (UIC) program. Section 1421 of the SDWA requires the Administrator to promulgate minimum requirements for effective State programs to prevent underground injection which endangers drinking water sources. The Administrator is also to list in the **Federal Register** each State for which in his judgment a State UIC program may be necessary. Each State listed shall submit to the Administrator an application which contains a showing satisfactory to the Administrator that the State: (i) has adopted after reasonable notice and public hearings, a UIC program which meets the requirements of regulations in effect under section 1421 of the SDWA; and (ii) will keep such records and make such reports with respect to its activities under its UIC program as the Administrator may require by regulations. After reasonable opportunity for public comment, the Administrator shall by rule approve, disapprove or approve in part and disapprove in part, the State's UIC program.

The SDWA was amended on December 5, 1980, to include Section 1425, which establishes an alternative method by which a State may obtain primary enforcement responsibility for those portions of its UIC program related to the recovery and production of oil and natural gas (Class II wells). Specifically, instead of meeting the Federal Regulations (40 CFR Parts 124, 144, 145) and related Technical Criteria and Standards (40 CFR Part 146), a State may demonstrate that its program meets the more general statutory requirements of section 1421(b)(1) (A) through (D) and represents an effective program to prevent endangerment of underground sources of drinking water.

The State of Kansas was listed as needing a UIC program on September 25, 1978 (43 FR 43420). The Kansas Underground Injection Control Program is divided between the Kansas Corporation Commission (KCC) and the Kansas Department of Health and Environment (KDHE). The KCC regulates all Class II injection wells, except those dealing with storage of liquid hydrocarbons. The KDHE regulates all Class I, III, IV, and V injection wells and Class II wells for storage of liquid hydrocarbons. Consequently, two applications were considered in evaluating the complete Kansas Class II program. The State submitted one application under section 1425 on January 14, 1983, for the approval of a UIC program governing Class II injection wells, except those

used for storage of hydrocarbons to be administered by the KCC. EPA published notice on February 14, 1983, of its receipt of the application, requested public comments, and scheduled a public hearing on the UIC program submitted by the KCC (48 FR 6563). A public hearing was held on March 18, 1983, in Wichita, Kansas. The State submitted a second application under section 1422 on February 25, 1983, for approval of a UIC program governing Class I, III, IV, and V injection wells and Class II wells for storage of liquid hydrocarbons, to be administered by the KDHE. EPA published notice of its receipt of the application, requested public comments, and scheduled a public hearing on the UIC program submitted by the KDHE (48 FR 10721). A public hearing was held on April 18, 1983, in Topeka, Kansas. After careful review of these applications and comments received from the public, I have determined that the Kansas UIC program for Class II injection wells meets the requirements of Sections 1422 and 1425 of the SDWA, and hereby approve it. (The KDHE Class I, III, IV, and V program was approved by EPA on December 2, 1983, 48 FR 54350). The effect of this approval is to establish this program as the applicable underground injection control program under the SDWA for the State of Kansas to regulate Class II injection wells. The requirements of this program include State statutes and regulations set forth at: *Kan. Stat. Ann.*, Chapter 55, Articles 1, 9, & 10 (1976 and Supp. 1982), and *Kan. Admin. Regs.* 82–3–100 through –504 (as effective May 1, 1983) (regulating salt water disposal and enhanced recovery wells); and *Kan. Stat. Ann.*, Chapter 65, and *Kan. Admin. Regs.* 28–45–1 through –10 (1982) (regulating liquid hydrocarbon storage wells).

Since this action simply adopts as the Federal program the State laws and regulations already in effect, EPA is publishing this approval effective immediately. This will enable Kansas to begin immediately issuing UIC permits for Class II injection wells under the Federally approved program.

In these applications, Kansas chooses not to assert jusisdiction over Indian lands or reservations for purposes of its UIC program. Therefore, the EPA will, at a future date, prescribe a UIC program governing injection wells on any Indian lands or reservations in Kansas.

List of Subjects in 40 CFR Part 145

The terms listed below comprise a complete listing of the thesaurus terms associated with 40 CFR Part 145, which sets forth the requirements for a State requesting the authority to operate its own permit program of which the Underground Injection Control program is a part. These terms may not all apply to this particular notice.

Indians—lands, Reporting and recordkeeping requirements, Intergovernmental relation, Penalties, Confidential business information, Water supply.

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

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I certify that approval by EPA under section 1425 of the Safe Drinking Water Act of these applications by the State of Kansas will not have a significant economic impact on a substantial number of small entities, since this rule only approves State actions. It imposes no new requirements on small entities.

(42 U.S.C. 300)

Dated: February 1, 1984.

William D. Ruckelshaus,

Administrator.

[FR Doc. 84-3376 Filed 2-7-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 180

[PP 2E2710/R642; PH-FRL 2519-8]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; S-[2-(Ethylsulfinyl)Ethyl] O, O-Dimethyl Phosphorothioate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the combined residues of the pesticide *S*-[2-(ethylsulfinyl)ethyl] *O, O*-dimethyl phosphorothioate and its cholinesterase-inhibiting metabolites in or on the raw agricultural commodity apricots. The regulation to establish a maximum permissible level for residues of the pesticide in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR–4).

EFFECTIVE DATE: Effective on February 8, 1984.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, 410 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs, Registration Support and Emergency Response Branch, Registration Division (TS–767C), Environmental Protection Agency, Rm. 716B, CM#2, Arlington, VA 22202 (703–557–1192).

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the **Federal Register** of December 21, 1983 (48 FR 56415), which announced that the Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition 2E2710 to EPA on behalf of the IR–4 Technical Committee and the Agricultural Experiment Station of Idaho proposing that 40 CFR 180.330 be amended by establishing a tolerance for residues of the pesticide *S*-[2-(ethylsulfinyl)ethyl] *O, O*-dimethyl phosphorothioate and its cholinesterase-inhibiting metabolites in or on the raw agricultural commodity apricots at 0.5 part per million.

There were no comments received in response to the proposed rule.

The data submitted in the petition and other relevant material have been evaluated and discussed in the proposed rule. The pesticide is considered useful for the purpose for which the tolerance is sought. It is concluded that the tolerance would protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

List of Subjects in 40 CFR Part 180

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

(Sec. 408(e), 68 Stat 512 (21 U.S.C. 346(e)))

Dated: January 30, 1984.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.330 is amended by adding and alphabetically inserting

the entry for the raw agricultural commodity apricots, to read as follows:

§ 180.330 S-[2-(Ethylsulfinyl)ethyl] O,O-dimethyl phosphorothioate; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Apricots	0.5
* * * * *	

[FR Doc. 84-3253 Filed 2-7-84; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 180

[PP 2E2644/R644; PH-FRL 2520-2]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Chlorpyrifos

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the combined residues of the insecticide chlorpyrifos and its metabolite in or on the raw agricultural commodity asparagus. The regulation to establish a maximum permissible level for residues of the insecticide in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

EFFECTIVE DATE: Effective on February 8, 1984.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs, Registration Support and Emergency Response Branch, Registration Division (TS-767C), Environmental Protection Agency, Rm. 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1192).

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the **Federal Register** of December 21, 1983 (48 FR 56414), which announced that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition number 2E2644 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of Washington proposing that 40 CFR 180.342 be amended by establishing a tolerance for residues of the insecticide chlorpyrifos in or on the raw agricultural commodity asparagus at 5.0 parts per million.

There were no comments received in response to the proposed rule.

The data submitted in the petition and other relevant material have been evaluated and discussed in the proposed rule. The pesticide is considered useful for the pupose for which the tolerance is sought. It is concluded that the tolerance would protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

List of Subjects in 40 CFR Part 180

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

(Sec. 408(e), 68 Stat. 512 (21 U.S.C. 346a(e)))

Dated: January 30, 1984.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.342 is amended by adding and alphabetically inserting the entry for the raw agricultural commodity asparagus, to read as follows:

§ 180.342 Chlorpyrifos; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Asparagus	5.0
* * * * *	

[FR Doc. 84-3255 Filed 2-7-84; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 180

[PP 3E2913/R645; PH-FRL 2520-1]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Ethyl 3-Methyl-4-(Methylthio)Phenyl (1-Methylethyl) Phosphoramidate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

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

EFFECTIVE DATE: Effective on February 8, 1984.

ADDRESS: Written comments by mail to: Hearing Clerk (A-110), Rm. 3708, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs, Registration Support and Emergency Response Branch, Registration Division (TS-767C), Environmental Protection Agency, Rm. 716B, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1192).

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the **Federal Register** of December 21, 1983 (48 FR 56416), which announced that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, N.J. 08903, had submitted pesticide petition 3E2913 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of New Jersey proposing that 40 CFR 180.349 be amended by establishing a tolerance for residues of the nematocide 3-methyl-4-(methylthio)phenyl (1-methylethyl) phosphoramidate in or on the raw agricultural commodity asparagus at 0.02 part per million.

There was no comments received in response to the proposed rule.

The data submitted in the petition and other relevant material have been evaluated and discussed in the proposed rule. The pesticide is considered useful for the purpose for which the tolerance is sought. It is concluded that the

tolerance would protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

List of Subjects in 40 CFR Part 180

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

(Sec. 408(e), 68 Stat. 512 (21 U.S.C. 346a(e)))

Dated: January 30, 1984.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.349(a) is amended by adding and alphabetically inserting the entry for the raw agricultural commodity asparagus, to read as follows:

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

(a) * * *

Commodities	Parts per million
* * * * *	
Asparagus	0.02
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[FR Doc. 84-3254 Filed 2-7-84; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

42 CFR Parts 85 and 85a

Use of Personal Sampling Devices During NIOSH Investigations

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control, Public Health Service, HHS.

ACTION: Final rule.

SUMMARY: This document amends the regulations covering health hazard evaluations (42 CFR Part 85) and research investigations (42 CFR Part 85a) of the workplace to provide expressly for the use of personal sampling devices as an investigative technique. The amendment clarifies that employees may be requested to wear personal sampling devices as part of the environmental sampling procedures used by NIOSH during its workplace investigations.

EFFECTIVE DATE: March 9, 1984.

FOR FURTHER INFORMATION CONTACT: Ms. Annette N. McElhannon, Regulations Specialist, NIOSH, Building 1, Room 3421, Centers for Disease Control, 1600 Clifton Road, N.E., Atlanta, Georgia 30333, telephone (404) 329-3691 or FTS: 236-3691.

SUPPLEMENTARY INFORMATION: This final rule implements revisions proposed in a Notice of Proposed Rulemaking (NPRM) published in the **Federal Register** on March 11, 1983 (48 FR 10377). The Occupational Safety and Health Act (29 U.S.C. 651 *et seq.*) and the Federal Mine Safety and Health Act (30 U.S.C. 801 *et seq.*) direct the Secretary of Health and Human Services to conduct occupational health and safety research. To implement these functions, the Secretary promulgated Parts 85 and 85a to Title 42, Code of Federal Regulations, to establish the procedures for NIOSH's conduct of occupational health and safety research investigations at places of employment. Part 85 governs the evaluation of workplace conditions requested by employers or authorized representatives of employees, while Part 85a concerns the conduct of investigation under NIOSH-initiated research projects.

Included among these procedures is a recital of the various investigative activities NIOSH is authorized to perform. Thus, § 85.7(c) and 85a.5(d) provide that NIOSH is authorized to, among other things, collect environmental samples and samples of substances, to measure environmental conditions and employee exposures, and to employ other reasonable investigative techniques. Since the promulgation of these regulations, NIOSH has interpreted the regulations as authorizing the use of personal sampling devices to measure individual employee exposures to substances and physical agents. The most common personal sampling devices are those that use sampling pumps to draw air through liquid or solid sorbents, filters, etc., and those in which a reaction takes place directly on the sorbent. The latter devices are known as passive chemical monitors. The other common personal sampling device, the noise dosimeter, is used for measuring cumulative employee noise exposures over a given period of time. The sampling medium or dosimeter is attached to the worker's clothing as near as possible to the worker's breathing or hearing zone. The remainder of the sampling device (if required), such as a sampling pump or recording unit, is connected by flexible hose or wire to the sampling medium or dosimeter and also is attached to the worker in a place that interferes the least with work requirements (e.g., on the employee's belt). NIOSH uses personal sampling devices because they are the most accurate way to monitor a worker's exposure during the normal work routine and workday.

NIOSH's use of personal sampling devices to measure individual employee exposure has been judicially upheld. In *Establishment Inspection of Keokuk Steel Castings, Division of Kast Metals*, 638 F. 2d 42 (8th Cir. 1981), the Court upheld enforcement of the warrant issued to NIOSH which included the use of personal samplers by workers willing to wear them. In so holding, the Eight Circuit expressly disagreed with the Ninth Circuit decision in *Plum Creek Lumber Co.*, v. *Hutton*, 608 F. 2d 1289 (9th Cir. 1979), which involved an Occupational Safety and Health Administration (OSHA) compliance inspection. In *Plum Creek*, the Court held that it was without authority to order an employer to permit its employees to wear personal sampling devices contrary to the employer's written policy in absence of a regulation or law specifying the use of such devices.

In *Establishment Inspection of Metro-East Manufacturing Co.*, 655 F. 2nd 805 (7th Cir. 1981), the only other Circuit Court decision on this issue, a divided panel held that the OSHA regulations did not give employers fair warning of what is required or prohibited because they failed to specify the use of personal samplers as a reasonable investigative technique. The Court suggested that the OSHA regulations be amended to give employers this fair warning, and subsequently OSHA amended their regulations (29 CFR Part 1903) on December 10, 1982 (47 FR 55478), to provide this information. Since the workplace regulations are similar to those of OSHA, NIOSH proposed on March 11, 1983, to amend Parts 85 and 85a to clarify expressly the use of personal sampling devices in the

conduct of NIOSH research investigations.

Public comments were invited in the proposed rule. Three comments were received—one from a national labor union and two from trade associations. The comments from the two trade associations indicated that they did not believe the amendment was justified in that (1) personal sampling is inaccurate, (2) potential safety and health hazards exist when personal sampling is used, (3) the devices are disruptive and interfere with ongoing work, (4) use of personal sampling goes beyond the authority of NIOSH mandates under the Occupational Safety and Health Act and the Federal Mine Safety and Health Act, and (5) the amendment failed to state that wearing the personal sampling devices is voluntary on the employee's part. The national labor union supported the amendment in that (1) the amendment does provide specific notice to employees that NIOSH may use personal sampling, (2) personal sampling provides key data on individual employee exposure that is not available from area sampling, and (3) the union does not have records nor has it received information concerning any accidents caused by wearing personal sampling devices.

In response to the comments made by the trade associations, NIOSH does not have in its possession, nor was evidence provided, that personal sampling is not accurate. On the contrary, it is NIOSH's opinion, as noted in OHSA's final rule on use of personal sampling devices (29 CFR Part 1903) that personal sampling is the "most effective means of determining exposure levels and producing statistically valid data while at the same time being the most accurate means available to measure employee exposure."

No information was provided to support the contention that potential safety and health hazards exist when personal sampling devices are used or that the devices are disruptive and interfere with work. Similarly, no such information was presented to OSHA for their rulemaking (47 FR 55478).

In regard to NIOSH's authority to use personal sampling devices, this authority is provided to NIOSH within sections 8 and 20 of the Occupational Safety and Health Act and section 501 of the Federal Mine Safety and Health Act. Also, wearing the personal sampling device is voluntary on the employee's part. Employees who decline to wear personal sampling devices are not compelled to do so. Again, NIOSH's policy parallels that of OSHA, as stated in their final rule (47 FR 55478), "* * * *With respect to those who decline, it is neither agency practice nor policy to compel an employee to wear a personal sampling device. Rather, when faced with such a refusal, the agency attempts to ascertain and alleviate the employee's concern; if these efforts are unsuccessful, another employee is asked to wear the device* * * *." However, to clarify the amendment, the final rule now states that wearing the personal sampling device is voluntary.

Since NIOSH believes that no new information was provided during the comment period and that similar provisions were promulgated by OSHA (47 FR 55478), the amendment to 42 CFR Parts 85 and 85a is adopted as proposed, except for the clarification mentioned above.

This rule is primarily a clarification of procedures currently in use. Experience indicates that personal sampling devices are compact, take minimal time to attach to the employee, and neither hinder nor obstruct employee job performance. There are not substantive adverse effects on productivity due to the use of personal sampling devices. NIOSH is unaware of any injuries or accidents caused by the use of these devices. Personal sampling devices used during an investigation are provided by NIOSH at no cost to the employer. For these reasons, the Secretary has determined that this rule is not a "major rule" under Executive Order 12291. Further, because these regulations do not have a singificant economic impact on a substantial number of small entities, a regulatory flexibility analysis under the Regulatory Flexibility Act of 1980 is not required.

List of Subjects

42 CFR Part 85

Investigations, Mine safety and health, Occupational safety and health, Poison prevention.

42 CFR Part 85a

Investigations, Mine safety and health, Occupational safety and health.

For the reasons stated in the preamble, Parts 85 and 85a of Title 42, Code of Federal Regulations, are amended as set forth below.

Dated: October 24, 1983.

Edward N. Brandt, Jr.,
Assistant Secretary for Health.

Approved: January 10, 1984.
Margaret M. Heckler,
Secretary.

PART 85—REQUESTS FOR HEALTH HAZARD EVALUATIONS

1. In § 85.7, paragraph (c) is revised to read as follows:

§ 85.7 Conduct of investigations.

* * * * *

(c) NIOSH officers are authorized to collect environmental samples and samples of substances or measurements of physical agents (including measurement of employee exposure by the attachment of personal sampling devices to employees with their consent), to take or obtain photographs related to the purpose of the investigation, employ other reasonable investigative techniques, including medical examinations of employees with the consent of such employees, and to question privately any employer, owner, operator, agent, or employee. The employer shall have the opportunity to review photographs taken or obtained for the purpose of identifying those which contain or might reveal a trade secret.

* * * * *

PART 85a—OCCUPATIONAL SAFETY AND HEALTH INVESTIGATIONS OF PLACES OF EMPLOYMENT

1. In § 85a.5, paragraph (d)(1) is revised to read as follows:

§ 85a.5 Conduct of investigations of places of employment.

* * * * *

(d)(1) NIOSH authorized representatives are authorized: To collect environmental samples and samples of substances; to measure environmental conditions and employee exposures (including measurement of employee exposure by the attachment of personal sampling devices to employees with their consent); to take or obtain photographs, motion pictures or videotapes related to the purpose of the investigation; to employ other reasonable investigative techniques, including medical examinations, anthropometric measurements and standardized and experimental functional tests of employees with the informed consent of such employees; to review, abstract, and duplicate such personnel records as are pertinent to mortality, morbidity, injury, safety, and other similar studies; and to question and interview privately any employer,

owner, operator, agency, or employee from the place of employment. The employer, owner, operator, or agency shall have the opportunity to review photographs, motion pictures, and videotapes taken or obtained for the purpose of identifying those which contain or might reveal a trade secret.

* * * * *

(Sec. 8(g) 84 Stat. 1600; 29 U.S.C. 657(g) and Sec. 508, 83 Stat. 803; 30 U.S.C. 957)

[FR Doc. 84-3232 Filed 2-7-84; 8:45 am]

BILLING CODE 4160-19-M

Health Care Financing Administration

42 CFR Part 431

Medicaid Program; Reduction in Error Rate Tolerance; Medicaid Quality Control Program

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

ACTION: Final rule.

SUMMARY: This final rule implements the provisions of section 133 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97-248). Under these regulations, Federal financing participation will be disallowed to the extent that a State has a Medicaid eligibility payment error rate (as measured by the Medicaid quality control system) that exceeds the statutorily mandated three-percent national standard for any of the three quarters beginning April 1, 1983 and ending December 31, 1983.

The regulations further provide that we will project a payment error rate for each State for each of these three quarters and will reduce the State's quarterly grant award (based on its estimated expenditures) to the extent that the anticipated error rate exceeds the three-percent national standard.

EFFECTIVE DATE: April 1, 1983.

FOR FURTHER INFORMATION CONTACT: Randolph Graydon, Bureau of Quality Control, Health Care Financing Administration, Room 239, East High Rise, 6325 Security Boulevard, Baltimore, MD 21207, (301) 597-1381.

SUPPLEMENTARY INFORMATION:

I. Background

The medicaid quality control (MQC) system was designed to reduce erroneous medical assistance payments by monitoring and improving the quality of eligibility determinations, third-party liability activities, and claims processing. The system uses sampling methodology to calculate the rate, or percentage, of erroneous medical assistance payments for each State, for each six-month sampling period (April–September and October–March of each year).

Within each six-month period, a State must select a sample of Medicaid beneficiary cases every month and review them for errors. We then review a subsample of the State-selected cases to verify the State's findings. At the end of each six-month review period, we calculate a State's payment error rate based on the findings submitted by the State and the findings of the Federal subsample. If a State fails to complete a valid review for any period, we assign the State an error rate based on either the weighted average of its error rate in the last three review periods, a special Federal sample or audit, or a Federal subsample.

Section 201 of the FY 1980 Labor-HEW Appropriation Bill (Pub. L. 96-123), commonly referred to as the Michel amendment, required States to reduce their erroneous Medicaid expenditures to a four-percent level by September 30, 1982, and directed the Secretary to reduce Federal payments to States that failed to achieve target error rate levels during the interim periods.

On January 25, 1980, we published final regulations at 42 CFR 431.802 (45 FR 6326) to implement the provisions of the Michel amendment. The regulations provided for a phased reduction in each State's July–December 1978 base period payment error rate to a four-percent target over the Federal fiscal years (FYs) 1981, 1982, and 1983. Under the regulations, if a State failed to meet a target error rate, Federal matching funds associated with erroneous expenditures in excess of the target error rate would be disallowed. If a State made a "good faith effort" but failed to meet its target error rate, the Secretary could waive or reduce the amount of a disallowance. (The regulations provided that the waivers are limited to extraordinary circumstances.)

In section 133 of the Tax Equity and Fiscal Responsibility Act (TEFRA) of 1982 (Pub. L. 97-248), Congress set the Medicaid payment error rate tolerance level, the national standard, at three percent, and specified that the States must achieve that rate in the third and fourth quarters of FY 1983 and in each succeeding fiscal year. Section 133 amended section 1903 of the Social Security Act (Act) by adding a subsection (u).

Before enactment of Pub. L. 97-248, the regulations provided only for quality control disallowances that were computed after actual payment error rates were established for each period and after requests by the States for waivers of the disallowances were assessed by the Secretary (§ 431.802). However, in addition to the disallowance calculation, section 1903(u)(1)(c) of the Act now requires that each State's quarterly estimate of expenditures for medical assistance be reduced to the extent that the State's anticipated payment error rate exceeds the three-percent national standard. The method for projecting this anticipated error rate is left to the discretion of the Secretary.

Section 1903(u)(1)(E) of the Act excludes from a State's error rate calculation payments made as a result of technical errors. Also excluded are payments made for services provided to any individual whose eligibility was determined exclusively by the Social Security Administration (SSA) under section 1634 of the Act. (Under that section, the Secretary and a State may enter into an agreement under which SSA determines Medicaid eligibility on behalf of the State for individuals who are eligible for Supplemental Security Income (SSI) or who are receiving a State supplementary payment that is federally administered, or both.) Section 1903(u)(1)(E) of the Act also provides that the Secretary may exclude any other classes of individuals whose eligibility was determined in part under a section 1634 agreement.

On June 24, 1983, we published in the **Federal Register** (48 FR 29450) interim final regulations with a 60-day comment period to implement the provisions of section 1903(u) of the Act. The provisions of the interim final regulations, the comments received, our responses, and the changes we made in response to those comments are discussed below.

II. Provisions of the Interim Final Regulations

A. Calculation of the Payment Error Rate

As required by section 1903(u)(1)(A) of the Act, the interim regulations (§ 431.803(b)) specified that a State's payment error rate will be expressed as a ratio of erroneous payments for medical assistance to total medical assistance expenditures under the State plan.

Erroneous payments are defined in the regulations (§ 431.803(b)) as medical assistance payments that were made for an individual (or a family) under quality control review who:

- Was ineligible for the review month or at the time services were received, or
- Had not properly met beneficiary liability prior to receiving Medicaid services.

Beneficiary liability is defined as either the amount of excess income that must be offset with incurred medical expenses to gain eligibility (spenddown) or the amount of payment a beneficiary must make toward the cost of long term care (§ 431.803(b)). In determining the amount of erroneous payments for cases involving beneficiaries who are determined to be ineligible due to excess resources, the lesser of the amount of excess resources or the amount of medical assistance payments for the review month is the amount of the error (§ 431.803(c)(3)(i)). Similarly, in determining the amount of the error for cases in which there is a beneficiary liability error, the amount of the error is the smaller of the unmet beneficiary liability or the amount of medical assistance payments for the review month (§ 431.803(c)(3)(iii)).

In the interim final regulations, we provided that all payments made on behalf of SSI beneficiaries whose eligibility is determined exclusively by SSA under section 1634 agreements are excluded from the calculation of the payment error rate (§ 431.803(c)(2)). Also excluded from the determination of errroneous payments are payments made as a result of a technical error (§ 431.803(c)(4)). We defined technical errors for MQC purposes as errors in conditions of eligibility that, if corrected, would not result in a difference in the amount of medical assistance paid (§ 431.803(b)). These errors include, but are not limited to, those attributable to Work Incentive Program requirements, the assignment of Social Security numbers, the requirement for a separate Medicaid application, and monthly reporting requirements. Errors resulting from any change in financial circumstances or categorical eligibility will be counted.

B. Determining a State's Anticipated Payment Error Rate

The interim final regulations (§ 431.803(d)) implemented the statutory requirement that the Secretary project an anticipated payment error rate for each State and reduce the State's quarterly estimate of expenditures for medical assistance by the percentage that the State's error rate exceeds three percent. The interim regulations based the projections on the weighted average of the error rates of the two most recently completed six-month review periods.

In determining the anticipated payment error rate, we evaluate the data from the two six-month review periods most recently completed by HCFA and the State. As provided in § 431.803(c), determination of a State's anticipated payment error rate excludes technical errors and takes into account the revised method of assigning dollar amounts for resource errors prescribed by section 133 of Pub. L. 97-248. After the error rates for those two review periods have been adjusted for these revisions, the weighted average error rate is calculated. This error rate is then adjusted to reflect corrective actions implemented by the State, and becomes the anticipated payment error rate for the quarter in question. The State's quarterly estimate of medical assistance expenditures is reduced by the difference between the State's anticipated payment error rate and the three-percent national standard.

C. Establishing an Error Rate for States That Fail To Cooperate

Under § 431.803(c)(5) of the regulations, if a State fails to cooperate in providing information for establishing its error rate or its anticipated error rate, we establish the State's error rate based on—

- A special sample or audit;
- The Federal subsample; or
- Other similar arrangements as the Administrator may prescribe.

This may be done directly or under a contractual or other arrangement. Regardless of the method used, the full costs associated with determining the error rates must also be withheld from the State's quarterly estimate of expenditures.

D. Computations for Disallowance of FFP

When States submit their quarterly estimate of expenditures for medical assistance, under § 431.803(d)(4), we reduce the amount of the estimate by the percentage difference between the three-percent national standard and the anticipated payment error rate established by us for that quarter. At the close of the quarter, this reduction is adjusted to represent the appropriate percentage of the State's actual expenditures for the quarter. As set forth at § 431.803(d)(4), these quarterly reductions, which are noted on the State's grant award, are not disallowances and, therefore, are not appealable.

The actual error rates are either those determined from the State reviews and subsequent Federal re-reviews or, if the State fails to complete a valid sample, those determined by us. The disallowance amount is the product of (1) the difference between the three-percent national standard and the State's actual error rate, and (2) the Federal share of the State's actual medical assistance expenditures for the review period.

After the actual error rates for the April-September 1983 review period and for each fiscal year thereafter are determined, the disallowance amount is computed, a disallowance letter is issued and, in the absence of a waiver (see section II.E., below), adjustments are made in the FFP previously calculated for each State. These adjustments are made by comparing the disallowance amount to the amounts previously withheld from the quarterly grant awards for the appropriate quarters. If the actual disallowance is less than the amounts withheld for the appropriate quarters, the excess amounts withheld will be returned to the State. If the disallowance exceeds the amounts withheld, then the additional amounts will be withheld from the State's next quarterly grant.

E. Notice of Disallowance and Waivers of Disallowance Based on "Good Faith"

Under § 431.803(e), the Administrator is permitted to waive, in certain limited cases, all or part of an FFP disallowance if a State is unable to reach the three-percent national standard despite a good faith effort. We evaluate requests for waivers prior to taking the actual disallowance. States are allowed 30 days from the date of the notice of a disallowance to apply for a waiver. We respond within 90 days of receipt of all information needed to reach a decision on the State's request for a waiver.

F. Applicability

Section 1903(u)(4) of the Act excludes Guam, Puerto Rico, the Virgin Islands, the Northern Marianas, and American Samoa from the provisions of section 1903(u) of the Act. The interim final regulations, therefore, excluded those entities from the provisions of § 431.803.

III. Discussion of Comments

In response to the interim final regulations, we received 39 comments from or on behalf of State and local health or welfare agencies. Following are specific comments received and our responses.

A. Effective Date of the Regulations

Comment—Twelve commenters objected to the manner in which the interim final rule was published because it did not allow for comments prior to the regulations' effective date. Some States commented that issuing interim final rules without the benefit of prior public comment denies the States the opportunity to adequately respond and provide input. The States contended that

this process is not only undesirable, in general, but, in their opinion, is particularly inappropriate when applied to policies that, in their view, deprive the State of funds. They believe that the Federal government should be especially sensitive to the solicitation and careful consideration of comments from the States when rules that could potentially result in "fiscal penalties" are proposed.

Response—Section 1903(u) of the Act was effective upon enactment (September 3, 1982) and requires that States achieve the three-percent national standard for the period April-September 1983 and for each full fiscal year thereafter. We were, therefore, required to make the effective date of the interim final rule April 1, 1983.

Although we were unable to provide a public comment period prior to the effective date of that rule, we did provide for a comment period and are responding to those comments in this final rule.

Comment—One State commented that the regulations are being implemented before an ongoing major HHS study on the present quality control system has been completed.

Response—The statute was effective upon enactment, and the Secretary was mandated to enforce its provisions. While there is an ongoing study that could ultimately result in changes to the quality control program, under the present statutory mandate, we cannot delay implementation of the statute's provisions by delaying the effective date of these regulations.

B. Three-Precent National Standard

Comment—Three States commented that the three-percent national standard is arbitrary and is too low to be met in a cost beneficial manner.

Response—Section 1903(u)(1)(A) of the Act requires that the State payment error rate tolerance level be set at three percent. Therefore, we have no authority to set any other level in these regulations.

Comment—Three States commented that the regulations are punitive and do not provide a balance system of fiscal penalties and rewards.

Response—These regulations implement congressionally prescribed tolerance levels for erroneous expenditures for medical assistance. The statute provided only for disallowances of excess erroneous expenditures. It did not provide the Secretary with the authority to provide enhanced funding for States with low error rates.

C. Impact on States Due to Disallowances Under These Regulations

Comment—Six States objected to the imposition of "fiscal sanctions" based on the quality control system. The States point out that the primary purpose of quality control is the reduction and elimination of errors through corrective action. They contend that today, due to the fiscal problems suffered by almost all States, States are experiencing a severe lack of financial and staff resources. States believe that imposition of sanctions is very likely to produce a situation in which the basic goals of quality control are retarded, not advanced, since sanctions would exacerbate the State's financial predicament.

The States noted that the preamble to the interim final rule (48 FR 29451) stated that the national average payment error rate has decreased from 6.6 percent for the July–December 1978 base period to a projected rate of near three percent for the April–September 1981 and October 1981–March 1982 assessment periods. The States claims that this substantial reduction in the error rate was accomplished by the States *without* having fiscal sanctions imposed on them.

Response—As stated previously, the statute (section 1903(u)(1)(A) of the Act) mandates the disallowance of erroneous expenditures above the three-percent national standard. Therefore, the regulations must provide for the disallowance of these expenditures. It should also be noted that the reduction in error rates cited above occurred during time periods when disallowance provisions similar to these regulations were in place.

Comment—Four States expressed the opinion that errors caused by State policies that are not in compliance with the State plan should not be included in the payment error rate because disagreement between State and Federal staff regarding interpretation of regulations or law can increase a State's error rate through the Federal re-review process prior to a resolution of the disagreement.

Response—We do not concur with this recommendation. Section 431.800(d)(1) specifies that the State must operate its MQC system in accordance with policies, sampling methods, review procedures, etc., as specified in MQC manuals issued by HCFA. The *State Medicaid Manual*, Part 7, section 7250 specifies that reviews must be conducted against written State policies and procedures that are in accordance with the State plan. If a policy is in conflict with the State plan, reviews must be conducted against the State plan.

As provided in section 7220 of the *Manual*, if an error is cited by Federal reviewers, the State may either accept the Federal finding or request a conference to discuss the Federal and State review difference. The State must reflect the resolution of the difference as determined by the Regional Administrator in its statistical reports. These reports are submitted to HCFA at the end of each review period and accurately reflect whether or not an error is cited *after* the resolution of the difference.

Comment—One commenter stated that if States have funds withheld based on projected error rates but, in fact, have acceptable error rates when the final calculations are done, these States should not only receive the withheld funds but should also receive interest on these funds. This would be consistent with § 433.38, which requires States to pay interest on disallowed claims determined by us, and would be less disruptive to States; cash flow.

Response—We do not agree that States should receive interest on funds that were withheld based on projected error rates. Funds withheld based on the anticipated error rate are reductions in the States' grant awards and do not constitute disallowances. Since these reductions are not disallowances, they are not subject to the provisions of section 1903(d)(5) of the Act, which provide States the option of retaining disallowed funds and paying interest on them should it be determined that the funds were properly disallowed or of permitting the Federal government to retain the funds pending the appeal decision. Further, since Congress did not specify in the statute that interest should be paid on excessive funds withheld under section 1903(u) of the Act, there is no basis in the law that provides for us to pay interest on these withholdings.

Comment—Two States recommended that disallowance amounts should be offset to the extent that erroneous payments are recouped by the State. This would reduce the impact of disallowances on States.

Response—In the event that States have recovered overpayments due to ineligibility and have credited HCFA with the Federal share of their recoveries, we will deduct the amount credited from the grant reduction made under the provisions of these final regulations for the quarter in which the credit was given. States must identify credits for ineligibility recoveries in order to receive their deductions.

D. Prospective Withholdings Based on Anticipated Error Rates

Comment—Four States did not agree with the concept of withholding funds prospectively. They argued that this process is outside the philosophy of quality control as a management tool. They also expressed the opinion that this process is administratively cumbersome in that monies could be withheld based on an anticipated excessive error rate, only to be repaid later when the actual error rate is determined not to be over the three-percent national standard. The commenters strongly urged that we consider fiscal penalties for excessive error rates only on a retrospective basis.

Response—The provision for reducing a State's quarterly estimates of expenditures is mandated by section 1903(u)(1)(C) of the Act. We are, therefore, required to implement a system for prospective reductions.

Comment—One State commented that projected error rate data should be released to the States at least three months in advance of the quarter to which the rate will apply.

Response—For purposes of administering the process in the interim final regulations, we believe that advance notice of our intent to reduce grant awards was adequate. We have, however, included time frames for furnishing States with projected error rates in the final regulations that will govern future error rate projections (§ 431.804). These regulations were published in the **Federal Register** on December 1, 1983 (48 FR 54224). The provisions of § 431.804 will be applied to States beginning with the January–March 1984 quarter.

Comment—Twenty respondents expressed strong opposition to the fact that quarterly withholdings are not considered disallowances and, therefore, are not appealable. The regulations (§ 431.803(d)(4)) state that the reduction in the grant award for the quarter does not constitute a disallowance and is not appealable. An appeal cannot be filed until we compute the actual amount of the disallowance. This could be up to two years after the withholding is made. The States believe that the reductions should be appealable because their effect is an adverse action on the State.

Response—The quarterly reductions are based on the statutorily required estimates of erroneous expenditures and do not represent actual data for disallowances, but rather reductions to the State's estimates of expenditures. The Senate Finance Committee report accompanying Public Law 97–248 states that if the estimated prospective reduction proves to be inaccurate when actual data from the period becomes available, appropriate adjustments will be made in subsequent grants (S. Rep. No. 97–494, 97th Congress, 2nd Session 39 (1982)). This provides clear guidance that estimates are not to be adjusted until actual data are available. Therefore, the final regulations retain the provision that appeals will not be entertained until the actual disallowance has been taken based on actual error rate data.

E. Determination of a State's Final Payment Error Rate

Comment—Five States commented that error rates can be subject to intense distortion from a large overpayment in a single case, and, therefore, the dollar rate is a most unreliable indication of program quality having little relation to the more meaningful case error rate.

Response—Section 1903(u) of the Act clearly requires that error rates be calculated by taking a ratio of "erroneous payments" to "total payments". We believe that this can only be properly implemented by using dollar amounts rather than the percentage of cases in error.

Comment—Five States commented on the use of the "point estimate" in determining a State's actual payment error rate. This rate is arrived at by taking a sample of the State's Medicaid beneficiary cases, and extrapolating the percentage of errors in the sample to the universe of Medicaid beneficiaries. The result is called the "point estimate," and is considered by us to be the best estimate of the actual error rate. Because the result is, however, still an estimate, the "true" error rate may be somewhat different. This "true" rate lies somewhere within a certain range greater or lesser than the point estimate. This range is known as the "confidence interval," and five States recommended that the value at the lowest end of this confidence interval be used as the actual error rate, rather than using the point estimate that lies in the middle of this interval.

Response—The point estimate continues to be a generally accepted statistical measure of the true error rate. Use of the lower end of the confidence interval would constantly understate the State's true error rate as would the use of the upper end overstate the error rate. In addition, under the current MQC methodology the final "point estimate" reflects a "regression" adjustment to account for differences between the State findings in the main sample, and Federal findings that result from our review of a subsample of the main sample. The greater the difference between the Federal and State findings, the larger the confidence interval will be. Thus, the State could be encouraged to conduct poor reviews to increase differences, thus artificially lowering the lower limit. Use of the point estimate encourages thorough reviews and more closely reflects the true error rate. We will, therefore, continue to use the point estimate in establishing error rates.

Comment—Eight States addressed the issue of agency- versus client-caused errors. They state that the standards for client- and agency-caused errors should be differentiated to reflect the reality that client-caused errors are particularly difficult to control. They recommended that sanctions should apply only to agency-caused errors or that these two types of errors be weighted differently.

Response—The statute does not distinguish between agency- or client-caused errors, and provides no basis for giving these errors different weights in computing the final payment error rate. It clearly states that erroneous payments made above the three-percent national standard are to be disallowed. Therefore, we will continue to calculate the payment error rate based on erroneous payments made as a result of either agency- or client-caused errors. Furthermore, we wish to provide an incentive to States to develop procedures for assuring prompt reporting from clients and to develop methods for agency tracking of changes in beneficiaries' circumstances.

Comment—Four States commented that the regulations should provide that the reduction of grant awards and disallowance of FFP exclude expenditures for SSI beneficiaries. One State also recommended that the regulations provide a method for determining the amount of the benefits paid to SSI beneficiaries and a procedure to exclude them in section 1634 States.

Response—The regulations (§ 431.803 (d)(3) and (d)(6)) do provide for the exclusion of all payments made on behalf of beneficiaries who receive SSI payments in section 1634 States. These payments are excluded by reducing total payments made by the State for medical services subject to FFP by the percentage of payments made on behalf of SSI beneficiaries (§ 431.803(d)(6)). This calculation is shown on an attachment to each grant award that is reduced under this provision.

Comment—Eleven States commented on the definition of technical errors as set forth in the regulations. In general, the States approve of the fact that allowance is being given for "technical

errors." However, they proposed a change in wording that would allow for inclusion of additional types of technical errors as they are encountered and agreed to by us.

Response—We agree with these comments, and the final regulations (§ 431.803(b)) adopt the States' suggestion. However, we have provided that errors other than those specifically mentioned may be cited as technical errors only after receiving approval from us. States should submit to their Regional Offices a description of the error and a explanation as to why this error should be cited as a technical error. The Regional Office will forward this information to HCFA Central Office. After review, the Central Office will advise the Regional Office whether or not the error can be classified as technical.

Comment—One State commented that the regulations should contain provisions that would allow States to appeal Federal re-review findings.

Response—The *State Medicaid Manual*, Part 7, Quality Control, at section 7220, provides for appeal of re-review findings to the HCFA Regional Administrator. We do not believe it appropriate to codify this mechanism in the disallowance provisions that are the subject of these regulations, but we will consider publishing this appeals procedure as a part of the MQC regulations at a later time.

F. Determining a State's Anticipated Error Rate

1. *Use of two six-month periods as a base for error rate projections.*

Comment—We received 20 comments from or on behalf of States regarding the use of data from the two most recently completed six-month periods as a base for projecting States' anticipated error rates. States were concerned that these data are inadequate for an accurate projection of error rates. We received the following recommendations as alternative data bases that could be used to project error rates:

- Use the lower error rate from the two most recent review periods.
- Base projections on the two completed sample periods following the date Pub. L. 97-248 became law (September 3, 1982).
- Recompute the projected error rate at the end of each review period.
- Use some latitude in selecting which two periods are used to project error rates.

Response—We have reviewed States' suggestions regarding which data base to use in making projections of anticipated error rates. We have amended the regulations (§ 431.803(d)(1)) to provide that projections will be based on the lower of either the error rate from the most recently completed six-month review period or the weighted average of the error rates from the two most recently completed six-month review periods.

This methodology provides for using the most recently completed data unless it disadvantages the State. In that case, projections would be based on the average of the two most recently completed periods. This method provides the advantage of using either the more stable data from a 12-month period or the most recent data available from the latest 6-month period if an error reduction has occurred.

2. *Use of the expected impact of corrective action in projecting anticipated error rates.* The interim final regulations do not rely only on data showing recent actual experience as a basis for estimating future error rates. The regulations allow us to lower our projection of the anticipated error rate by assuming that implementation of a State's corrective action plan will to some extent reduce the rate of future errors from the error rate experienced in the past.

Comment—Three States commented that the methodology we used to estimate the effect of corrective action plans is subjective and does not recognize unique factors within a State. Several States recommended that the rule describe the method used to reduce the anticipated error rate in light of the expected impact of corrective action.

Response—Under the governing statute, section 1903(u) of the Act, estimation of a State's anticipated error rate is part of the previously established process by which we estimate the amount of Federal funds that are to be paid to a State each quarter, until a final settlement is made after a State has submitted documentation of its actual Medicaid expenditures. This estimation process necessarily requires a highly discretionary evaluation by us of the likely effect of events during the quarter on a State's Medicaid expenditures. Nothing in section 1903(u) of the Act suggests that any less discretionary approach was intended for the adjustment to this estimate necessary to account for the anticipated error rate.

Accordingly, the interim final regulations' consideration of the possible effects of corrective action is inherently subjective, as the comments noted. Estimating the impact of corrective actions that have not yet been fully implemented and evaluated necessarily requires a subjective assessment of the extent to which the actions will be successful, and judgments of this nature are not amenable to mechanical rules. It might well be argued that these assessments are so speculative that they should not be made at all, and that estimates of future error rates should be based solely on actual data of recent experience. Indeed, it was this concern for the uncertain reliability of estimating the effects of corrective action that led us to issue new regulations that do not utilize the possible impact of corrective action in the estimation process (48 FR 54224; Dec. 1, 1983). But since consideration of the possible effect of corrective action can only benefit a State by lowering the error rate that would otherwise be anticipated by looking only to recent experience, we do not believe that States are disadvantaged by the subjective nature of this consideration.

To assure relatively uniform treatment of all States, we have developed a general framework for estimating the future effect of corrective action plans. We start with the following four basic criteria and assign weights to them:

Criterion	Weight (percent)
Did the State correctly identify the major cause of errors?	20
Did the State develop corrective actions designed to address the error causes identified?	20
Did the State implement the planned corrective actions?	30
Is there any preliminary evidence that implemented corrective actions are reducing the State's error rate?	30

Each of these criteria was selected because it represents one of the four basic steps of the corrective action process: Identification of error causes; planning appropriate corrective action; implementation of the plan; and evaluation of the effectiveness of the corrective actions. Additional weight is given to implementation and evaluation because of the greater likelihood that a plan already implemented will produce results, and the greater confidence we have in an action for which some results of effectiveness already exist.

For each cause of errors that is identified in the corrective action plan, we assign a score for each of the four criteria reflecting our judgment about the State's efforts. Scores for the various causes of errors are then combined. This combined score is translated into a projected reduction of the State's error rate, subject to the restriction that no estimated future error rate will be reduced more than 25 percent based on analysis of the corrective action plan.

The 25 percent limit on the credit given to corrective action plans was the subject of numerous critical comments, which contended that this was an

arbitrary limit on the estimated impact of a corrective action plan. We continue to believe, however, that our estimation of the likely impact of corrective action plans is properly subject to a 25-percent limit because of the inherent weaknesses in projecting error rates based on the expected effects of actions that are not fully implemented and proven. The average annual reduction of error rates by States has been 19.8 percent, which suggests to us that States are not likely actually to achieve significantly greater reductions no matter how promising their corrective action efforts may appear. Moreover, a State's corrective action plan may not be designed to correct all the errors detected in a previous sample. Our historical evidence relating to error rate reduction indicates that when a State directs corrective action activity to one cause of errors, other sources of error frequently develop. In summary, given the judgmental manner in which the possible effects of corrective action plans must be evaluated and the potential for overestimating the value of a corrective action plan, we believe that it is inappropriate to assume, for estimation purposes, that a corrective action plan can in the short run achieve more than a 25-percent reduction from the error rate that a State has actually been shown to have incurred in the recent past. Of course, once the effects of corrective action are reflected in data from actual samples, there is no limit to the improvement that will be recognized.

As this description of the evaluation methodology should indicate, there is limited value in setting it out in detail in the text of the regulations. The critical part of the process is the judgment about the State's success in identifying and remedying each cause of error, and, since this assessment is subjective, the regulations can at most simply describe the framework in which these judgments take place. We have, however, included the four basic criteria for evaluating corrective action in these regulations to suggest the outlines of the process, as well as a reference to the maximum 25 percent reduction in the estimate that will be attributed to the possible effects of a corrective action plan (§ 431.803(d)(2)).

Comment—Fifteen comments received from or on behalf of States requested that the regulations fully define the method by which a State's base period error rate is adjusted to develop an anticipated error rate. They believe that we have failed to explain the specific procedures by which we will make these adjustments. For example, the States asked whether consideration will be given to (1) technical errors, (2) the revised method of assigning dollar amounts for resource errors, and (3) corrective action implemented by the State. They also asked whether HCFA will go back and actually re-review the cases from the two six-month review periods most recently completed to look for technical and resource errors, or whether HCFA will just assume that a certain percentage of errors were "technical" and that the resources errors were a certain amount, and apply these assumptions to the two review periods.

Response—We have amended the regulations (§ 431.803(d)(1)) to reflect more clearly that for periods prior to October 1983 we will examine all cases in both the full State sample and the Federal subsample to identify cases with errors due to excess resources or technical errors. The individual case findings will then be adjusted to reflect the new error definitions set forth in this document. However, by October 1983 the States had sufficient time to become familiar with and implement the error definition provisions of the interim final regulations. Thus, beginning with the October 1983 sample month, it is the State's responsibility to apply the new error definitions and we will make adjustments only to the extent that review of the Federal subsample (as part of the "Federal difference resolution process" described in section 7220 of the Manual) reveals errors in the State's application of the error definitions.

After case findings are adjusted for the new error definitions in Pub. L. 97-248, if the resultant error rate is above the three-percent tolerance level, then the State's corrective action activity will be assessed to determine if the anticipated error rate should be further reduced.

Comment—Two States commented that it is unfair to penalize States on the sample estimate (error rates established from sampling rather than enumerating the entire population) alone and suggested that the regulations should mandate the use of trend analysis and other statistically sound methods for predicting error rates.

Response—Our research has shown that trend analyses are not good indicators of future performance and that the point estimate for the most recently completed sample period is a better predictor of the point estimate of the next sample period. We therefore rejected the proposal of using trend analyses.

G. Problems With the Quality Control Review Process

Comment—One State raised the issue of the effect of large dollar cases on the error rate. It believes that the MQC process needs a mechanism to adjust error findings for aberrant situations. On occasion, one or two highly unusual cases with large dollar errors might skew the resulting error rate. Since these figures can result in a significant penalty to a State, there should be a mechanism, other than the proposal for a statistically valid sample, to account for these unusual circumstances.

Response—We do not agree. As pointed out in the State's comment, these cases only appear in the sample on occasion. As such, they properly reflect the fact that erroneous payments are made for high dollar cases that may not appear in other sample periods.

Comment—One State commented that the regulations should stipulate that State and Federal quality control staffs should use the same eligibility verification processes as State eligibility staff.

Response—We are not adopting this suggestion because we believe it would increase, rather than reduce errors. In fact, we believe that the reverse would be more desirable. Eligibility staff should be encouraged to use verification procedures as exhaustive as those used by the quality control staff. This would serve to improve the accuracy of eligibility determinations, which is the primary purpose of the MQC program.

Comment—Eighteen comments were received from or on behalf of States concerning the need for States to receive error rate information on a more timely basis. States commented that one weakness of the Federal quality control system is the delay in reporting actual data until many months after the events which they measure have occurred. The extraordinary length of time, which can and does exist, between the occurrence of errors and the final measurement undermines the ability of States to take timely, cost-effective corrective actions. For example, at the present time, sanctions in Medicaid are being proposed by the Federal government for Federal Fiscal Year 1981, which ended two years ago. Time limits should be established in which a State's final error rate is determined so that corrective action by the State can be taken in a timely and cost-effective manner.

Response—Since calculation of final payment error rates is dependent upon the State's completion and reporting of its own reviews and the completion and reporting by SSA of AFDC-QC sample

data, we cannot establish a firm time frame for completion of the calculation. However, we have amended the final regulations at § 431.803(d)(5) to commit ourselves to making the necessary adjustment in grant awards previously reduced based on anticipated error rates within 30 days of establishing the actual error rate for the particular quarter. The delay in Federal computation of final error rates for disallowance purposes does not preclude States from using initial State data to begin corrective action planning. States are encouraged to use data available to them to initiate actions to reduce erroneous payments and case errors.

Comment—One State expressed concern about its inability to control liability errors. The State found it hard to keep beneficiary liability amounts current where health insurance premiums are involved because premium amounts decrease and increase and policies are begun and terminated before the agencies are able to reflect the changes for eligibility purposes. Regulations in this area will work to cause high error rates in these cases because the status of the premiums is very erratic. The States are eventually going to be damaged if changes are not made in this policy.

Response—We are aware of the difficulties in administering the policy as required under § 435.725 to protect patients' income for noncovered medical expenses. This policy is under review by the Department. However, we will continue to base MQC reviews on the policy currently in place until that policy is revised. In addition, we do allow States to provide in their State plans for the proration of prepaid insurance premiums for the period for which the insurance policy is in effect.

Comment—One State had a question about errors that occur because a beneficiary did not meet his or her liability amount. The State wanted to know if a liability error, which is later adjusted so that there is no payment error, falls in the category of a technical error. These errors, which occur because of processing timing and receive automatic adjustment, do not result in misspent funds.

Response—Claims that are paid in the correct amount or are properly adjusted during the claims processing administrative period do not result in payment errors.

Comment—Two States commented on the quality control process. The States believe that, although the intent of the current quality control system is laudable, the procedures are questionable. There has not been enough emphasis placed on the validity of the quality control process. The whole quality control process should be reevaluated by Federal and State officials before actual disallowances are imposed. As an example, it could be argued that the sample pulled in a State is too small to accurately identify error prone areas in order to take corrective action.

Response—We do not agree that our current quality control procedures are questionable. We believe that the MQC system is strong and is a viable method for determining payment error rates for disallowance purposes. We are, nevertheless, constantly looking for approaches to improve the current system. For example, we are currently testing in one State a methodology of retrospective sampling to determine its effect on system improvement.

With regard to a State's sample size, if a State does not believe its minimum sample size is adequate to identify error prone areas, it may increase its sample size at its discretion as provided in § 431.800(d)(7). FFP is available for the costs of these additional reviews.

H. Good Faith Waivers

Comment—Four States commented on the time frame for submitting good faith waivers. They believe that States should be given at least 65 days (rather than the proposed 30 days) from the receipt of notification of intent to disallow funds to present evidence for good faith waivers. The regulations implementing the Michel amendment's provisions (§ 431.802) allow 65 days, and this time frame should not be reduced in these regulations.

Response—We agree with this comment and have amended the text of these final regulations to reflect the comment.

Comment—Five respondents objected to the restriction of good faith waivers to "extraordinary circumstances."

Response—Section 1903(u)(1)(B) of the Act prescribes that the Secretary may waive, "in certain limited cases," all or part of the reduction required if a State is unable to reach the national standard despite a "good faith" effort. Since the statutory language clearly indicates that waivers should be granted only on a limited basis, we elected to retain the language currently in the regulations at § 431.802 which limits waivers to "extraordinary circumstances."

I. Michel Amendment Disallowances

Comment—Eight States commented on the potential for double penalties because of the overlap of the Michel amendment and the Pub. L. 97–248 provisions. States believe that the regulations should be more specific on this issue. States could be faced with double penalties over the next fiscal year due to the overlap of the Michel amendment and Pub. L. 97–248 provisions. The States argue that since the Pub. L. 97–248 national standard (three percent) is lower than that under the Michel amendment (four percent), the imposition of double sanctions would seem to be unwarranted. They object to the fact that there is no clear detailed discussion in the regulations of this overlap and the potential for double penalties.

Response—The provisions of section 133 of Pub. L. 97–248 replaced the provisions of the Michel amendment for periods after September 30, 1982. This provided for a six-month hiatus period from disallowance provisions before the new provisions took effect in April 1983. Thus, States will be subject to disallowances under Michel through September 30, 1982 and to disallowances under Pub. L. 97–248 for periods after April 1, 1983.

The Michel disallowances are retroactive and reflect the error rates for the periods October 1980–September 1981 and October 1981–September 1982. Pub. L. 97–248 provides for both prospective reductions and retroactive disallowances, both of which are for periods beginning April 1, 1983. Therefore, there is no overlap of periods of disallowance. However, projections of anticipated erroneous payments under Pub. L. 97–248 will be based on Michel period data adjusted for error definitions in Pub. L. 97–248 until data under that law are available.

Comment—Two States questioned the authority on which the disallowance provisions under the Michel amendment are enforced.

Response—The authority for Michel amendment disallowances is section 201 of the Labor-HEW Appropriation Bill for FY 1980 as referenced in the continuing resolution for FY 1980 (Pub. L. 96–123).

J. Other General Comments

Comment—One State identified what it believes was an omission to the regulations. It wanted to know what procedure would be used when a State that has had a previous reduction in FFP reaches a final error rate of *less* than three percent.

Response—The final regulations (§ 431.803(d)(5)) have been clarified to make clear that if, after final error data are available, we determine that the amount withheld on a prospective basis exceeds the actual error rate, an adjustment will be made to the State's grant award within 30 days of the final disallowance calculation. If the State's

actual error rate is less than the anticipated error rate, the State's grant award will be increased accordingly. If the actual error rate remains above three percent, the State may file a good faith waiver request.

Comment—The States question the statutory authority for reducing grant awards for the third quarter of FY 1983 after the beginning of the quarter. The States believe that Pub. L. 97–248 does not give us the authority to reduce the grant awards unless we do so by reducing the initial estimate of expenditures prior to the beginning of the quarter. They believe that penalizing the States at the end of the third quarter was not justified and again has caused unanticipated fiscal difficulties in a number of States. The States believe that the intent of Congress was to institute rules and policies regarding this program *prospectively* and to disallow the Federal funds prospectively. The States should not be penalized because we were unable to promptly publish regulations.

Response—The statute requires that beginning April 1, 1983 *each* quarter's estimate must be adjusted based on the anticipated error rate. Since the interim final regulations were not published until after the issuance of the grant award for the third quarter of FY 1983, in order to meet the statutory requirement, we issued a supplemental grant award under the authority of section 1903(d)(2) of the Act reducing the initial award in the amount of the projected overpayment.

We interpret the statute to require only that we reduce the State's estimate of expenditures prior to the computation of the actual error rate and the subsequent disallowance amount, and not necessarily prior to the beginning of each quarter. The statute requires us to adjust each quarter's grant award. If, as a result of an administrative delay, this does not occur until after the beginning of a quarter, it would thwart congressional intent to allow a State to retain funds that by statutory mandate should have been withheld. Furthermore, our failure to make the reduction prior to the quarter is advantageous to the State rather than causing it any undue harm, because it allows the State to have use of the funds for a longer period of time.

IV. Summary of Changes in the Regulations

A. The definition of technical error in § 431.803(b) is changed to allow errors other than those specifically mentioned in that section to be classified as technical errors upon approval by HCFA.

B. The base period error rate to be used in calculating the anticipated error rate, as specified in § 431.803(d)(1) (previously § 431.803(d)(2)), is changed from the weighted average of the actual error rates of the two most recently completed six-month review periods to the lower of that weighted average or the error rate of the most recently completed six-month review period.

C. Section 431.803(d)(1) (previously § 431.803(d)(2)) is amended to more clearly reflect that all cases for sample periods prior to October 1983, in both the full State sample and the Federal subsample, will be examined to identify those cases with excess resource and technical errors. Those cases will be adjusted to reflect the new error definitions. For periods prior to October 1983, we will identify cases with these errors. Beginning October 1983, these adjustments will be made through the Federal difference resolution process if they are not reflected in the original State findings.

D. We have amended § 431.803(d)(2) (previously § 431.803(d)(3)) to include the criteria that are used by us to assess the effect of States' corrective actions on their anticipated payment error rates.

E. We have amended § 431.803(d)(5) (previously § 431.803(d)(6)) to state that within 30 days after the actual error rate is calculated for a particular quarter, we will increase the State's grant award to the extent that the final disallowance amount is less than the amount previously withheld for that quarter.

F. In § 431.803(e)(1)(i), we have lengthened the time States have for submitting good faith waiver requests from 30 days after date of receipt of notification of the potential disallowance to 65 days from that same date.

G. We have made the following technical changes in these regulations:

- We revised the title of § 431.803 to more clearly state the applicability of that section.
- Language was added to § 431.803(b) to clarify the definition of "erroneous payments."
- The language in §§ 431.803 (b), (c)(2), and (c)(3) was amended to clarify the definition of "State payment error rate." A similar conforming change was made in § 431.804(b).
- We moved § 431.803(d)(1) to § 431.803(c)(1) and renumbered the other paragraphs of those sections accordingly. In addition, we made conforming changes to § 431.803 to take into account this redesignation of Paragraphs (c) and (d).
- We changed the title of § 431.803(d) to more clearly state what the subject of that section is.
- We revised § 431.803(d)(3) (previously § 431.803(d)(4)) to clarify that payments to SSI beneficiaries in section 1634 contract States are not included in the calculation of the quarterly reduction. We also revised that section to clarify that the quarterly reductions are not disallowances and, therefore, are not appealable.
- The term "reduction" replaces the term "withholding" in § 431.803(d)(6) (previously § 431.803(d)(7)).
- The term "national standard" replaces the term "target error rate" in §§ 431.803 (e)(1)(ii), (e)(1)(iii), and (e)(2).
- In § 431.803(e)(2)(v)(A), the date for submittal of the States' annual corrective action plan is changed from July 31 to August 31 to conform with previously published change made to § 431.800(g).
- Sections 431.803 (e)(4) and (e)(5) are redesignated as (e)(3) and (e)(4) to correct a technical error that was made when the interim final regulations were published.
- We made a minor editorial correction to the title of § 431.804.

V. Waiver of 30-Day Delay in Effective Date

The regulations published in the interim final rule were effective on April 1, 1983. Although we have amended those regulations in this **Federal Register** document, the effective date of this final rule will remain as April 1, 1983.

The changes we have made in the regulations at § 431.803 will not result in an increase in any State's quarterly reductions made for the April–June 1983 and July–September 1983 quarters. In fact, these regulations will, for many States, reduce the amount of the reductions made in grants for those quarters.

We would be unable to promptly increase the States' grant awards for past quarters if we were to provide the usual 30-day delay in the effective date. Therefore, we find good cause to waive the delay in the effective date.

VI. Impact Analysis

Executive Order 12291 requires us to prepare and publish a regulatory impact analysis for any regulations that are likely to have an annual effect on the economy of $100 million or more, cause a major increase in costs or prices, or meet other threshold criteria that are specified in the order. In addition, the Regulatory Flexibility Act (Pub. L. 96–354) requires us to prepare and publish a regulatory flexibility analysis for regulations unless the Secretary certifies that the regulations will not have a significant economic impact on a

substantial number of small entities. Under both the Executive Order and the Regulatory Flexibility Act, such analyses must, when prepared, show that the agency issuing the regulations has examined alternatives that might minimize unnecessary burden or otherwise ensure that the regulations are cost-effective.

A. Executive Order 12291

In this final rule, we discuss the interim final regulations, the comments received, our responses, and the changes made in response to those comments. These final regulations provide for disallowance of FFP for the period April 1 through December 31, 1983 to the States whose eligibility payment error rate for Medicaid, as measured by the MQC system, exceeds three percent.

In the interim final regulations implementing section 133 of Pub. L. 97-248 (published on June 24, 1983), we estimated that the regulations would result in withholding of FFP in the amount of $12 million in FY 1983 and $22 million in FY 1984. These estimates reflected the product of the difference between the three-percent national standard and the adjusted error rate, and the amount of the Federal share of the medical assistance expenditures for those States that we anticipate would exceed the three-percent level.

However, we have changed our initial estimate from the interim final regulations to reflect the following changes in the final regulations. First, we have established, at § 431.804, new regulations concerning the disallowance of FFP for excess erroneous State payments that take effect January 1, 1984. Therefore, our current regulations, at § 431.803, will only be effective April 1 through December 31, 1983.

Second, we are using more recent State error rate data in our calculations. These error rates are based on the Pub. L. 97-248 definition of error rates and, for our reestimate of FY 1983 savings, reflect the data from the period April 1981 through March 1982. For our reestimate of FY 1984 savings, our data represent the period from October 1981 through September 1982.

Finally, we have made several methodological refinements in our estimating process. However, these refinements have a negligible effect on the reeestimates.

Therefore, our estimate of savings resulting from these final regulations are:

Fiscal year	Savings (in millions)
1983	$10
1984	8.5

The fiscal year 1983 savings are for the last two quarters of that fiscal year and the fiscal year 1984 savings are for the first quarter of fiscal year 1984 (October 1 through December 31, 1983).

Since these estimates do not meet the $100 million threshold, and as it is the statutory provisions and not these final regulations that result in the estimated savings, we have determined that these final regulations are not a major rule as defined by section 1(b) of the Executive Order.

B. Regulatory Flexibility Analysis

These final regulations implement a congressionally mandated national standard for erroneous payments in the Medicaid program. The regulations affect only State agencies, which do not fall into the category of small governmental jurisdictions as defined by Pub. L. 96-354.

The Secretary certifies, under 5 U.S.C. 605(b) enacted by the Regulatory Flexibility Act, that these regulations will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 42 CFR Part 431

Administrative practice and procedure, Contracts (Agreements), Fair hearings, Federal financial participation, Grant-in-Aid program—health, Health facilities, Health maintenance organizations (HMO), Indians, Information (Disclosure), Medicaid, Mental health centers, Prepaid health plans, Privacy, Quality control, Reporting requirement.

42 CFR Part 431 is amended as set forth below:

PART 431—STATE ORGANIZATION AND GENERAL ADMINISTRATION

1. The authority citation for Part 431 reads as follows:

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

2. The table of contents for Part 431, Subpart P is amended by revising the title of §431.803 to read as follows:

Subpart P—Quality Control

Sec.

* * * * *

431.803 Disallowance of Federal financial participation for erroneous State payments during the period April 1 through December 31, 1983.

* * * * *

3. Section 431.803 is amended by revising the title; revising the definitions of "Erroneous payments", "State payment error rate," and "Technical error" in paragraph (b); redesignating paragraph (d)(1) as paragraph (c)(1) and redesignating paragraphs (c)(1) through (c)(6) as paragraphs (c)(2) through (c)(7); revising redesignated paragraphs (c)(2) and (c)(7), respectively; revising the title of paragraph (d); removing paragraph (d)(1) and redesignating paragraphs (d)(2) through (d)(9) as paragraphs (d)(1) through (d)(8), respectively; revising redesignated paragraphs (d)(1), (d)(2), (d)(3), and (d)(5); revising paragraph (e)(1), the introductory language of paragraph (e)(2), and paragraphs (e)(2)(iv) and (e)(2)(v)(A); and redesignating paragraphs (e)(4) and (e)(5) as (e)(3) and (e)(4) to read as follows:

§ 431.803 Disallowance of Federal financial participation for erroneous State payments during the period April 1 through December 31, 1983.

* * * * *

(b) *Definitions.* For purposes of this section—

* * * * *

"Erroneous payments" means the Medicaid payment that was made for an individual or family under review who—

(1) Was ineligible for the review month or, if full month coverage is not provided, at the time services were received; or

(2) Had not properly met beneficiary liability prior to receiving Medicaid services.

* * * * *

"State payment error rate" means the ratio of erroneous payments for medical assistance to total expenditures for medical assistance (less payments to Supplemental Security Income beneficiaries in section 1634 contract States) for cases under review under the MQC system for each assessment period.

"Technical error" means errors in eligibility conditions that, if corrected, would not result in a difference in the amount of medical assistance paid. These errors include, but are not limited to, Work Incentive Program requirements, assignment of social security numbers, the requirement for a separate Medicaid application, monthly reporting requirements, and assignment of rights to third-party benefits as a condition of eligibility for Medicaid. Errors other than those listed must be

approved by HCFA before they are classified as technical errors.

(c) *Setting the State's payment error rate.*

(1) Each State must, for the April–September 1983 period and for each annual assessment period thereafter, have a payment error rate no greater than 3 percent or be subject to a disallowance in FFP.

(2) A payment error rate for each State is determined by HCFA for the period April-September 1983 and for each annual assessment period thereafter by computing the ratio of erroneous payments for medical assistance made on behalf of individuals or cases in the sample for services received during the review month to total expenditures for medical assistance made on behalf of individuals or cases in the sample for services received during the review month under the State plan in effect at the time of review. This ratio incorporates the findings of a federally re-reviewed subsample of the State's review findings and is projected to the universe of total medical assistance payments for a particular quarter in order to calculate the amount of disallowance, if any, under paragraph (d)(7) of this section.

(3) The State's payment error rate does not include payments made on behalf of individuals whose eligibility determinations were made exclusively by the Social Security Administration under an agreement under section 1634 of the Act.

(4) The amount of erroneous payments is determined as follows:

(i) For ineligible cases resulting from excess resources, the amount of error is the lesser of—

(A) The amount of the payments made on behalf of the family or individual for the review month; or

(B) The difference between the actual amount of countable resources of the family or individual for the review month and the State's applicable resource standard in the approved State plan.

(ii) For ineligible cases resulting from other than excess resources, the amount of error is the total amount of medical assistance payments made for the individual or family under review for the review month.

(iii) For erroneous payments resulting from failure to properly meet beneficiary liability, the amount of error is the lesser of—

(A) The amount of payments made on behalf of the family or individual for the review month; or

(B) The difference between the correct amount of beneficiary liability and the amount of beneficiary liability met by the individual or family for the review month.

(5) In determining the amount of erroneous payments, errors caused by technical errors are not included.

(6) If a State fails to cooperate in completing a valid MQC sample or individual reviews in a timely and appropriate fashion as required, HCFA will establish the State's payment error rate based on either—

(i) A special sample or audit;

(ii) The Federal subsample; or

(iii) Other arrangements as the Administrator may prescribe.

(7) When it is necessary for HCFA to exercise the authority in paragraph (c)(6) of this section, the amount that would otherwise be payable to the State under title XIX of the Act is reduced by the full costs incurred by HCFA in making these determinations. HCFA may make these determinations either directly or under contractual or other arrangements.

(d) *Computation of anticipated error rate.*

(1) Before the beginning of each quarter, HCFA will project the anticipated State payment error rate for each State for that quarter. The anticipated error rate is based on the lower of the weighted average of the actual error rates for the two most recent 6-month review periods or the actual error rate of the most recently completed 6-month review period. In either case, the review period must have been completed by both the State and HCFA. Adjustments for the amount of erroneous payments due to excess resources and for technical errors will be made for all cases in the State and Federal samples for periods prior to October 1, 1983. Beginning with the October 1983–March 1984 sample period, these adjustments will be made only through the Federal difference resolution process if they are not reflected in the original State findings. If a State fails to provide HCFA with information needed to project an anticipated payment error rate, HCFA will assign the State an error rate as prescribed in paragraph (c)(6) of this section.

(2) The anticipated payment error rate established in paragraph (d)(1) of this section will then be adjusted by HCFA up to 25 percent based on the effect anticipated by HCFA of corrective action implemented by the State and a final anticipated payment error rate will be established by the Administrator. The following criteria will be used in assessing the effect of corrective action on the anticipated payment error rate:

(i) The State's correct identification of the major causes of errors.

(ii) The State's development of corrective actions designed to address the error causes identified by the State.

(iii) The State's implementation of the planned corrective actions.

(iv) The State's evaluation of whether or not corrective actions reduced the State's error rate.

(3) Based on the anticipated error rate established in paragraphs (d)(1) and (d)(2) of this section, HCFA will reduce the State's estimate of its FFP requirements for FFP for medical assistance for the quarter by the percentage by which the anticipated payment error rate exceeds the 3-percent national standard. This reduction will be applied against the State's total estimate of FFP for medical assistance expenditures (less payments to Supplemental Security Income beneficiaries in section 1634 contract States) prior to any other required reductions. The reduction will be noted on the State's grant award for the quarter and does not constitute a disallowance. The reduction, therefore, is not appealable.

(4) After the end of each quarter, an adjustment to the reduction will be made based on the State's actual expenditures.

(5) After the actual payment error rate has been established for an assessment period, HCFA will compute the actual amount of the disallowance and adjust the FFP payable to each State based on the difference between the amounts previously withheld for each of the quarters during the appropriate assessment period and the amount that should have been withheld based on the State's actual final error rate. Within 30 days after the actual error rate is calculated for a particular quarter, HCFA will increase the State's grant award to the extent that the final disallowance amount is less than the amount previously withheld for that quarter.

(6) HCFA will compute the amount to be withheld or disallowed as follows:

(i) Subtract the 3-percent national standard from the State's anticipated or actual payment error rate percentage.

(ii) If the difference is greater than zero, the Federal medical assistance funds for the period, excluding payments for those individuals whose eligibility for Medicaid was determined exclusively or in part by the Social Security Administration under a section 1634 agreement, are multiplied by that percentage. This product is the amount of the disallowance or reduction.

(7) A State's payment error rate for an annual assessment period is the sum of the weighted average of the payment error rates in the two 6-month review periods.

(8) The weights are established as the percent of the total annual payments that occur in each of the 6-month periods.

* * * * *

(e) *Notice of States and showing of good faith.*

(1) When the actual payment error rate data are finalized for the April–September 1983 assessment period and each annual assessment period thereafter, HCFA will establish each State's error rate and the amount of any disallowance. States that have error rates above the national standard will be notified by letter of their error rates and the amount of the potential disallowance.

(i) The State has 65 days from the date of receipt of this notification to show that this disallowance should not be made because it made a good faith effort to meet the national standard.

(ii) The Administrator finds that the State did not meet the national standard despite a good faith effort, HCFA will reduce the disallowance in whole, or in part, as the Administrator finds appropriate under the circumstances shown by the State.

(iii) A finding that a State did not meet the national standard despite a good faith effort will be limited to extraordinary circumstances.

(iv) The decision of the Administrator will be communicated to the State by letter.

(2) Some examples of circumstances under which the Administrator may find that a State did not meet the national standard despite a good faith effort are—

(i) * * *

(iv) State actions resulting from incorrect written policy interpretations to the State by a Federal official reasonably assumed to be in a position to provide that interpretation; and

(v) The State timely developed and implemented a corrective action plan which the Administrator finds to be reasonably designed to meet the national standard, but the national standard was not achieved. In evaluating whether the State made a good faith effort in these circumstances, the Administrator will consider the following factors:

(A) Submittal of annual corrective action plans to the HCFA Regional Office by August 31 of each year with revisions to the plan made within 60 days of identification of additional error prone areas, other significant changes in the error rate, or changes in planned corrective action.

* * * * *

(3) The failure of a State to act upon necessary legislative changes or to obtain budget authorization for needed resources is not a ground for a waiver.

(4) A State may request reconsideration of a disallowance under this section in accordance with the procedures specified in 45 CFR Part 16.

4. Section 431.804 is amended by revising the title and the definition of "State payment error rate" in paragraph (b) to read as follows:

§ 431.804 Disallowance of Federal financial participation for erroneous State payments (effective January 1, 1984).

* * * * *

(b) *Definitions.* For purposes of this section—

* * * * *

"State payment error rate" means the ratio of erroneous payments for medical assistance to total expenditures for medical assistance (less payments to Supplemental Security Income beneficiaries in section 1634 contract States) for cases under review under the MQC system for each assessment period.

* * * * *

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

Dated: January 8, 1984.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: January 16, 1984.

Margaret M. Heckler,

Secretary.

[FR Doc. 84-3411 Filed 2-7-84; 8:45 am]

BILLING CODE 4120-03-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Parts 59, 60, 61, 62, 64, 65, 66, 67, 70, 75, and 77

Changes in Assignments of Officials in FEMA Regulations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This document changes numerous references in FEMA regulations from the Associate Director, State and Local Programs and Support, FEMA (called the Associate Director) to references to the Federal Insurance Administrator. The change is needed because the activities described in the regulations are now, as a result of a recent transfer of functions, being performed by the Administrator.

EFFECTIVE DATE: February 8, 1984.

FOR FURTHER INFORMATION CONTACT: William L. Harding, Office of General Counsel, FEMA, 500 C Street SW., Washington, D.C. 20472, (202) 287–0377.

SUPPLEMENTARY INFORMATION: This regulation makes changes needed to reflect new organizational assignments within FEMA. It relates to internal management and, thus, is not a subject to Executive Order 12291 and the Regulatory Flexibility Act. It is categorically excluded from environmental requirements of 44 CFR Part 10. It is not substantive rule. Thus, notice and public comment are unnecessary and the rule can be made effective immediately. There is no information collection involved.

List of Subjects

44 CFR Part 59

Flood insurance, Floodplains.

44 CFR Part 60

Flood insurance, Floodplains.

44 CFR Part 61

Flood insurance.

44 CFR Part 62

Flood insurance.

44 CFR Part 64

Flood insurance.

44 CFR Part 65

Flood insurance.

44 CFR Part 66

Flood insurance, Floodplains, Intergovernmental relations.

44 CFR Part 67

Flood insurance, Floodplains.

44 CFR Part 70

Flood insurance, Floodplains.

44 CFR Part 75

Flood insurance, Floodplains.

44 CFR Part 77

Flood insurance, Floodplains, Grant programs/environmental protection.

Accordingly, Subchapter B, Chapter I of Title 44, Code of Federal Regulations, is amended as follows:

PART 59—GENERAL PROVISIONS

§§ 59.1, 59.2, 59.22, and 59.24 [Amended]

1. 44 CFR Part 59 is amended by removing the title "Associate Director"

and adding the title "Administrator" in place thereof in the following sections:

Sections 59.1 in definition of "Eligible Community", "Flood elevation determination", "Flood Hazard Boundary Map", "Flood Insurance Rate Map", "Participating Community", "Project Cost", "Regular Program", and "States Coordinating Agency" 59.2(a), 59.2(b), 59.22(a)(9) (i) and (v), 59.22(b)(2), 59.24(a) (9 times), 59.24(b) (6 times).

2. Section 59.22(a)(9)(ii) is amended by removing the words "and the Associate Director."

PART 60—CRITERIA FOR LAND MANAGEMENT AND USE

§§ 60.1–60.6, 60.11, 60.13 and 60.25 [Amended]

3. 44 CFR Part 60 is amended by removing the title "Associate Director" and adding the title "Administrator" in place thereof in the following sections: §§ 60.1(a), 60.1(b), 60.2(a) (2 times), 60.2(f), 60.2(h) (2 times), 60.3 introductory text (5 times), 60.3(a), 60.3(b), 60.3(b)(4), 60.3(b)(6), 60.3(c), 60.3(c)(2), 60.3(c)(4), 60.3(d), 60.3(e), 60.4 introductory text (5 times), 60.4(a), 60.4(b), 60.4(b)(2), 60.5 introductory text (5 times), 60.5(a), 60.5(b), 60.5(b)(2), 60.6(a) (3 times), 60.6(a)(6), 60.6(b)(1) (2 times), 60.6(b)(2), 60.6(b)(3), 60.6(b)(4), 60.11(a), 60.11(b) (first time only), 60.13, 60.25(a)(4), 60.25(b).

4. Section 60.25(a)(17) is amended by removing the words "and the Associate Director".

PART 61—INSURANCE COVERAGE AND RATES

§§ 61.1, 61.9 and 61.12 [Amended]

5. Section 61.1 is amended by removing the title "Associate Director, State and Local Programs and Support" and adding "Administrative" in place thereof.

6. 44 CFR Part 61 is amended by removing the title "Associate Director, State and Local Programs and Support" and adding the title "Administrator" in § 61.9.

7. 44 CFR Part 61 is amended by removing the title "Associate Director" and adding the title "Administrator" in place thereof in the following sections:

§§ 61.12(a), 61.12(b), 61.12(c), 61.12(d), 61.12(e), and 61.12(f).

8. Section 61.12(c) is amended by removing the words "Engineering Branch, Office of Natural and Technological Hazards, Office of State and Local Programs and Support" and adding in its place the words "Risk Studies Division, Office of Risk Assessment, Federal Insurance Administration."

PART 62—SALE OF INSURANCE AND ADJUSTMENT OF CLAIMS

§§ 62.3 and 62.4 [Amended]

9. 44 CFR Part 62 is amended by removing the title "Associate Director" where it appears in § 62.3(a), and in § 62.4(a) and adding the title "Administrator" in place thereof.

PART 64—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

§§ 64.1, 64.3, 64.4, and 64.5 [Amended]

10. Section 64.1(a) is amended by removing the title "Associate Director, State and Local Programs and Support" and adding the title "Administrator" in place thereof.

11. 44 CFR Part 64 is amended by removing the title "Associate Director" and adding the title "Administrator" in its place in the following sections: 64.1(b), 64.3(a), 64.3(a)(2), 64.3(c)(1), 64.4(b), 64.4(c), 64.4(d), 64.5(a) (2 times).

PART 65—IDENTIFICATION AND MAPPING OF SPECIAL HAZARD AREAS

§ 65.3 [Amended]

12. 44 CFR Part 65 is amended by removing the title "Associate Director" and adding the title "Administrator" in its place in the following sections: § §65.3, 65.3(a), 65.3(a)(2), 65.3(c).

13. Section 65.3(b) is amended by removing the words "Engineering Branch, National Hazards Division, Office of Natural and Technological Hazards," and adding "Risk Studies Division, Office of Risk Assessment, Federal Insurance Administration" in its place thereof.

PART 66—CONSULTATION WITH LOCAL OFFICIALS

§§ 66.1, 66.3, 66.4, and 66.5 [Amended]

14. 44 CFR Part 66 is amended by removing the title "Associate Director" and adding the title "Administrator" in its place in the following sections: §§ 661.(c), 66.1(c)(3), 66.3(a), 66.3(b), 66.4 (3 times), 66.5(b).

15. 44 CFR Part 66 is amended by removing the title "Associate Director's" and adding the title "Administrator's" in its place in § 66.3(b).

16. Section 66.4(a) is amended by removing the words "for State and Local Programs and Support (Associate Director)".

PART 67—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

§§ 67.3, 67.4, 67.6–67.9 and 67.12 [Amended]

17. 44 CFR Part 67 is amended by removing the title "Associate Director"and adding the title "Administrator" in its place in the following sections: § §67.3 introductory text, 67.3(e), 67.3(f), 67.4 introductory text, 67.7(b), 67.7(d), 67.8(a), 67.8(b), 67.8(c), 67.8(e), 67.9(a), 67.12(a).

§§ 67.5, 67.7 and 67.11 [Amended]

18. 44 CFR Part 67 is amended by removing the possessive form of the title "Associate Director's" and adding the possessive form of the title "Administrator's" in place thereof in the following sections: § §67.5 (2 times), 67.7(a) (2 times), 67.7(d), 67.11.

PART 70—PROCEDURE FOR MAP CORRECTION

§§ 70.1 and 70.3–70.7 [Amended]

19. 44 CFR Part 70 is amended by removing the title "Associate Director"and adding the title "Administrator" in its place in the following sections: § §70.1, 70.3(a), 70.4, 70.5, 70.6(a), 70.7(a).

20. Section. 70.7(a) is amended by removing the words for "State and Local Programs and Support".

PART 75 —EXEMPTION OF STATE-OWNED PROPERTIES UNDER SELF INSURANCE PLAN

§§ 75.1, 75.10, 75.11 and 75.13 [Amended]

21. 44 CFR Part 75 is amended by removing the words "State and Local Director"and adding "Administrator" in place thereof in the following sections: §§ 75.1, 75.10, 75.11(a) (2 times) and 75.13(c).

PART 77—ACQUISITION OF FLOOD DAMAGED STRUCTURES

§§ 77.1 and 77.2 [Amended]

22. 44 CFR Part 77 is amended by removing the title "Associate Director"and adding in its place "Administrator" in the following sections: § §77.1(b), 77.2(b), 77.2(b)(1), 77.2(b)(4), 77.2(b)(5), 77.2(d)(1) (2 times).

23. Section 77.2(d)(3) is amended by removing the title "Director" and "Director's" and adding "Administrator" and "Administrator's" in place thereof.

Authority: Reorganization Plan No. 3 of 1978, Executive Order 12127.

Dated: February 1, 1984.

Louis O. Giuffrida,

Director.

[FR Doc. 84-3353 Filed 2-7-84; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 67

Letter Regarding Interpretation of the Jurisdictional Separations Manual

AGENCY: Federal Communications Commission.

ACTION: Interpretation letter.

SUMMARY: Under delegated authority the Common Carrier Bureau in response to a request by Southwestern Bell has provided an interpretation of the FCC-NARUC Jurisdictional Separations Manual, Part 67 of the FCC Rules and Regulations. The issue concerns the updating of Operator Work Time by periodic studies for use as a basis for apportioning costs in state/interstate separations.

FOR FURTHER INFORMATION CONTACT: Michael E. Wilson, Audits Branch, Common Carrier Bureau, Federal Communications Commission, Washington, D.C. 20554, Telephone No. (202) 634-1965.

William J. Tricarico,

Secretary, Federal Communications Commission.

January 31, 1984.

Mr. D. D. Dupre,
General Attorney,
Southwestern Bell,
1111 West Capitol Avenue,
Little Rock, Arkansas 72203

Dear Mr. Dupre: This is in response to your letter of December 8, 1983, to Jack Smith requesting an interpretation of the *Jurisdictional Separations Manual (Manual)* concerning the updating of Operator Work Time (OWT) studies. The basic issue is whether an update to OWT is a proper implementation of the *Manual* procedures or whether OWT was frozen in 1970, requiring regulatory approval for use of updated studies for separations.

In the *Manual* under Section 11.2, Fundamental Principles Underlying Procedures, Paragraph 11.212, is the following statement:

In the development of "actual use" measurements, measurements of use are: (1) Determined for telephone plant or for work performed by operating forces on a unit basis (e.g., conversation-minute-mile per message, traffic units per call) in studies of traffic handled or work performed during a representative period* * *.

It is our interpretation that the performance of regular studies to update OWT is consistent with the general principle of representativeness, as expressed in the above citation, and therefore is a proper implementation of *Manual* requirements. Consistent with this interpretation and with the provision in Paragraph 11.211 requiring that separations be "made on the 'actual use' basis, which gives consideration to relative occupancy and relative time measurements," it is our opinion that OWT was not frozen in 1970. Such a freeze would be arbitrary and contrary to providing proper consideration to relative occupancy and time. Accordingly, updated studies of OWT are required to assure representativeness. And, use of such studies for separations is required to provide conformance with the "actual use" principle and does not routinely require a Joint Board or FCC hearing for approval—though, of course, the studies are always subject to FCC oversight.

If you have any questions concerning this response, please contact Michael Wilson, Chief, Audits Branch, on (202) 634-1965.

Sincerely,

Gerald P. Vaughan,

Chief, Accounting and Audits Division

[FR Doc. 84-3346 Filed 2-7-84; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-738; RM-4457]

FM Broadcast Station in Silverton, Colorado; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Class C Channel 297 to Silverton, Colorado, as that community's third FM broadcast service, in response to a petition filed by Patsy Jensen.

EFFECTIVE DATE: April 2, 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

Radio broadcasting.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Silverton, Colorado); MM Docket No. 83-738, RM-4457.

Report and Order (Proceeding Terminated)

Adopted: January 13, 1984.
Released: January 27, 1984.

By the Chief, Policy and Rules Division.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 48 FR 36169, proposing the assignment of Class C Channel 297 to Silverton, Colorado, as that community's third FM broadcast service,[1] in response to a petition filed by Patsy Jensen ("petitioner"). Supporting comments were filed by petitioner in which she reaffirmed her intention to file for the channel, if assigned. No oppositions to the proposal were received.

2. In view of the expressed interest in the allocation of Channel 297 to Silverton, Colorado, and the fact that the proposed assignment could provide a third FM broadcast service to that community, the Commission believes that the public interest would be served by a grant thereof.

3. As indicated in the *Notice*, Class C Channel 297 can be assigned to Silverton in conformity with the minimum distance separation requirements of § 73.207 of the Commission's Rules.

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 April 2, 1984, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended with respect to the community listed below, as follows:

City	Channel No.
Silverton, Colo.	257A, 280A, and 297.

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. 84-3342 Filed 2-7-84; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 81-737; RM-3882]

FM Broadcast Stations in Montevideo, Olivia, and Ortonville, Minnesota; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

[1] A petition has been filed by Longhorn Communications, Inc., licensee of FM Station KDRW (Channel 280A) Silverton, requesting the substitution of Class C Channel 297 for Channel 280A, and modification of its license to specify operation on the Class C Channel (see MM Docket 83-1131, 48 FR 50575, published November 2, 1983).

ACTION: Final rule.

SUMMARY: Action taken herein denies a petition for reconsideration, filed by Tri-State Broadcasting Company, of our previous action assigning Class C Channel 268 to Ortonville, Minnesota, as that community's second FM broadcast service.

EFFECTIVE DATE: April 2, 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

Radio broadcasting.

Memorandum Opinion and Order (Proceeding Terminated)

In the Matter of amendment of § 73.202(b), Table of Assignments, FR Broadcast Stations (Montevideo, Olivia, and *Ortonville*, Minnesota); BC Docket No. 81–737, RM–3882.

Adopted: January 17, 1984.
Released: January 27, 1984.

By the Chief, Policy and Rules Division.

1. Before the Commission is a petition for reconsideration [1] filed by Tri-State Broadcasting Company [2] ("Tri-State"), of the *Report and Order*, 47 FR 30989, published July 16, 1982, assigning Class C Channel 268 to Ortonville, Minnesota, as that community's second FM broadcast service. An opposition to the petition was filed by CGN Corporation ("CGN"), the initiating proponent.

2. In its petition, Tri-State opposed the assignment of Channel 268 to Ortonville because it argues that the basis for the assignment has been rendered invalid by succeeding vents. Specifically, it alleges that the degree of first and second FM or aural services to be provided by the Class C assignment to Ortonville may be significantly reduced, or, in fact, eliminated in view of the recent assignments of FM channels to Sisseton, South Dakota, and Breckenridge, Minnesota. Moreover, Tri-State notes that although the *Report and Order* herein indicated that the assignment would provide a first FM service to 6,600 persons and a second service to 1,700 persons, the Commission also recognized that the assignment of Channels 257A and 275 to Sisseton [3] would reduce the degree of such service since the respective contours overlap. Even so, it notes, the Commission found that the assignment would still provide service to a substantial number of persons unserved by existing stations which the Class A assignment at Ortonville could not reach.

3. Tri-State also claims that the Commission's subsequent action on a proposal to assign Class C Channel 286 to Breckenridge, Minnesota,[4] would provide service to the remaining persons previously unserved. Thus, Tri-State asserts that, in view of the foregoing factors, the Ortonville assignment of Class C Channel 268 should be clarified to determine whether, in fact, it could now provide coverage to any white or grey areas.

4. In opposition , CGN claims that Tri-State has presented no new facts to alter the commission's decision, but rather is merely attempting to detract from its showing of service to sparsely served areas by the inclusion of other recent nearby assignments. Therefore, having failed to produce any previously unknown facts, as required by § 1.429(b) of the Commission's Rules, CGN urges denial of the petition to permit prompt consideration of its application to provide service to the residents of Ortonville and surrounding underserved areas.

5. The question of whether or not the Ortonville assignment would provide coverage to previously unserved and underserved areas was correctly treated at the time of the *Report and Order*. The Sisseton assignment was considered in the Commission's computation of first and second FM service. The Commission found that service to substantial unserved and underserved areas could be provided. Thus, in that regard no error has been shown. As for the Breckenridge proposal, the Commission does not generally take into consideration the impact of proposed assignments in *Roanoke Rapids* showings. See paragraph 20 of the *Report and Order* in this proceeding. Nevertheless, the Breckenridge assignment does not significantly diminish the first and second FM service to substantial underserved areas. This fact alone would be sufficient to reaffirm the decision.

6. However, the Commission, in the *Second Report and Order* in BC Docket No. 80–130, *Revision of FM Assignment Policies and Procedures*, 90 F.C.C. 2d 88 (1982), simplified the assignment priorities by eliminating many previously imposed standards. In that proceeding, the Commission determined, *inter alia*, that the necessity to demonstrate service to previously unserved or underserved areas in order to justify a Class C assignment would no longer be required in nonconflicting situations. Therefore, we need not consider this factor in reaffirming the need for this new channel assignment.

7. In view of the above findings, and since the Ortonville assignment could provide service to substantial unserved and underserved areas, the petition for reconsideration filed by Tri-State is lacking in merit. Therefore, we reaffirm our previous decision to assign Class C Channel 268 to Ortonville, Minnesota.

8. Accordingly, it is ordered, That the petition for reconsideration filed by Tri-State Broadcasting Company, is denied.

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

10. 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. 84–3345 Filed 2–7–84; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 83–480; RM–4386]

FM Broadcast Stations Baraga and Marquette, Michigan; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Class C Channel 282 to Baraga, Michigan, in response to a petition filed by Keweenaw Bay Tribal Center. The assignment could provide for a first FM service to Baraga.

EFFECTIVE DATE: April 2, 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

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Baraga and Marquette,[1] Michigan); MM Docket No. 83–480; RM–4386, RM–4463.

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[1] Public Notice of the petition was given August 25, 1982, Report No. 1373.

[2] Tri-State has been issued a construction permit for FM Station KBAA (Channel 292A) in Ortonville (File No. 811209AL).

[3] See BC Docket No. 82–4, 47 FR 24577, published June 7, 1982.

[4] BC Docket No. 82–241, 47 FR 37896, published August 27, 1982.

[1] This community has been added to the caption.

Adopted: January 6, 1984.
Released: January 27, 1984.
By the Chief, Policy and Rules Division.

1. In response to a petition filed by Keweenaw Bay Tribal Center ("petitioner"), the Commission adopted a *Notice of Proposed Rule Making*, 48 FR 27573, published June 16, 1983, proposing to assign Class C Channel 278 to Baraga, Michigan. Comments were filed by the petitioner restating its intention to apply for the channel, if assigned. In response to the *Notice* counterproposals were filed by Stereo 100, Inc. and by David C. Schaberg,[2] to which petitioner responded.

2. Stereo 100, Inc.'s counterproposal requests the assignment of Channel 277 to Marquette, Michigan. This proposal is also a counterproposal to MM Docket 83-486 in which Channel 277 has been proposed for Negaunne, Michigan. Here we have determined that Channel 282 can be used at Baraga without a site restriction and thus avoid the conflict with the Marquette proposal. The Marquette proposal will be treated in MM Docket 83-468.

3. In his counterproposal Schaberg suggested that Channel 288A be assigned to L'Anse, Michigan. Schaberg claims that L'Anse is only three miles from Baraga and could provide coverage for most of Baraga County. In response, the petitioner argues that it is in total disagreement with the L'Anse proposal. We have instituted a separate proceeding (RM-4495) to consider assigning Channel 288A to L'Anse, Michigan, since no conflict exists with the Baraga proposal.

4. Canadian concurrence has been obtained in the assignment of Channel 282 to Baraga, Michigan.

5. In view of the apparent need for a first FM assignment the Commission believes that the public interest would be served by adopting the proposal. The petitioner has indicated its interest in operating a Class C facility at Baraga.

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 April 2, 1984, the FM Table of Assignments, § 73.202(b) of the Rules, is amended with regard to the following community:

City	Channel No.
Baraga, Mich	282

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

8. 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. 84-3343 Filed 2-7-84; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-470; RM-4299]

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

AGENCY: Federal Communication Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns UHF television Channel 58 to Nashville, Tennessee, as that community's eighth television broadcast service, in response to a request filed by David Allen Crabtree.

EFFECTIVE DATE: April 2, 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 (Nashville, Tennessee), MM Docket No. 83-470, RM-4299.

Adopted: January 20, 1984.
Released: January 27, 1984.
By the Chief, Policy and Rules Division.

1. Before the Commission for consideration is the *Notice of Proposed Rule Making*, 48 FR 26468, published June 8, 1983, a issued in response to a request by David Allen Crabtree ("petitioner"), proposing the assignment of UHF television Channel 58 to Nashville, Tennessee, as that community's eighth television broadcast service. Supporting comments were filed by the petitioner reaffirming his intention to apply for the channel, if assigned. No oppositions to the proposal were received.

2. Nashville (population 455,651),[1] the seat of Davidson County (population 477,811), and the capital of Tennessee, is located in the north central part of the State. Currently, Nashville is served by commercial television Stations WNGE-(TV) (Channel 2), WSMV (TV) (Channel 4), WTVF (TV) (Channel 5), WZTV (TV) (Channel 17), and WCAY-TV (Channel 30). Additionally, it is served by noncommercial educational television Station WDCN (TV) (Channel *8), as well as Channel *42 (vacant and unapplied for).

3. We believe the public interest would be served by assigning UHF television Channel 58 to Nashville, Tennessee, since it could provide an eighth television broadcast service to that community. As explained in the *Notice*, the assignment herein can be made in conformity with the minimum distance separation requirements of §§ 73.610 and 73.698 of the Commission's Rules, provided the transmitter is located 1.2 miles southeast of Nashville to avoid short spacing to a construction permit on Channel 51 in Hopkinsville, Kentucky.

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 April 2, 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.
Nashville, Tenn	2-, 4+, 5, *8+, 17+, 30+, *42, and 58.

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. 84-3344 Filed 2-7-84; 8:45 am]

BILLING CODE 6712-01-M

[2] Public Notice of the counterproposal was given on June 2, 1983.

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

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 574

[Docket No. 70-12; Notice 25]

Tire Identification and Recordkeeping

AGENCY: National Highway Traffic Safety Administration (NHTSA), Transportation.

ACTION: Final rule.

SUMMARY: This final rule sets forth the requirements relating to the registration of new tires sold by independent dealers and distributors. Recording the names and addresses of the first purchasers and transmitting this information to the manufacturers will make it possible for those purchasers to be contacted in the event that the tires are recalled by the manufacturers for safety reasons. These requirements supersede those contained in the interim final rule on this subject published in the May 19, 1983 edition of the **Federal Register.**

This rule primarily clarifies some aspects of the provisions of the interim final rule concerning the tire registration form to be provided by the tire manufacturers to the independent dealers. These changes, which were made to maximize the registration of tires sold through independent dealers, are as follows—

(1) The size of the registration form to be given to the consumer by independent dealers has been reduced, so that only a 13 cent postcard stamp need be affixed to the registration form. The interim final rule had specified that a first class mail sized card be used for the registration form. This change was made to minimize the costs for consumers to register their tires.

(2) The statement in the upper left corner of that registration form, informing the tire purchaser of the importance of completing and returning the form, has been modified so as to be more comprehensible and more effective at motivating the purchaser to register his or her tires.

(3) Instructions to the tire purchaser have been added, so that the purchaser will print instead of write his or her name on the registration form.

(4) That portion of the registration form which is to be filled in by the independent dealer (i.e., the portion for filling in suitable identification of the dealer and the tire identification number(s) of the tire(s) sold) must be shaded with a 10 percent screen tint. This change was made to emphasize to the tire purchaser the limited amount of information which the purchaser must fill in to register his or her tires.

EFFECTIVE DATE: The changes made by this notice become effective March 26, 1984. As of that date, the tire manufacturers will be required to provide registration forms in compliance with this rule, and they must cease their distribution of the forms specified by the interim final rule. Independent dealers may continue to use the forms specified by that rule until their existing supplies of that form are exhausted or until April 1, 1984, whichever comes first.

ADDRESS: Petitions for reconsideration may be submitted within 30 days after publication of this notice in the **Federal Register** to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Arturo Casanova, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. (202-426-1715).

SUPPLEMENTARY INFORMATION:

Background

Motor Vehicle Safety and Cost Savings Authorization Act of 1982

The Motor Vehicle Safety and Cost Savings Authorization Act of 1982 (hereinafter referred to as "the Authorization Act") amended the National Traffic and Motor Vehicle Safety Act of 1966 (hereinafter referred to as "the Safety Act") by requiring this agency to change its tire registration requirements insofar as they applied to independent tire dealers and distributors. (This class of dealers and distributors is defined below.) These requirements are set forth in 49 CFR Part 574, *Tire Identification and Recordkeeping.* Before the Authorization Act became effective, Part 574 required all tire dealers and distributors to comply with the mandatory registration system. Under that system, dealers and distributors were required to record certain information (i.e., the tire purchaser's name and address, seller's name and address, and the identification number(s) of the tire(s) sold) on a registration form and send the completed form to the tire manufacturer or the brand name owner (hereinafter collectively referred to as "tire manufacturers") or a designee of the tire manufacturer.

The tire registration requirements were adopted pursuant to requirements in the Safety Act intended to ensure that tire purchasers could be notified if their tires are recalled for safety reasons, either because they contain a safety related defect or because they do not comply with an applicable safety standard. The purchasers of unregistered tires would not be directly notified in those instances and would instead unknowingly continue to drive on unsafe tires.

On examining the rate of tire registration, Congress found a substantial difference between the rates for tires sold by independent dealers (dealers and distributors whose business is not owned or controlled by a tire manufacturer) and those sold by nonindependent dealers (dealers and distributors whose business is owned or controlled by a tire manufacturer). Independent dealers, who handle slightly less than half of the replacement tires sold annually, registered about 20 percent of the tires they sold. Non-independent dealers, whose sales account for the balance of annual replacement tire sales, registered between 80 and 90 percent of their tires.

Given the importance of tire registration to safety, Congress determined that an alternative method of registration should be instituted for tires sold by independent dealers. Accordingly, it included provisions in the Authorization Act prohibiting the Secretary of Transportation from requiring independent dealers to comply with the mandatory registration requirements. (In view of the high rate of registration of tires sold by non-independent dealers, Congress did not mandate any change in the application of the mandatory registration requirements to those dealers.) The prohibition regarding independent dealers was self-executing (i.e., its effectiveness was not conditioned on any prior rulemaking or other implementing action by this agency) and became effective on the date that the Authorization Act became law, October 15, 1982.

In lieu of requiring independent dealers to comply with the mandatory registration process, Congress directed that they comply with a voluntary registration process to be established by the Secretary. Under the voluntary process, the primary responsibility for registering tires sold by independent dealers is borne by the purchaser instead of the dealer. NHTSA is mandated by the Safety Act, as amended by the Authorization Act, to require that independent dealers (1) fill in the tire identification number(s) of the tire(s) sold to a purchaser on a registration form and then (2) give the form to the purchaser. If the purchaser wishes to register the tires, he or she may do so by filling in his or her name and address, adding postage, and

sending the form to the tire manufacturer or its designee.

To ascertain whether the changes mandated by the Authorization Act have the desired effect of increasing the registration of tires sold by independent dealers, Congress directed NHTSA to conduct an evaluation covering the two year period ending October 14, 1984. Upon completion of the evaluation, NHTSA must determine the extent to which independent dealers have encouraged purchasers to register their tires and the extent to which those dealers have complied with the voluntary tire registration procedures. Further, the agency is required to determine whether to impose any additional requirements on the independent dealers or the manufacturers for the purpose of promoting higher levels of tire registration.

The provision in the Authorization Act mandating a voluntary registration system for independent dealers was not self-executing. Thus, the voluntary system could not become effective until NHTSA issued a rule establishing that system. An interim final rule doing so was published at 48 FR 22572, May 19, 1983, and became effective June 20, 1983.

Interim Final Rule

The interim final rule imposed the following requirements on the various parties:

Tire manufacturers. Except as noted, new registration forms had to be provided for independent dealers. All of those forms were required to be identical in format and content and within the size range specified in the interim final rule. Alternatively, the manufacturer could provide independent dealers with pre-addressed envelopes in which tire purchasers could mail the mandatory registration forms. In either case, the manufacturer would have to maintain a record of all returned registration forms for at least three years after receipt.

No change was made in the requirements regarding forms provided to non-independent dealers.

Tire dealers and distributors which sell tires to other dealers and distributors. These parties are required to give the purchasing dealer or distributor the registration forms provided by the tire manufacturers so that that dealer or distributor can comply with the applicable tire registration requirements. The new forms must be provided to independent dealers.

Non-independent dealers. No changes were made to the tire registration requirements applicable to these parties. They are still required to follow the mandatory tire registration system formerly applicable to all tire dealers. Thus, the non-independent dealers must record the purchaser's name and address, the tire identification number(s) of the tire(s) sold, and a suitable identification of themselves as the selling dealer on a tire registration form and return the completed forms to the tire manufacturers or their designees.

Independent dealers. These dealers were required by the interim final rule to record the tire identification number(s) of the tire(s) sold along with their name and address on a registration from and give the from to the tire purchaser.

The interim final rule sought comments on the issues raised by the requirements specificed therein, and specifically asked commenters to address the issue of adopting the registration form devised by the American Institute for Research in the Behavioral Sciences pursuant to a contract with the agency.

Final Rule

After considering the comments on the interim final rule, NHTSA has decided to retain most of the requirements in that rule. Several changes have been made to the requirements regarding the forms to be provided to independent dealers. These changes are relatively minimal and do not disturb the essential continuity of the voluntary registration requirements. Accordingly, both the tire manufacturers and the independent dealers should be able to implement the voluntary registration system as amended by this rule with minimal disruption to the practices they have been following since the interim final rule became effective.

Voluntary Tire Registration Procedures

Several commenters stated that independent dealers that wish to continue following the mandatory tire registration requirements should be permitted to do so. The premise underlying these comments is that mandatory registration, when properly implemented, is the most effective means of ensuring that virtually all replacement tires are registered.

While NHTSA does not disagree with the premise of these commenters, the agency is not free to adopt their suggestion. Section 158(b)(2)(B) of the Safety Act specifies that this agency—

> * * *shall require *each* * * * (independent dealer) to furnish the first purchaser with a registration form (containing the tire identification number of the tire) which the purchaser may complete and return directly to the manufacturer of the tire. (Emphasis added.)

This mandate to the agency is completely inclusive, directing the agency to make the voluntary registration procedures applicable not simply to independent dealers in general, but to "each" independent dealer. Further, this mandate is not offset by any express authority to make exceptions.

As a practical as well as a legal matter, independent dealers may nevertheless register the tires they sell if they first comply with the voluntary registration procedures. Independent dealers are not prohibited from filling in the information required by the voluntary procedures on the forms specified by those procedures, furnishing the forms to tire purchasers, and then offering to fill in the balance of the information and mail the form to the manufacturer.

Based on the comments, it appears that some commenters are confused about the status of motor vehicle dealers under the mandatory and voluntary registration procedures. The preamble to the interim final rule mentioned motor vehicle dealers only very briefly because they are minimally affected by the voluntary registration procedures. The preamble stated that there are two situations in which motor vehicle dealers are considered to be tire dealers and are required to register the tires on the vehicles as specified in section 574.9. In those situations, the preamble noted that whether the motor vehicle dealer would be required to follow the mandatory or voluntary registration procedures would depend on whether the motor vehicle dealer's business was owned or controlled by a tire manufacturer. Since such ownership or control seems highly improbable, the preamble stated that the motor vehicle dealer would in all likelihood have to follow the voluntary registration procedures.

The discussion in that notice left some commenters uncertain whether the original equipment tires on new vehicles were subject to mandatory or voluntary registration procedures. This uncertainty apparently arose because the interim final rule made no mention of the mandatory tire registration requirements that have been applicable to original equipment tires since 1971. No mention of these requirements was made since the notice did not propose to amend § 574.10, which specifies the actions to be taken by motor vehicle manufacturers to register their original equipment tires.

The two situations to which the interim final rule's preamble referred are those situations in which the motor

vehicle dealer, as opposed to the motor vehicle manufacturer, is responsible for registering tires. These situations, which are relatively infrequent, are set forth in § 574.9. First, if a motor vehicle dealer sells a used vehicle or leases a vehicle for more than 60 days, and the vehicle is equipped with new tires, the dealer must register the tires on the vehicle. Second, if a motor vehicle dealer sells a new vehicle and the vehicle is equipped with tires other than those shipped with the vehicle by the motor vehicle manufacturer, the motor vehicle dealer must register the tires on the vehicle. The interim final rule was intended to make clear that motor vehicle dealers whose business is not owned or controlled by a tire manufacturer should follow the voluntary registration procedures in those two rare types of situations, when the vehicle dealer is responsible for registering the tires on the vehicle.

One commenter urged that NHTSA delete the requirement that independent dealers record their name and address on the registration form before giving that form to the tire purchaser. This commenter noted that Congress stated the Authorization Act's voluntary registration provisions had been adopted partially for the purpose of reducing the burdens which mandatory registration procedures placed on independent dealers. Further, the commenter asserted that the Authorization Act requires only that the independent dealers record the tire identification number on the registration form, and that the absence of any mention of further specific information to be filled in by independent dealers is evidence that Congress did not intend those dealers to have to fill in any information other than the identification number. Finally, this commenter noted that NHTSA had indicated in the preamble to the interim final rule that the dealer's name and address was needed on the registration form to aid the agency in evaluating the voluntary registration process. This commenter stated that it would be sufficient for evaluation purposes for the registration forms used by independent dealers to show simply that they came from that class of dealers, instead of identifying a specific independent dealer. It was further suggested that this information would be all that was needed for the agency to determine the extent to which voluntary registration had been successful at increasing the rate of tire registration for tires sold by independent dealers.

Similarly, two tire manufacturers commented that a manufacturer should not be required any longer to maintain records which show, for each of its tires sold by an independent dealer, the identity of that particular dealer. They argued that manufacturers should only be required to maintain registration for independent dealers as a group. These commenters also asserted that this information was all that the agency needed to determine whether or not voluntary registration had successfully increased the registration rate for tires sold by independent dealers.

The preamble to the interim final rule may not have adequately explained the full breadth of the evaluative task which Congress instructed the agency to perform. In order to conduct a proper evaluation which not only reports the aggregate results of the voluntary registration program but also attempts to explain those results, the agency will need to be able to determine registration rates for individual dealers. With that ability, the agency can differentiate between dealers with high rates from dealers with low ones and then proceed to attempt to assess the reasons for those differences. Having performed that analysis, the agency would be in a position to provide Congress with insight about the impact of the voluntary registration program. It would also enable the agency to determine what additional requirements, if any, should be adopted to improve the registration program. NHTSA may find that those improvements can be more effectively obtained by enforcing the requirements established by this notice than by imposing additional requirements on all independent dealers.

NHTSA believes that it has authority under the Authorization Act to require independent dealers to record not only the tire identification numbers on registration forms but also their names and addresses. There is no express prohibition against the agency's requiring dealers to fill in more than the tire identification numbers. While the Authorization Act makes no mention of requiring dealers to fill in their names and addresses, the agency does not regard that fact to be dispositive. The Authorization Act does not, in fact, specify that the dealer's name and address is to be filled in by either the dealer or the purchaser. Since there isn't any clear indication that it was Congress' intent that this information no longer be required, the agency will not infer such an intent from the Congress's decision not to assign that task expressly to any particular party. It appears that Congress has left the question of that assignment to NHTSA's discretion. Since the names and addresses of dealers have long been recorded on registration forms and since that information is needed to enable the agency to conduct an effective evaluation, this agency believes that it should continue to be recorded. In view of the fact that dealers are more likely than purchasers to provide this information accurately and since dealers can easily resort to the expediency of a stamp bearing their name and address, NHTSA reaffirms its decision to assign the task of filling in that information to the dealers.

As to the tire manufacturers, the burden on them regarding the identity of specific independent dealers is simply to continue doing what they have been doing once 1971, i.e., maintaining registration records for each dealer. The agency believes that continued maintenance of these records is warranted by the value of dealer specific information to the evaluation and to tire recall campaigns. In fact, the agency recently issued a special order to nine tire manufacturers to obtain information on the registration rates for individual independent dealers. The agency will continue to monitor those rates.

Several commenters suggested that the agency, when conducting its evaluation of the effect of the voluntary registration program on the registration rate, determine its own baseline for registration of tires sold by independent dealers before that program began. The commenters urged that the agency not adopt the 20 percent rate mentioned in the legislative history of the Authorization Act. In lieu of that figure, the commenters offered several lower ones, including a figure of 7 percent. The agency intends to determine its own baseline. The special order mentioned above will provide the information necessary for that determination.

Registration Forms

In selecting the registration form to be used by independent dealers under the interim final rule, the agency consciously sought to find a form that would satisfy all of the statutory requirements for the voluntary registration system while making as few changes as possible to existing forms being used under the mandatory registration system. This conservative approach was necessary since the amendments to the Vehicle Safety Act did not provide adequate time to follow normal rulemaking procedures and seek comments on more far-reaching changes.

To determine outside the strictures of a rigid time schedule what type of form

would be most effective in inducing tire purchasers to register their tires. NHTSA contracted with the American Institute for Research in the Behavioral Sciences (AIRBS) to conduct a study. AIRBS designed a postcard-size registration form separated into two parts by a line of perforation. The top part, which would be detached and retained by the purchaser, would contain a message explaining the importance of tire registration to the purchaser and motivating the purchaser to register the tires by sending the form to the manufacturer. On the reverse of the top side, there would be a space where the purchaser could record the registration information and save it for his or her personal records.

The bottom part of the AIRBS registration form would be the part that would be sent to the tire manufacturer. On one side would be the manufacturer's preprinted address. On the other would be space for filling in the tire registration information.

The agency placed the AIRBS study and form in the public docket and requested in the interim final rule that interested persons comment on the contractor's recommendations. Several commenters addressed the desirability of adopting the AIRBS form as the registration form to be used by independent dealers. Many commenters stated that a postcard-sized form was too small to allow the necessary information to be legibly recorded. One commenter argued that the AIRBS form would not be any more effective at encouraging consumers to register their tires that the simple one part card mandated in the interim final rule, and that the AIRBS form might actually be more confusing. Another commenter objected to the AIRBS form because the perforated edge of the portion of the form to be returned to the manufacturer could not be automatically fed through a microfilming machine. The same commenter also argued that the printing costs for the AIRBS form would be about 12 percent higher than those for the form mandated in the interim final rule.

After considering these comments, NHTSA has decided not to adopt the AIRBS form. That form poses a number of potential problems which neither AIRBS nor the agency foresaw. Further, NHTSA does not believe that use of a two-part form is necessary. AIRBS stated in its study that the reason for its recommending a two-part form was its belief that the space available on a single part form was insufficient to allow the printing of the motivational message to the consumer, the instructions, and the necessary registration information with type and spacing large enough to permit easy reading. In the agency's own judgment, the single part form mandated by this final rule will not be overly crowded, will avoid the potential problems which commenters attributed to the two-part form and will be almost as successful in motivating consumers to register their tires as would the two-part form.

However, the agency has adopted the AIRBS recommendation that the registration forms provided to consumers be postcard-size. It will be less expensive for tire purchasers to use $0.13 postcard stamps to mail registration forms of that size, and this low cost might motivate some purchasers who would not otherwise do so to register their tires. The maximum dimensions permitted by the U.S. Postal Corporation for a postcard are 4¼ by 6 inches. This area is, in NHTSA's judgment, sufficient to permit the motivational message and the space for recording the required information to appear on the same side of the card, without being overly crowded or difficult to read. Given the importance of encouraging consumers to return the completed tire registration forms, and the likely effectiveness of lower postage costs at encouraging consumers to return the forms, this rule specifies that the registration forms be of the dimensions permitted for using postcard stamps.

Some other minor changes are made in this notice to the registration form required by the interim final rule. First, the motivational message has been changed so that it is now identical to that recommended by AIRBS. The AIRBS message provides stronger encouragement to send the form to the manufacturer and will be readily understood by consumers.

Second, the agency has decided to require the form to include instructions to the tire purchaser to print his or her name and address on the form. Those instructions were inadvertently omitted from the interim final rule. They have now been added at the urging of several of the commenters.

One commenter requested that tire manufacturers be allowed to divide the spaces for recording the purchaser's name and address into little boxes so that each letter or number would be printed in a separate box. According to this commenter, this approach would help ensure accurate transcription by the manufacturer of the information on the registration forms. Based on its assessment of the AIRBS study, the agency has decided not to adopt this change. AIRBS indicated to this agency that the use of boxes discourages people from filling in information on forms and that the return rate for the registration forms would therefore be higher if boxes were not used.

Third, NHTSA is adopting a requirement that contrasting shading be used for the area of the form containing the blanks to be completed by the independent dealer and that a white background be used for the areas to be completed by the tire purchasers. AIRBS recommended this requirement in its study as a means of emphasizing to the tire purchaser the minimal quantity of information which he or she must record in order to register his or her tires. AIRBS indicated that the shading could be achieved by using a 10 percent screen tint. The tinted form would be inexpensive to produce and still easily readable by data processors.

One manufacturer commented that independent dealers should be required to enter both their name and address and their dealer identification number assigned by the manufacturer on the registration form. The dealer identification number is a unique identifier assigned by a tire manufacturer to each dealer selling that manufacturer's tires. This commenter asserted that requiring the dealer identification number to be placed on the registration forms would greatly simplify the data processing task for the manufacturer as it recorded the information from the registration forms sent in by tire purchasers.

NHTSA agrees that such a requirement would simplify the manufacturers' task, but only at the cost of significantly complicating the registration responsibilities of the independent dealers. The dealer identification numbers assigned to a particular dealer are not coordinated among the various tire manufacturers. Thus, an independent dealer which sells tires produced by seven different manufacturers would have seven different dealer identification numbers assigned to it. The interim final rule required independent dealers to record their name and address on the registration form. This could be done simply by purchasing and using a rubber stamp with the dealer's name and address on it. If the final rule were amended to require the dealer to also record its dealer identification number, and the independent dealer sold seven different manufacturers' tires as in the example above, the dealer would either have to fill in its name, address, and identification number by hand on each registration form or buy seven different

rubber stamps. If it chose to purchase seven different rubber stamps, the dealer would also have to be certain that it used the appropriate stamp for each manufacturer's registration form. If the dealer used the wrong dealer identification number on a manufacturer's registration form, it would complicate the manufacturer's data processing task. After considering these facts, NHTSA has decided not to adopt this comment, and the independent dealers remain subject to the requirement that they record their name and address on the registration form before giving the form to the tire purchaser.

Other Issues

Several commenters objected to the language in the interim final rule stating that enforcement of this regulation would be under the authority of sections 108–110 of the Safety Act (15 U.S.C. 1397–1399) and that each violation could subject the violator to a penalty of $1,000. These commenters noted that the Committee report on the Authorization Act stated an expectation that independent dealers which failed to comply with the voluntary registration requirements would not have to pay the maximum penalty unless there was a clear, continuous pattern of violations.

The statutory provisions recited in the interim final rule are consistent with the committee report. Section 109 of the Safety Act provides that the amount of any penalty imposed by the agency should reflect consideration of the size of the business which committed the violation and of the gravity of the violation. As a matter of practice, the agency makes a distinction in its enforcement activities between isolated violations and continuous patterns of violations. The agency will continue to make this distinction and thus will be following the guidance in the committee report.

Some commenters urged that the agency permit continued use of registration forms addressed to clearinghouses. These forms, which were permitted under mandatory registration, were generic instead of manufacturer specific (i.e., they did not bear any mark or information identifying them for use in registering a particular manufacturer's tires) and thus could be used to register any manufacturer's tires. The tire dealer would fill in the manufacturer or brand name owner identified on the tire to be registered, and send the forms to a clearinghouse. The clearinghouse would then forward the information to the appropriate manufacturer or brand name owner.

As explained in the preamble to the interim final rule, the amendments to section 158(b) of the Safety Act and their legislative history compel an end to the practice of using forms which are not addressed to a specific manufacturer or its designee. Section 158(b) requires that the purchaser be able to send the form directly to the manufacturer of the tire, and that the forms used by independent dealers be standardized for all tires. Hence, the agency cannot permit continued used of forms which are not manufacturer specific and which are not addressed to a particular manufacturer or its designee.

One commenter asked that dealers be allowed to continue to use the forms mandated by the interim final rule until the supply was exhaused. The interim final rule permitted the continued use of the forms used under mandatory registration so long as the manufacturers provided pre-addressed envelopes in which to enclose those forms. To minimize the expenses and disruption associated with the transition from the interim final rule to this final rule, independent dealers will be permitted to continue using the forms specified by the interim final rule until their existing supplies are exhausted, or until April 1, 1984, whichever comes first. As of the effective date of this rule, the manufacturers will be required to provide registration forms in compliance with this rule, and distribution of the forms specified under the interim final rule must be ended.

A related issue was raised in a petition which Cooper Tire & Rubber Company ("Cooper") submitted for reconsideration of the interim final rule. Cooper currently has a no-charge warranty program for two tire lines. As part of that program, Cooper has printed a booklet and registration form. The form, which was developed and printed before the interim final rule was issued, contains a different motivational statement than was mandated by the interim final rule. Further, it does not contain a notation to affix first class postage on the reverse side. Cooper reported that it had achieved a 66 percent registration rate for the two tire lines using its own registration forms.

After considering these minor variations, the agency has decided that this Cooper registration form can be considered as complying with the requirements of the interim final rule. It is significant that Cooper prepared and began distributing these forms in December 1982, before the interim final rule had been published. From the interval of January 1, 1983, to June 20, 1983, Cooper achieved a 66 percent registration rate for tires sold by independent dealers, when there were no registration requirements applicable to independent dealers. This suggests that the Cooper form has been effective at motivating consumers to return that form, and achieving higher tire registration rates is the goal of the change in tire registration procedures.

NHTSA wishes to emphasize that Cooper was in a unique position, and that permitting the variations in the Cooper form from that mandated by the interim final rule does not mean that the agency will countenance variations from the form prescribed by this final rule. This form has been developed after considering the AIRBS study, and it is important that it be used in connection with tire registration, to ensure that the NHTSA evaluation of the voluntary tire registration system is conducted with an effective standardized registration form.

One commenter suggested that there would be a stronger incentive for consumers to register their tires if the agency were to require the manufacturers to prepay the postage for the registration forms. Adopting such a requirement was one of the actions which the House committee report indicated could be adopted after the two year evaluation period if the agency determined that further steps were necessary to achieve adequate registration rates. The implication of this discussion in the report is that the requirement may not be adopted at an earlier time. Accordingly, the agency is not adopting a requirement for prepaid postage.

Several commenters stated that the 30-day period between the publication of the interim final rule and its effective date was inadequate to allow the necessary registration forms to be printed and distributed to all of the manufacturer's independent dealers. Accordingly, they asked that a longer leadtime period be established for this final rule. The agency understands that it is asking the manufacturers to move very expeditiously to print and distribute the voluntary registration forms. NHTSA believes that short leadtime periods are necessary due to the importance of registration and to the requirement to conduct an evaluation of voluntary registration two years after passage of the Authorization Act. At the same time, the agency wishes to make some accommodation of the request for additional leadtime. Accordingly, the agency is specifying an effective date of 45 days after publication of this notice. This date will still require expeditious action by the manufacturers, but does

provide two more weeks than were allowed for the interim final rule.

The information collection requirements contained in this rule have been submitted to and approved by the Office of Management and Budget (OMB), pursuant to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). Those requirements have been approved through May 31, 1985 (OMB # 2127-0050). All printed registration forms must display this OMN clearance number and expiration date in the upper right hand corner of the form.

NHSTA has analyzed the impacts of this rule and determined that it is neither "major" within the meaning of Executive Order 12291 nor "significant" within the meaning of the Department of Transportation regulatory policies and procedures. The changes in the requirements for the registration forms to be provided by tire manufacturers to independent dealers will impose minimally higher costs on those manufacturers. Compared to the costs and administrative burdens imposed on independent dealers under mandatory registration, those dealers should achieve a slight savings under this rule. Consumers purchasing tires from independent dealers will now have to pay for postage if they wish to register their new tires. The assumption of that cost by consumers was mandated by Congress. For this reason, a full regulatory evaluation has not been prepared.

The agency has also considered the impacts of his rule on small entities as required by the Regulatory Flexibility Act. NHSTA believes that few, if any, of the tire manufacturers are small businesses. Although many of the dealers could be considered small businesses, this rule will not have a significant impact on them. As noted above, they may experience a slight savings as compared to the mandatory registration requirements. The requirements for tire manufacturers are unchanged, except for some minor changes which they must make to the registration forms to be provided to independent dealers. Small organizations and governmental units will have to bear the minor expenses of paying postage for any new tires they register. Based on the foregoing, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

Finally, NHSTA has considered the environmental implications of this rule in accordance with the National Environmental Policy Act and determined that the rule will not significantly affect the human environment.

List of Subjects in 49 CFR Part 574

Consumer protection, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

In consideration of the foregoing, the following amendments are made to Part 574, Tire Identification and Recordkeeping, of Title of the Code of Federal Regulations.

PART 574—[AMENDED]

1. Section 574.1 is revised to read as follows:

§ 574.1 Scope.

This part sets forth the method by which new tire manufacturers and new tire brand name owners shall identify tires for use on motor vehicles and maintain records of tire purchasers, and the methods by which retreaders and retreaded tire brand name owners shall identify tires for use on motor vehicles. This part also sets forth the methods by which independent tire dealers and distributors shall record, on registration forms, their names and addresses and the identification number of the tires sold to tire purchasers and provide the forms to the purchasers, so that the purchasers may report their names to the new tire manufacturers and new tire brand name owners, and by which other tire dealers and distributors shall record and report the names of tire purchasers to the new tire manufacturers and new tire brand name owners.

2. Section 574.3 is amended by adding a new paragraph (c)(1) immediately after *"Definitions used in this part."* and redesignating existing paragraphs (c)(1) through (c)(4) as paragraphs (c)(2) through (c)(5):

§ 574.3 Definitions.

* * * * *

(c) * * *

(1) "Independent" means, with respect to a tire distributor or dealer, one whose business is not owned or controlled by a tire manufacturer or brand name owner.

* * * * *

3. Section 574.7 is revised to read as follows:

§ 574.7 Information requirements—new tire manufacturers, new tire brand name owners.

(a)(1) Each new tire manufacturer and each new tire brand name owner (hereinafter referred to in this section and § 574.8 as "tire manufacturer") or its designee, shall provide tire registration forms to every distributor and dealer of its tires which offers new tires for sale or lease to tire purchasers.

(2) Each tire registration form provided to independent distributors and dealers pursuant to Paragraph (a)(1) of this section shall contain space for recording the information specified in paragraphs (a)(4)(A) through (a)(4)(C) of this section and shall conform in content and format to Figures 3a and 3b. Each form shall be:

(i) Rectangular;

(ii) Not less than .007 inches thick;

(iii) Greater than 3½ inches, but not greater than 4¼ inches wide; and

(iv) Greater than 5 inches, but not greater than 16 inches, long.

(3) Each tire registration form provided to distributors and dealers, other than independent distributors and dealers, pursuant to paragraph (a)(1) of this section shall be similar in format and size to Figure 4 and shall contain space for recording the information specified in paragraphs (a)(4)(A) through (a)(4)(C) of this section.

(4)(A) Name and address of the tire purchaser.

(B) Tire identification number.

(C) Name and address of the tire seller or other means by which the tire manufacturer can identify the tire seller.

(b) Each tire manufacturer shall record and maintain, or have recorded and maintained for it by a designee, the information from registration forms which are submitted to it or its designee. No tire manufacturer shall use the information on the registration forms for any commercial purpose detrimental to tire distributors and dealers. Any tire manufacturer to which registration forms are mistakenly sent shall forward those registration forms to the proper tire manufacturer within 90 days of the receipt of the forms.

(c) Each tire manufacturer shall maintain, or have maintained for it by a designee, a record of each tire distributor and dealer that purchases tires directly from the manufacturer and sells them to tire purchasers, the number of tires purchased by each such distributor or dealer, the number of tires for which reports have been received from each such distributor or dealer other than an independent distributor or dealer, the number of tires for which reports have been received from each such independent distributor or dealer, the total number of tires for which registration forms have been submitted to the manufacturer or its designee, and the total number of tires sold by the manufacturer.

(d) The information that is specified in paragraph (a)(4) of this section and recorded on registration forms submitted to a tire manufacturer or its designee shall be maintained for a

period of not less than three years fr the date on which the information is recorded by the manufacturer or its designee.

4. Section 574.8 is revised to read as follows:

§ 574.8 Information requirements—tire distributors and dealers.

(a) *Independent distributors and dealers.* (1) Each independent distributor and each independent dealer selling or leasing new tires to tire purchasers or lessors (hereinafter referred to in this section as "tire purchasers") shall provide each tire purchaser at the time of sale or lease of the tire(s) with a tire registration form.

(2) The distributor or dealer may use either the registration forms provided by the tire manufacturers pursuant to § 574.7(a) or registration forms obtained from another source. Forms obtained from other sources shall comply with the requirements specified in § 574.7(a) for forms provided by tire manufacturers to independent distributors and dealers.

(3) Before giving the registration form to the tire purchaser, the distributor or dealer shall record in the appropriate spaces provided on that form:

(A) The entire tire identification number of the tire(s) sold or leased to the tire purchaser, and

(B) The distributor's or dealer's name and address or other means of identification known to the tire manufacturer.

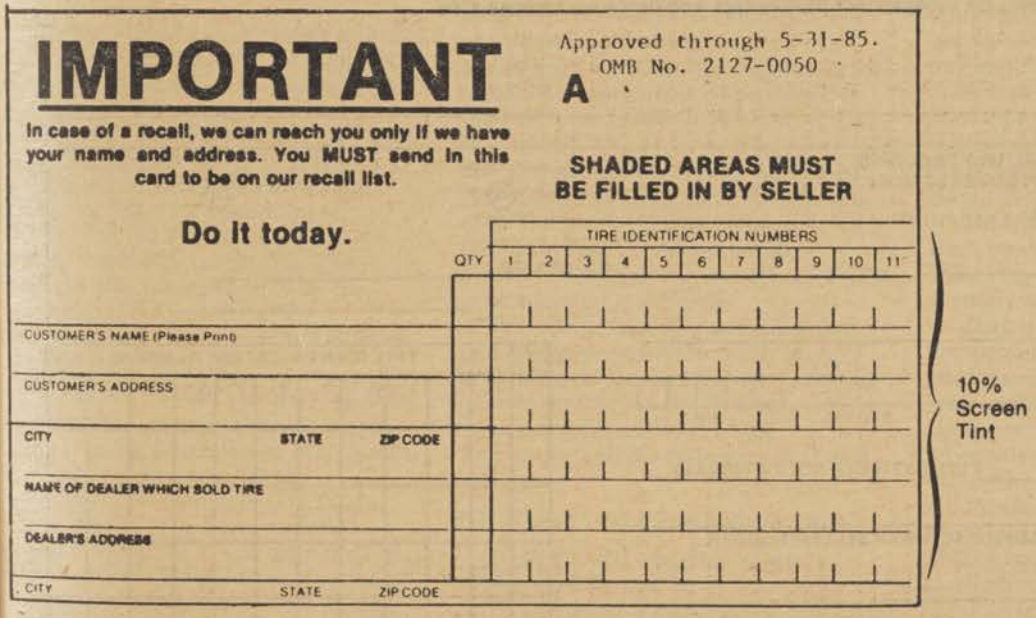
(4) Multiple tire purchases or leases by the same tire purchaser may be recorded on a single registration form.

(b) *Other distributors and dealers.* (1) Each distributor and each dealer, other than an independent distributor or dealer, selling new tires to tire purchasers shall submit the information specified in § 574.4(a)(4) to the manufacturer of the tires sold, or to its designee.

(2) Each tire distributor and each dealer, other than an independent distributor or dealer, shall submit registration forms containing the information specified in § 574.7(a)(4) to the tire manufacturer, or person maintaining the information, not less often than every 30 days. However, a distributor or dealer which sells less than 40 tires, of all makes, types and sizes during a 30-day period may wait until he or she sells a total of 40 new tires, but in no event longer than six months, before forwarding the tire information to the respective tire manufacturers or their designees.

(c) Each distributor and each dealer selling new tires to other tire distributors or dealers shall supply to the distributor or dealer a means to record the information specified in § 574.7(a)(4), unless such a means has been provided to that distributor or dealer by another person or by a manufacturer.

(d) Each distributor and each dealer shall immediately stop selling any group of tires when so directed by a notification issued pursuant to sections 151 and 152 of the Act (15 U.S.C. 1411 and 1412).



A—Preprinted tire manufacturer's name—unless the manufacturer's name appears on reverse side of the form.

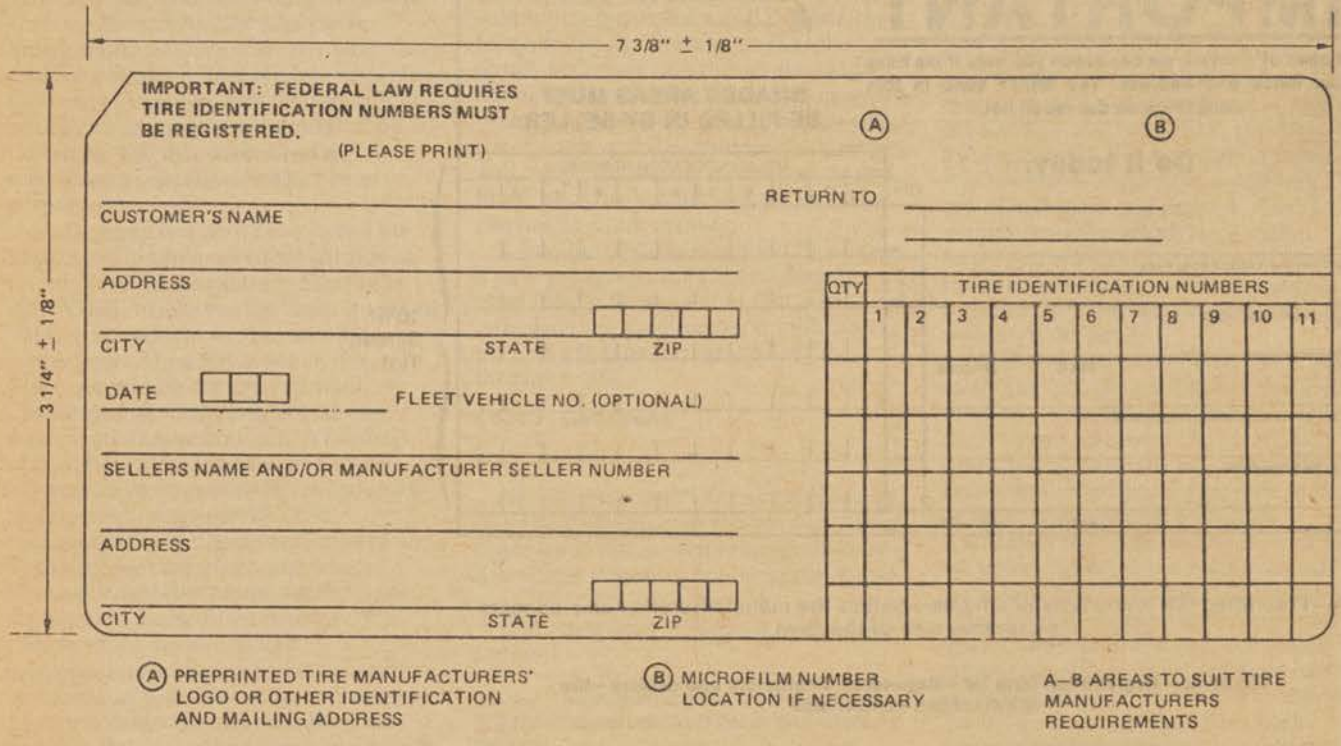
Figure 3a—Registration form for independent distributors and dealers—tire identification number side

Affix a
postcard
stamp

Name and address of
tire manufacturer or
its designee

(Preprinted)

Figure 3b—Registration form for independent distributors and dealers—address side



(A) PREPRINTED TIRE MANUFACTURERS' LOGO OR OTHER IDENTIFICATION AND MAILING ADDRESS

(B) MICROFILM NUMBER LOCATION IF NECESSARY

A–B AREAS TO SUIT TIRE MANUFACTURERS REQUIREMENTS

FIG. 4 - UNIVERSAL FORMAT

Authority: Secs. 108, 119, and 201, Pub. L. 89–583, 80 Stat. 718 (15 U.S.C. 1392, 1407, and 1421); sec. 4, Pub. L. 97–311, 96 Stat. 1619 (15 U.S.C. 1418); and delegation of authority at 49 CFR 1.50.

Issued on February 3, 1984.

Diane K. Steed,

Administrator.

[FR Doc. 84–3421 Filed 2–7–84; 8:45 am]

BILLING CODE 4910–59–M

Proposed Rules

Federal Register
Vol. 49, No. 27
Wednesday, February 8, 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.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 985

Spearmint Oil Produced in the Far West; Proposed Salable Quantities and Allotment Percentages for the 1984–85 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This is a proposal to establish the quantity of spearmint oil produced in the Far West, by class, that may be purchased from, or handled for, producers by handlers during the 1984–85 marketing year which begins June 1, 1984. This action is taken under the marketing order for spearmint oil produced in the Far West to promote orderly marketing conditions. The proposal was recommended by the Spearmint Oil Administrative Committee which works with USDA in administering the order.

DATE: Comments due February 23, 1984.

ADDRESSES: Comments should be sent to the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written material should be submitted, and they shall be made available for public inspection at the office of the Hearing Clerk, during regular business hours.

FOR FURTHER INFORMATION CONTACT: Frank M. Grasberger, Acting Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447–5053.

SUPPLEMENTARY INFORMATION: The proposed rule has been reviewed under USDA guidelines implementing Executive order 12291 and Secretary's Memorandum No. 1512–1 and has been classified a "non-major" rule under criteria contained therein.

The proposal is being published with less than a 60-day comment period because handlers and growers are currently making preparations for handling and growing 1984 crop spearmint oil. In some growing areas, spearmint roots are planted in the fall while in other areas they are planted in the spring. In any case planting must be completed no later than the beginning of April. Therefore, handlers and growers must know as soon as possible what salable quantities and allotment percentages will be effective for the 1984–85 marketing year so they can plan their operations accordingly.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

The proposed salable quantity and allotment percentage for each class of spearmint oil would be established in accordance with the provisions of Marketing Order No. 985, regulating the handling of spearmint oil produced in the Far West, hereinafter referred to as the "order". The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposal was recommended by the Spearmint Oil Administrative Committee, which works with the USDA in administering the order.

The salable quantity and allotment percentage proposed for each class of spearmint oil for the 1984–85 marketing year beginning June 1, 1984, are based upon recommendations of the Committee and the following data and estimates:

(1) "Class 1" Oil (Scotch Spearmint)

(A) Estimated carryin on June 1, 1984—186,769 pounds.

(B) Estimated trade demand (domestic and export) for the 1984–85 marketing year based on prior 3-year average sales—728,467 pounds.

(C) Recommended desirable carryout on May 31, 1985—50,000 pounds.

(D) Salable quantity required from 1984 production—591,698 pounds.

(E) Total allotment bases for "Class 1" Oil—1,602,434 pounds.

(F) Computed allotment percentage—36.9 percent.

(G) The Committee's recommendation for the salable quantity—673,022 pounds.

(H) Recommended allotment percentage—42 percent.

(2) "Class 3" Oil (Native Spearmint)

(A) Estimated carryin on June 1, 1984—206,227 pounds.

(B) Estimated trade demand (domestic and export) for the 1984–85 marketing year based on 3-year average sales—811,508 pounds.

(C) Recommended desirable carryout on May 31, 1985—0 pounds.

(D) Salable quantity required from 1984 production—605,281 pounds.

(E) Total allotment bases for "Class 3" Oil—1,774,169 pounds.

(F) Computed allotment percentage—34.1 percent.

(G) The Committee's recommendation for the salable quantity—745,151 pounds.

(H) Recommended allotment percentage—42 percent.

The salable quantity is the total quantity of each class of oil which handlers may purchase from or handle on behalf of producers during a marketing year. Each producer is allotted a share of the salable quantity by applying the allotment percentage to his allotment base for the applicable class.

When the order was established in 1980, producer stocks of spearmint oil were very large and producer prices severely depressed. Volume regulations in effect under the order since that time have aided in reducing these burdensome stocks and in creating a more stable market for all classes of oil. However, general economic conditions adversely affected sales of spearmint oil during the 1982–83 marketing year. Sales fell far short of estimates and as a consequence carryover stocks on June 1, 1983, were larger than estimated. The Committee's obective is to bring excess supplies into balance with needs to maintain a stable market for each class of oil and promote orderly marketing.

The aim of the proposed regulation for "Class 1" Oil for the 1984–85 marketing year is to further reduce the balance of the excess producer held stocks of oil, and aid in the continued gradual adjustment of supplies resulting in further stabilization of producer prices.

Sales of "Class 3" Oil lagged behind expectations in the 1982–83 marketing year. However, sales during the 1983–84 marketing year are projected to exceed 1982–83 sales by 94,000 pounds. The volume regulation in effect for the 1983–84 marketing year, coupled with

anticipated market improvement for "Class 3" Oil is expected to reduce producer inventories to a reasonable level. The proposed 1984–85 volume regulation for "Class 3" Oil is intended to continue to establish a stable market, thus maintaining orderly marketing conditions for this class of oil.

In conformity with the order's provisions, the Committee conducted a drawing on October 4, 1983, and issued additional allotment bases to both new and existing producers for the 1984–85 marketing year. New producers were issued allotment bases in units of 1,823 pounds for "Class 1" Oil and 2,205 pounds for "Class 3" Oil. Existing producers who had initially received small allotment bases and applied for additional allotment base were issued an amount of allotment base that would bring their total base up to a more economic unit. The issuance of the additional allotment bases increased the total of "Class 1" Oil bases by 26,450 pounds and "Class 3" Oil by 10,077 pounds.

The Committee's recommendations are based on expected increased sales of spearmint oil during the 1984–85 marketing year and a further reduction in the quantity of spearmint oil held by producers. The committee's recommendations appear appropriate for the 1984–85 season and are expected to aid in achieving the objectives of the act.

List of Subjects in 7 CFR Part 985

Marketing agreements and orders, Oregon, Washington.

Therefore, the proposal is to add a new § 985.204 under Subpart—Salable Quantities and Allotment Percentages to read as follows: (The following provisions will not be published in the Code of Federal Regulations).

§ 985.204 Salable quantities and allotment percentages—1984–85 marketing year.

The salable quantity and allotment percentage for each class of spearmint oil during the marketing year which begins June 1, 1984, shall be as follows:

(a) "Class 1" Oil—a salable quantity of 673,022 pounds and, an allotment percentage of 42 percent.

(b) "Class 3" Oil—a salable quantity of 745,151 pounds, and an allotment percentage of 42 percent.

Dated: February 2, 1984.

Russell L. Hawes,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 84-3431 Filed 2-7-84; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. I

[Summary Notice No. PR-84-1]

Petitions for Rulemaking; Summary of Petitions Received and Dispositions of Petitions Denied or Withdrawn

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rulemaking and of dispositions of petitions denied or withdrawn.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR Part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials or withdrawals of certain petitions previously received. The purpose of this notice is to improve the public's awareness of this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and be received on or before, April 9, 1984.

ADDRESSES: Send comments on the petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel; Attn: Rules Docket (AGC-204), Petition Docket No. ———, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB-10A), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone (202) 426-3644.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C. on February 2, 1984.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR RULEMAKING

Docket No.	Petitioner	Description of the petition
23837	Professional Aviation Maintenance Association	Description of Petition: To amend § 65.15 to require reapplication for mechanics certificates every 5 years. Present mechanic certificates would expire on the holders' birthday, and mechanics would be required to reapply for a certificate prior to that date. New mechanic certificates or reissued certificates would expire in 5 years. Regulations Affected: 14 CFR Part 65.15. Petitioner's Reason for Rule: a. To identify the exact number of mechanics in the world today; b. To be able to communicate with these mechanics by having their current names and addresses; c. Safety matters, such as FAR changes, etc., can then be communicated to the mechanics; d. Public interest—to be able to project future needs and requirements in the aviation industry; and e. Government interest—highly skilled mechanics now able to be located, can be called upon in case of national emergency or any other national needs.

[FR Doc. 84-3393 Filed 2-7-84; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 83-AWA-22]

Proposed Alteration of the Dallas-Fort Worth Terminal Control Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The FAA is considering a minor alteration of the Dallas-Fort Worth, TX, Terminal Control Area (TCA). This action would modify Area B southeast of the airport to fully contain large turbine-powered aircraft executing an ILS Runway 31R approach, thereby complying with FAA's policy to ensure all large turbine-powered aircraft remain within the confines of the TCA while executing standard instrument approach procedures (SIAP's).

DATES: Comments must be received on or before March 26, 1984.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Southwest Region, Attention: Manager, Air Traffic Division, Docket No. 83-AWA-22, 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 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Boyd V. Archer, Airspace and Air Traffic Rules Branch (AAT-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties 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 proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. 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-AWA-22." 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 proposal 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's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.401(a) of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to modify Area B of the Dallas-Fort Worth, TX, TCA. Aircraft executing an ILS Runway 31R approach to the Dallas-Fort Worth Airport, while on the glide slope, are exiting the TCA in Area C four-tenths of a mile prior to entering Area B. This discrepancy was not recognized by the FAA during the original design or a subsequent amendment to the TCA airspace. In order to correct the situation, alternatives such as: raising the glide slope, relocating approach fixes, and raising final approach altitudes, were considered to resolve the discrepancy. However, these actions are not considered appropriate, and the FAA is now considering extending Area B one and one-half miles each side of the localizer course extending to an arc 9.5 miles southeast of the airport. There will be no change in flight paths and aircraft altitudes or increased use of the expanded area as a result of the proposed action. Section 71.401(a) of Part 71 of the Federal Aviation regulations was republished in Advisory Circular AC 70-3A dated January 3, 1983.

List of Subjects in 14 CFR Part 71

Airspace, Navigation (air), Terminal control area.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.401(a) of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Dallas-Fort Worth, TX—[Amended]

In Area B, by inserting the words "to lat. 32°49'42"N., long. 96°52'12"W.; thence clockwise along a 9.5-mile arc of the Dallas-Fort Worth Airport to lat. 32°47'30"N., long. 96°55'00"W.; to lat. 32°47'30"N., long. 96°55'00"W.;" after the words "lat. 32°50'10"N., long 96°52'30"W.;"

(Secs. 307(a) and 313(a), 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 11.65)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a 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 Washington, D.C., on February 1, 1984.

Beauford A. Bancroft,

Acting Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 84-3392 Filed 2-7-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 73

[Airspace Docket No. 83-AWA-26]

Proposed Department of Energy Prohibited Areas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Advance notice of proposed rulemaking (ANPRM).

SUMMARY: This advance notice initiates rulemaking on a Department of Energy

(DOE) request that the Federal Aviation Administration (FAA) establish or modify existing prohibited airspace areas at nine DOE nuclear facilities located at Aiken, South Carolina (SC); Golden, Colorado (CO); Idaho Falls, Idaho (ID); Los Alamos, New Mexico (NM); Oak Ridge, Tennessee (TN); Richland, Washington (WA); San Francisco, California (CA); Livermore, California (CA); and Amarillo, Texas (TX). The DOE has the responsibility for the design, development, and production of the Nation's nuclear weapons. DOE also has the responsibility for protecting and defending the highly valuable and hazardous resources housed at these facilities. The proposed establishment or modification of prohibited airspace over these sites is one segment of a DOE comprehensive effort to enhance the protection of these vital nuclear weapons research, development, and production facilities. This notice is also a response to the concerns for greater airspace security over these facilities expressed by the National Security Council and the Subcommittee for Oversight and Investigation of the House of Representatives Committee for Energy and Commerce. If established, helicopter operations at any altitude over the designated sites would be prohibited without prior DOE authorization.

Operation of fixed-wing aircraft would be affected at five of the nine sites, but only to 3,000 feet AGL (except at Amarillo, TX, where the present 1,200 feet AGL prohibition would be retained; and Los Alamos, NM, where the present designated airspace ceiling would be raised from 12,000 feet MSL to 14,500 feet MSL). These proposed airspace designations may affect existing airways and airport approaches.

DATES: Comments must be received on or before April 9, 1984.

Meeting scheduled for March 13, 1984; 9:00 a.m. to 5:00 p.m.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket [AGC-204], Docket No. 83-AWA-26, 800 Independence Avenue, SW., Washington, D.C. 20591; or deliver comments in duplicate to FAA Rules Docket, Room 916, 800 Independence Avenue, SW., Washington, D.C.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

Meeting location: Rooms 9A, B, C; 800 Independence Avenue SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: B. Keith Potts, Airspace-Rules and Aeronautical Information Division, Air Traffice Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3731.

SUPPLEMENTARY INFORMATION:

Comments Invited

This ANPRM is being issued in accordance with the FAA's policy for the early public participation in rulemaking proceedings. The FAA believes it would be helpful to have public comments on the total DOE proposal described later in this document prior to the initiation of individual rulemaking actions with respect to each of the airspace actions that would be required by the DOE proposal. Comments are specifically invited on the economic concerns and questions noted as well as the overall regulatory, economic, environmental, and energy aspects of the proposal. Following review of the comments received, the FAA will issue a Notice of Proposed Rulemaking and schedule a public hearing at or near any of the airspace areas the FAA determines should be the subject of additonal rulemaking action.

Interested parties are invited to participate in this process 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 proposal. Communications should identify the airspace docket and be submitted in duplicate to the address listed above. Commenters wishing the FAA to achnowledge 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-AWA-26." 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 further action on the DOE request. The proposal 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. Inasmuch as this ANPRM is in response to a DOE request, copies of all comments received will be forwarded to DOE. After submission of comments, the FAA will obtain DOE response to all issues raised.

In addition to seeking written comments on this ANPRM, the FAA will hold a public meeting in Washington, D.C., on March 13, 1984, to receive additional input with respect to the DOE proposal.

Availability of ANPRM

Any person may obtain a copy of this ANPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this ANPRM. Persons interested in being placed on a mailing list for future ANPRM's and NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

Request To Make a Presentation

Interested persons are invited to attend the public meeting and to participate by making oral or written statements. Written statements should be submitted in triplicate and will be made a part of the rules docket. Request to make an oral presentation at the public meeting should identify the docket number, the time required (times may be limited depending upon the number of presentations) and be sent to Boyd V. Archer, Airspace and Air Traffic Rules Branch (AAT-230), Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591. Requests must be received on or before March 6, 1984, to ensure a place on the list of speakers. Presentations will be scheduled on a first-come, first-served basis as time may permit within the meeting schedule.

Meeting Procedures

Persons who plan to attend the meetings should be aware of the following procedures to be followed:

(a) The meeting will be informal in nature and will be conducted by the designated representative of the Administrator under 14 CFR 11.33. Each participant will be given an opportunity to make a presentation.

(b) The meeting will begin at 9:00 a.m. (local time). There will no be admission fee or other charge to attend and participate. The meeting will be open to all persons on a space available basis. The presiding officer may accelerate the

meeting agenda to enable early adjournment if the progress of the meeting is more expeditious than planned.

(c) The meeting will be recorded by a court reporter. Anyone interested in purchasing the transcript should contact the court reporter directly. A copy of the court reporter's transcript will be filed in the docket.

(d) Position papers or other handout material relating to the substance of the meeting may be accepted at the discretion of the presiding officer. Participants submitting handout materials must present an original and two copies to the presiding officer for approval before distribution. If approved by the presiding officer, there should be an adequate number of copies provided for further distribution to all participants.

(e) Statements made by FAA participants at the hearing should not be taken as expressing a final FAA position.

Public Meeting Schedule

The schedule for the meeting is as follows:

Date: March 13, 1984; 9:00 a.m. to 5:00 p.m.

Place: Rooms 9A, B, and C; 800 Independence Avenue, SW., Washington, D.C.

Agenda:

9:00 to 9:15 Presentation of Meeting Procedures
9:15 to 10:00 FAA Presentation of ANPRM
10:15 to 12:00 Public Presentations and Discussion
1:30 to 5:00 Public Presentations and Discussion

The Proposed Airspace Designations

Part 73 of the Federal Aviation Regulations (FAR) designates certain airspace as "special use airspace" in which aircraft operations may be restricted or prohibited because of the nature of the activities being conducted within that airspace, including activities on the surface of the earth. Based on DOE's request, the FAA is considering amending Subpart C of Part 73 of the FAR's to establish or modify prohibited areas at nine DOE nuclear facilities located at Aiken, SC; Golden, CO; Idaho Falls, ID; Los Alamos, NM; Oak Ridge, TN; Richland, WA; San Francisco, CA; Livermore, CA; and Amarillo, TX. Such action would entail the amendment of FAR's Part §73.89 and §73.93 to modify and expand the prohibited areas at Armarillo, TX, and San Francisco, CA, and to establish new prohibited areas at the other locations. Subpart C of Part 73 was republished in Advisory Circular AC 70-3A dated January 3, 1983. A copy is on file in the public docket.

In accordance with the Atomic Energy Act of 1954, as amended and the Energy Reorganization Act of 1974, DOE is responsible for the design, development, and production of nuclear weapons and the production and control of nuclear materials used for atomic energy and other civil purposes. DOE also has the responsibility for protecting and defending the highly valuable and hazardous resources housed at these facilities.

The proposed establishment or modifications of prohibited airspace over these sites is one segment of a comprehensive DOE effort to enhance the protection of its facilities at which these vital nuclear weapons research, development, and production activities are conducted. DOE believes aircraft operations in this airspace should be prohibited to the extent specified in the proposal unless the operation is specifically authorized by DOE. This will enable DOE to have continuous knowledge of the aircraft operating in this airspace. The DOE security forces are required to restrict and prohibit operations over its facilities to the extent necessary to prevent illegal entry and sabotage or theft of vital defense weapons.

If the prohibited airspace areas proposed by the DOE are established by the FAA, helicopter operations at any altitude over the designated sites would be prohibited without prior authorization. Operation of fixed-wing aircraft would be affected at five of the nine sites, but only to 3,000 feet AGL (except at Amarillo, TX, where the present 1,200 feet AGL prohibition would be retained; and Los Alamos, NM, where the present designated airspace ceiling would be raised from 12,000 feet MSL to 14,500 feet MSL). It should be noted that FAR Part 73 § 73.83 provides that no person may operate an aircraft in a prohibited area unless authorization has been granted by the using agency. Comments are specifically requested concerning the extent and circumstances under which flights should be authorized in the subject airspace.

Regulatory Evaluation and Economic Questions

An important consideration in the FAA regulatory process is the examination of the benefits and costs of rulemaking actions. Agencies of the Federal Government are required by Executive Order 12291 to adopt only those regulatory programs in which the potential benefits to society outweigh the potential costs to society.

Because of the FAA's lack of current data on the potential economic impacts of the DOE proposal, a full regulatory evaluation has not been prepared at this time. However, any regulatory proposal FAA might make will be accompanied by a full evaluation which will quantify, to the extent possible, the benefits and costs of such a proposal. Therefore, it is essential that comments for or against the proposals discussed here are accompanied by statements of the economic impacts perceived by the commenter.

FAA specifically solicits comments from individuals, corporate entities and organizations on the economic impacts of the proposed regulations. In particular, the FAA is concerned about the "excess cost" associated with proposed regulations. By "excess cost," FAA means the difference between complying with the proposed regulations, and the cost of complying with current regulations or standard practices. For example, what is the excess cost for a fixed-wing aircraft operator to fly "over the top" or circumnavigate the proposed prohibited airspace at Aiken, SC, compared to the normal operating practices of fixed-wing aircraft operations in that airspace?

With this in mind, the FAA poses several additional questions:

1. What are the benefits associated with restricting operations in the proposed prohibited airspace over the specified DOE nuclear facilities (i.e., prevent illegal entry and sabotage or theft of vital defense weapons)?

2. What are the "excess costs" to rotorcraft operators associated with eliminating operation of rotorcraft in the proposed prohibited airspace areas (i.e., circumnavigation costs, impacts on rotorcraft-related businesses)?

3. What are the cost impacts on the aviation public, particularly helicopters, with regard to:

a. Elimination of an instrument approach (Amarillo)?

b. Revision of a standard terminal arrival route (San Francisco)?

c. Revision of standard instrument departures (Dallas/Ft. Worth, Denver and San Francisco)?

d. The realignment of numerous low altitude airways near or penetrating proposed prohibited airspace?

e. The realignment of airport traffic patterns?

f. The impact of the proposed rule on public use airports that lie nearby the proposed prohibited airspace areas?

4. Is the proposed rule believed to have a significant negative economic impact on small businesses, nonprofit organizations or governmental

jurisdictions? If so, what are the types and sizes of the entities affected? Also, what is the nature and magnitude of the negative economic impact?

Responses to these questions should fully address the nature of the impact, the site-specific location of impact, and the groups or types of operators, businesses or entities that are impacted. Commenters should describe and quantify the specific benefits and costs supported by factual data to the extent possible, or explain why costs are not quantifiable. Commenters should also provide the rationale for their opinions, which might include information pertaining to frequency of flight in the area, number of miles and minutes to avoid the area, type of operation and typical aviation practices. The FAA will examine separately the costs imposed on the Federal Government (e.g. impact on military training routes, revision of instrument approach procedures, relocation of NAVAIDS).

The benefit and cost questions outlined above cover the broad areas of this ANPRM. The FAA desires comments pertaining to these areas of impact and other areas which the commenter feels may be of impact. The FAA invites particularly interested groups to gather the preferences, ideas and comments of their group members, through such devices as articles in membership publications and polls of their membership.

List of Subjects in 14 CFR Part 73

Aviation safety.

Descriptions of the prohibited areas that the DOE has requested the FAA to designate or amend, at the nine DOE installations, are set forth below and depicted on the charts at the end of this document.

§ 73.89 P–47 Amarillo, TX—[Revoked]

Amarillo, TX (Rotorcraft) [New] Boundaries. Beginning at lat. 35°21'09" N., long. 101°37'03" W.; to lat. 35°21'11" N., long. 101°32'27" W.; to lat. 35°18'09" N., long. 101°32'27" W.; to lat. 35°18'09" N., long. 101°34'48" W.; to lat. 35°17'55" N., long. 101°35'08" W.; to lat. 35°17'55" N., long. 101°35'37" W.; to lat. 35°19'05" N., long. 101°35'40" W.; to lat. 35°19'05" N., long. 101°36'04" W.; to lat. 35°18'02" N., long. 101°36'27" W.; to lat. 35°18'02" N., long. 101°37'03" W.; to the point of beginning.

Designated altitudes. Surface to unlimited.

Time of designation. Continuous.

Controlling agency. FAA.

Using agency. United States Department of Energy, Amarillo Area Office.

Amarillo, TX [New] Boundaries. Beginning at Lat. 35°21'09" N., long. 101°37'03" W.; to lat. 35°21'11" N., long. 101°32'27" W.; to lat. 35°18'09" N., long. 101°32'27" W.; to lat. 35°18'09" N., long. 101°34'48" W.; to lat. 35°17'55" N., long. 101°35'08" W.; to lat. 35°17'55" N., long. 101°35'37" W.; to lat. 35°19'05" N., long. 101°35'40" W.; to lat. 35°19'05" N., long. 101°36'04" W.; to lat. 35°18'02" N., long. 101°36'27" W.; to lat. 35°18'02" N., long. 101°37'03" W.; to the point of beginning.

Designated altitudes. Surface of 4,800 feet MSL (1,200 feet AGL).

Time of designation. Continuous.

Controlling agency. FAA.

Using agency. United States Department of Energy, Amarillo Area Office.

San Francisco, CA (Rotorcraft) [New] Boundaries. Beginning at lat. 37°41'40" N., long. 121°42'49" W.; to lat. 37°41'40" N., long. 121°41'45" W.; to lat. 37°40'47" N., long. 121°41'44" W.; to lat. 37°40'48" N., long. 121°42'05" W.; to lat. 37°40'15" N., long. 121°42'05" W.; to lat. 37°40'06" N., long. 121°42'16" W.; to lat. 37°40'06" N., long. 121°42'27" W.; to lat. 37°40'35" N., long. 121°42'27" W.; to lat. 37°40'48" N., long. 121°42'39" W.; to lat. 37°40'48" N., long. 121°42'50" W.; to lat. 37°41'40" N., long. 121°42'49" W.; to the point of beginning.

Designated altitudes. Surface to unlimited.

Time of designation. Continuous.

Controlling agency. FAA.

Using agency. United States Department of Energy, San Francisco Operations Office.

Livermore, CA (Rotorcraft) [New] Boundaries. Beginning at lat. 37° 41'15" N., long. 121° 33'58" W.; to lat. 37°41'11" N., long. 121°30'38" W.; to lat. 37°89'07" N., long. 121°30'40" W.; to lat. 37°39'05" N., long. 121°29'21" W.; to lat. 37°38'05" N., long. 121°29'36" W.; to lat. 37°38'00" N., long. 121°30'05" W.; to lat. 37°37'49" N., long. 121°30'41" W.; to lat. 37°37'47" N., long. 121°31'22" W.; to lat. 37°38'18" N., long. 121°34'00" W.; to the point of beginning.

Designated altitudes. Surface to unlimited.

Time of designation. Continuous.

Controlling agency. FAA.

Using agency. United States Department of Energy, San Francisco Operations Office.

Aiken, SC (Rotorcraft) [New] Boundaries. Beginning at lat. 33°24'30" N., long. 81°47'00" W.; to lat. 33°10'30" N., long. 81°47'00" W.; to lat. 33°05'30" N., long. 81°38'30" W.; to lat. 33°11'30" N., long. 81°28'00" W.; to lat. 33°21'00" N., long. 81°28'00" W.; to lat. 33°24'30" N., long. 81°32'00" W.; to the point of beginning.

Designated altitudes. Surface to unlimited.

Time of designation. Continuous.

Controlling agency. FAA.

Using agency. United States Department of Energy, Savannah River Operations Office.

Aiken, SC [New] Boundaries. Beginning at lat. 33°24'30" N., long. 81°47'00" W.; to lat. 33°12'25" N., long. 81°47'00" W.; to lat. 33°09'17" N., long. 81°44'35" W.; to lat. 33°09'17" N., long. 81°41'55" W.; to lat. 33°15'30" N., long. 81°30'00" W.; to lat. 33°21'45" N., long. 81°30'00" W.; to lat. 33°24'30" N., long. 81°44'30" W.; to the point of beginning.

Designated altitudes. Surface to 3,000 feet AGL.

Time of designation. Continuous.

Controlling agency. FAA.

Using agency. United States Department of Energy, Savannah River Operations Office.

Golden, CO (Rotorcraft) [New] Boundaries. Beginning at lat. 39°54'51" N., long. 105°14'10" W.; to lat. 39°54'37" N., long. 105°09'54" W.; to lat. 39°52'14" N., long. 105°09'53" W.; to lat. 39°52'14" N., long. 105°13'18" W.; to lat. 39°53'07" N., long. 105°13'20" W.; to lat. 39°53'07" N., long. 105°14'09" W.; to the point of beginning.

Designated altitudes. Surface to unlimited.

Time of designation. Continuous.

Controlling agency. FAA.

Using agency. United States Department of Energy, Rocky Flats Area Office.

Idaho Falls, ID (Rotorcraft) [New] Boundaries. Beginning at lat. 43°59'20" N., long. 112°43'50" W.; to lat. 43°50'20" N., long. 112°30'00" W.; to lat. 43°32'00" N., long. 112°35'00" W.; to lat. 43°27'00" N., long. 113°03'00" W.; to lat. 43°34'30" N., long. 113°11'50" W.; to lat. 43°48'48'40" N., long. 112°49'40" W.; to the point of beginning.

Designated altitudes. Surface to unlimited.

Time of designation. Continuous.

Controlling agency. FAA.

Using agency. United States Department of Energy, Idaho Operations Office.

Idaho Falls, ID [New] Boundaries. Beginning at lat. 43°59'20" N., long. 112°43'50" W.; to lat. 43°56'00" N., long. 112°40'00" W.; to lat. 43°31'00" N., long. 112°35'00" W.; to lat. 43°26'00" N., long. 113°03'00" W.; to lat. 43°34'30" N., long. 113°11'50" W.; to lat. 43°48'40" N., long. 112°49'40" W.; to the point of beginning.

Designated altitudes. Surface to 3,000 feet AGL.

Time of designation. Continuous.

Controlling agency. FAA.

Using agency. United States Department of Energy, Idaho Operations Office.

Los Alamos, NM (Rotorcraft) [New] Boundaries. Beginning at lat. 35°47'00" N., long. 106°14'48" W.; to lat. 35°50'03" N., long. 106°21'36" W.; to lat. 35°52'22" N., long. 106°20'42" W.; to lat. 35°52'52" N., long. 106°16'48" W.; to lat. 35°52'30" N., long. 106°14'48" W.; to the point of beginning.

Designated altitudes. Surface to unlimited.

Time of designation. Continuous.

Controlling agency. FAA.

Using agency. United States Department of Energy, Los Alamos Area Office.

Los Alamos, NM [New] Boundaries. Beginning at lat. 35°47'00" N., long. 106°14'48" W.; to lat. 35°50'03" N., long. 106°21'36" W.; to lat. 35°52'22" N., long. 106°20'42" W.; to lat. 35°52'52" N., long. 106°16'48" W.; to lat. 35°52'30" N., long. 106°14'48" W.; to the point of beginning.

Designated altitudes. Surface to 14,500 feet MSL.

Time of designation. Continuous.

Controlling agency. FAA.

Using agency. United States Department of Energy, Los Alamos Area Office.

Oak Ridge, TN (Rotorcraft) [New] Boundaries. Beginning at lat. 35°57'02" N., long. 84°26'37" W.; to lat. 36°00'56" N., long. 84°13'55" W.; to lat. 35°59'34" N., long. 84°12'47" W.; to lat. 35°56'22" N., long. 84°18'41" W.; to lat. 35°55'00" N., long. 84°17'34" W.; to lat. 35°52'45" N., long. 84°21'41" W.; to lat. 35°52'55" N., long. 84°23'10" W.; to the point of beginning.

Designated altitudes. Surface to unlimited.

Time of designation. Continuous.

Controlling agency. FAA.

Using agency. United States Department of Energy, Oak Ridge Operations Office.

Oak Ridge, TN [New] Boundaries. Beginning at lat. 35°58'30" N., long. 84°20'00" W.; to lat. 36°00'00" N., long. 84°13'30" W.; to lat. 35°59'20" N., long. 84°13'00" W.; to lat. 35°54'30" N., long. 84°20'00" W.; to lat. 35°58'30" N., long. 84°20'00" W.; to the point of beginning.

Designated altitudes. Surface to 3,000 feet AGL.

Time of designation. Continuous.

Controlling agency. FAA.

Using agency. United States Department of Energy, Oak Ridge Operations Office.

Richland, WA (Rotorcraft) [New] Boundaries. Beginning at lat. 46°44'25" N., long. 119°25'00" W.; to lat. 46°39'30" N., long. 119°25'00" W.; thence along the NE bank of Columbia River; to lat. 46°34'10" N., long. 119°20'00" W.; to lat. 46°30'00" N., long. 119°20'00" W.; to lat. 46°30'00" N., long. 119°15'30" W.; thence along the E bank of the Columbia River; to lat. 46°21'00" N., long. 119°16'00" W.; to lat. 46°21'00" N., long. 119°23'00" W.; to lat. 46°23'20" N., long. 119°24'50" W.; thence along State Highway Nos. 240 and 24; to the point of beginning.

Designated altitudes. Surface to unlimited.

Time of designation. Continuous.

Controlling agency. FAA.

Using agency. United States Department of Energy, Richland Operations Office.

Richland, WA [New] Boundaries. Beginning at lat. 46°44'25" N., long. 119°25'00" W.; to lat. 46°39'30" N., long. 119°25'00" W.; thence along the NE bank of Columbia River; to lat. 46°34'10" N., long. 119°20'00" W.; to lat. 46°30'00" N., long. 119°20'00" W.; to lat. 46°26'20" N., long. 119°20'00" W.; to lat. 46°23'20" N., long. 119°22'15" W.; to lat. 46°23'20" N., long. 119°24'50" W.; thence along State Highway Nos. 240 and 24; to the point of beginning.

Designated altitudes. Surface to 3,000 feet AGL.

Time of designation. Continuous.

Controlling agency. FAA.

Using agency. United States Department of Energy, Richland Operations Office.

(Secs. 307(a) and 313(a), 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 11.65)

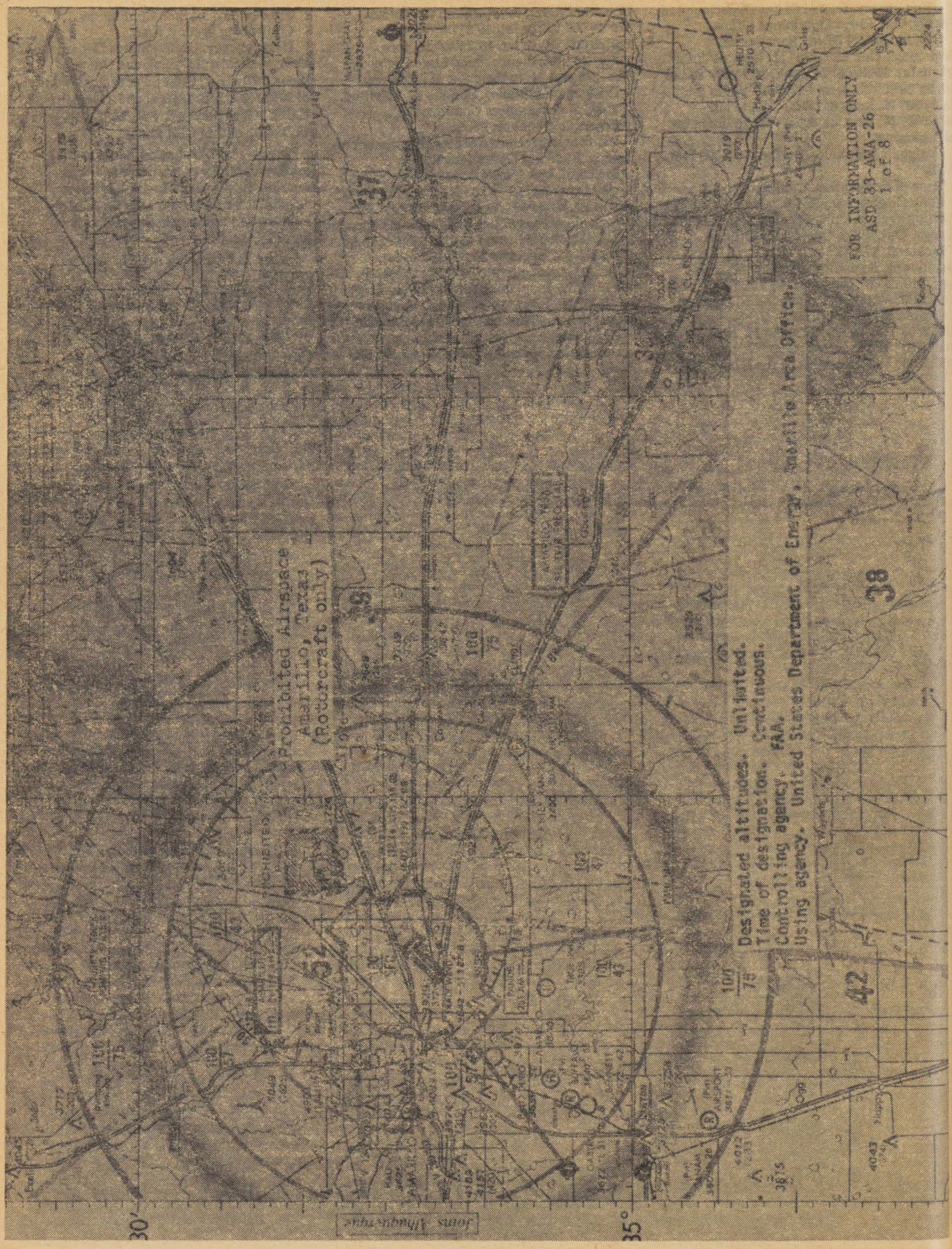
Note.—The FAA has determined that implementing by regulation the airspace restrictions proposed by DOE is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

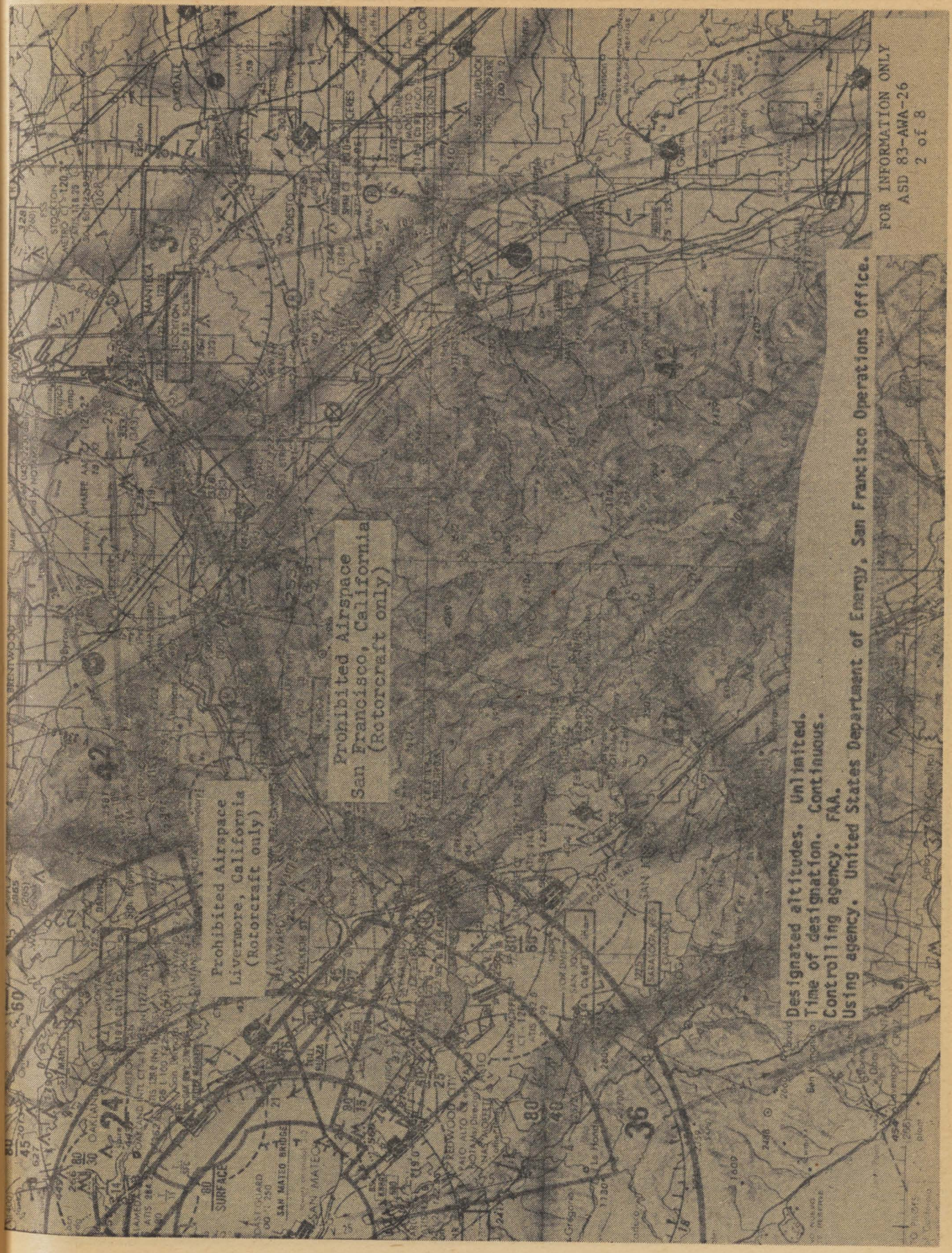
Issued in Washington, D.C., on December 29, 1983.

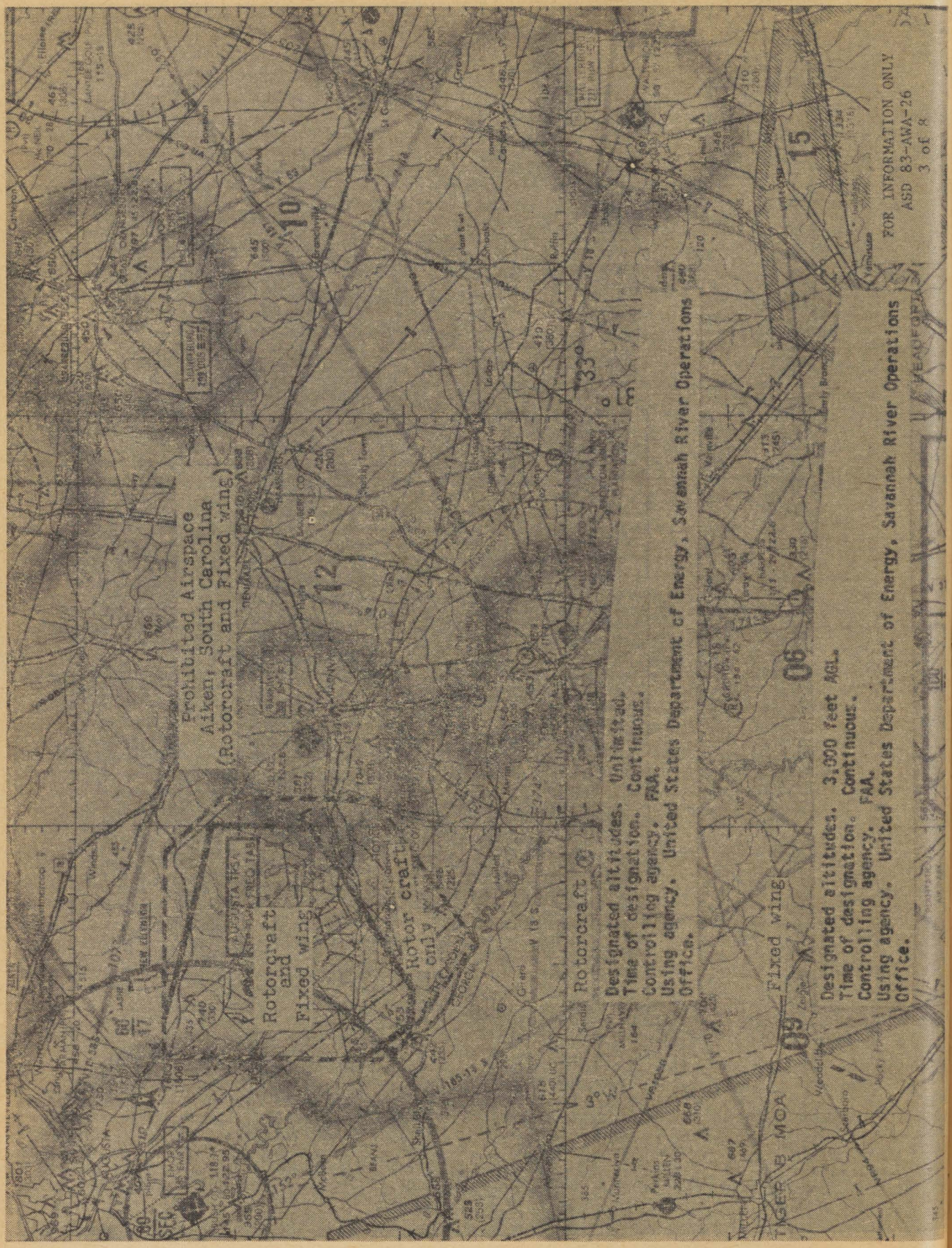
B. Keith Potts,

Acting Associate Administrator for Air Traffic Service.

BILLING CODE 4910-13-M


FOR INFORMATION ONLY
ASD 83-AMA-26
1 of 8
Prohibited Airspace
Amarillo, Texas
(Rotorcraft only)
Designated altitudes. Unlimited.
Time of designation. Continuous.
Controlling agency. FAA.
Using agency. United States Department of Energy, Amarillo Area Office.
38
42
30°
35°


Prohibited Airspace
San Francisco, California
(Rotorcraft only)
Prohibited Airspace
Livermore, California
(Rotorcraft only)
Designated altitudes. Unlimited.
Time of designation. Continuous.
Controlling agency. FAA.
Using agency. United States Department of Energy, San Francisco Operations Office.
FOR INFORMATION ONLY
ASD 83-AWA-26
2 of 8


Prohibited Airspace
Aiken, South Carolina
(Rotorcraft and Fixed wing)
Rotorcraft and Fixed wing
Rotorcraft only
Designated altitudes. Unlimited.
Time of designation. Continuous.
Controlling agency. FAA.
Using agency. United States Department of Energy, Savannah River Operations Office.
Designated altitudes. 3,000 feet AGL.
Time of designation. Continuous.
Controlling agency. FAA.
Using agency. United States Department of Energy, Savannah River Operations Office.
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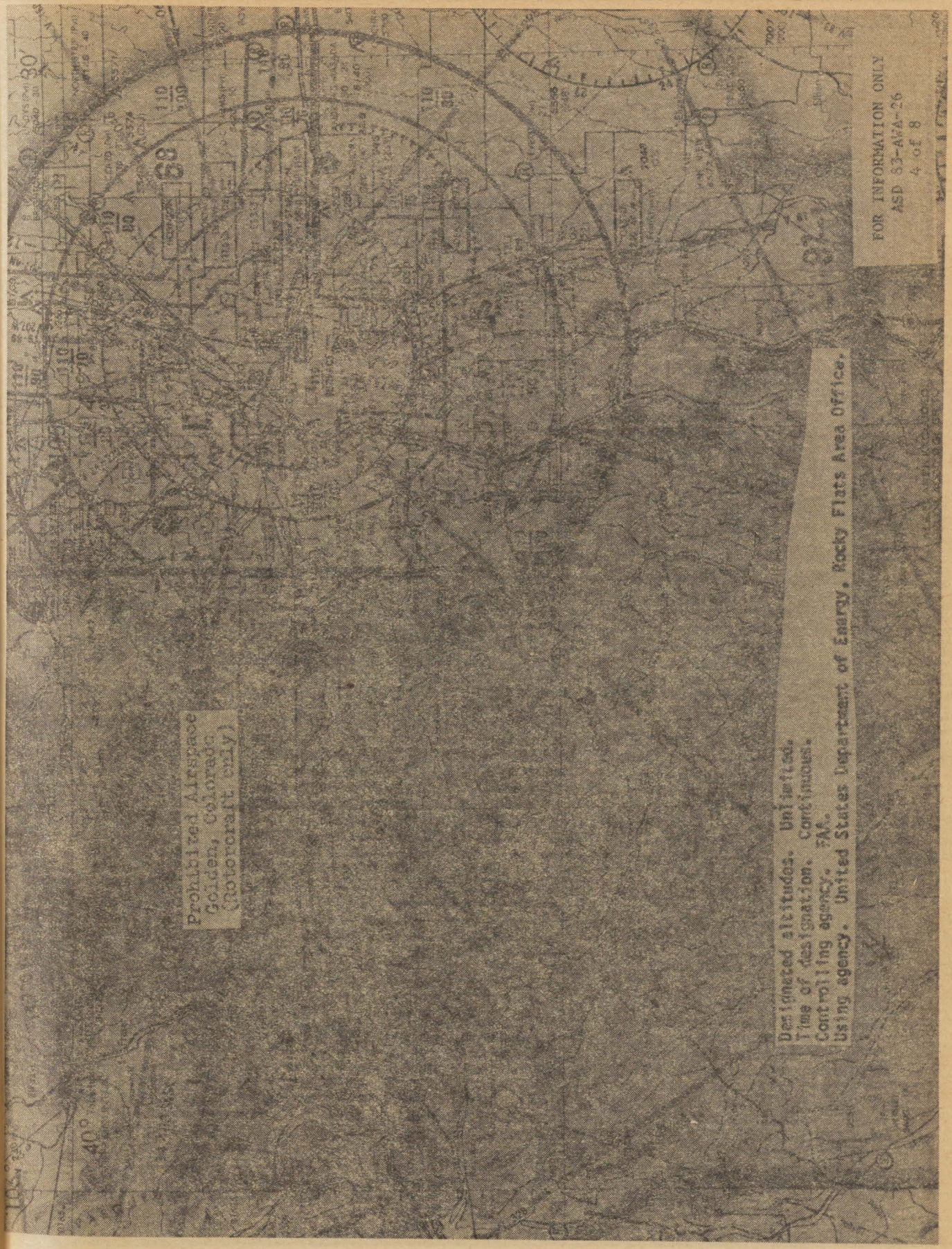
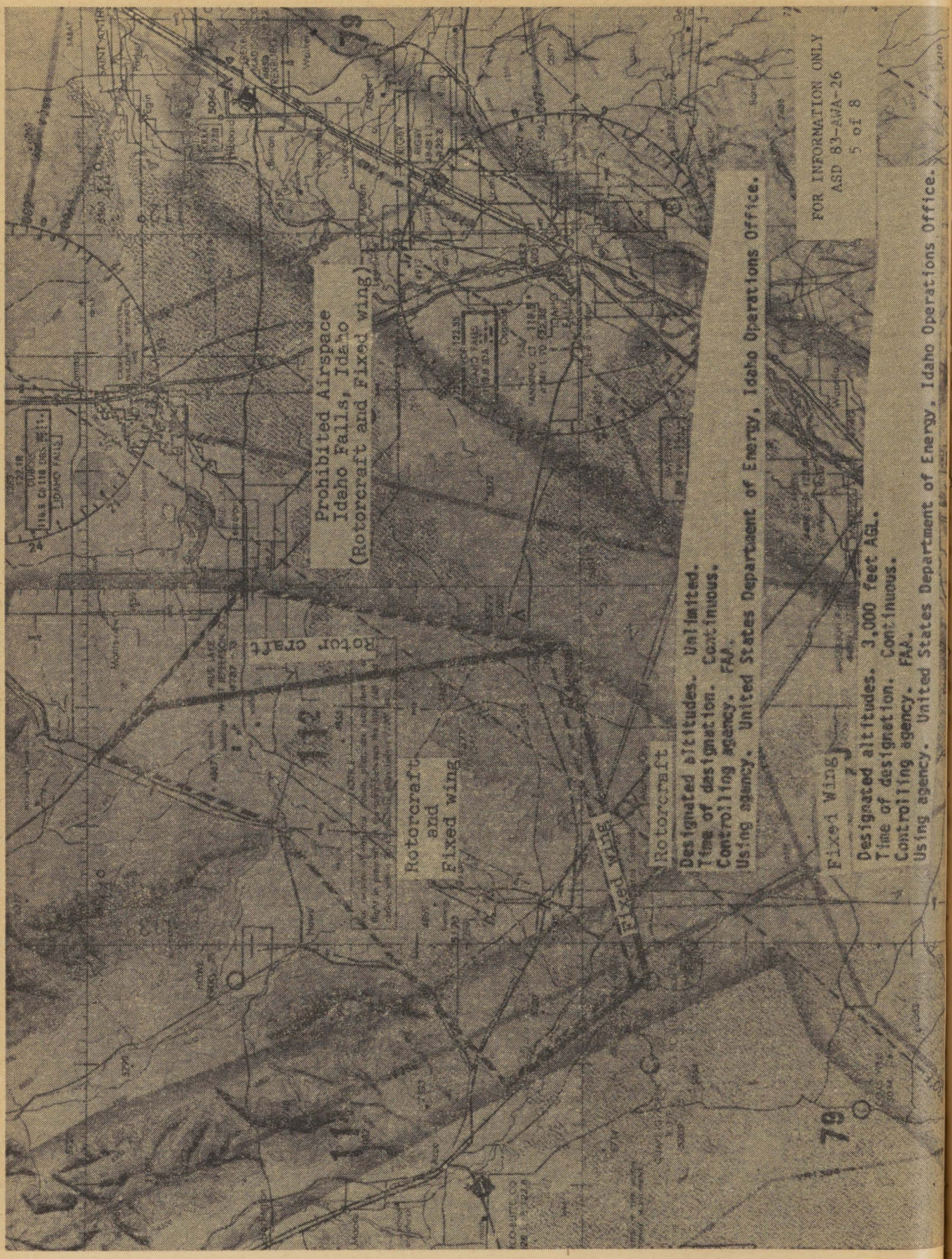
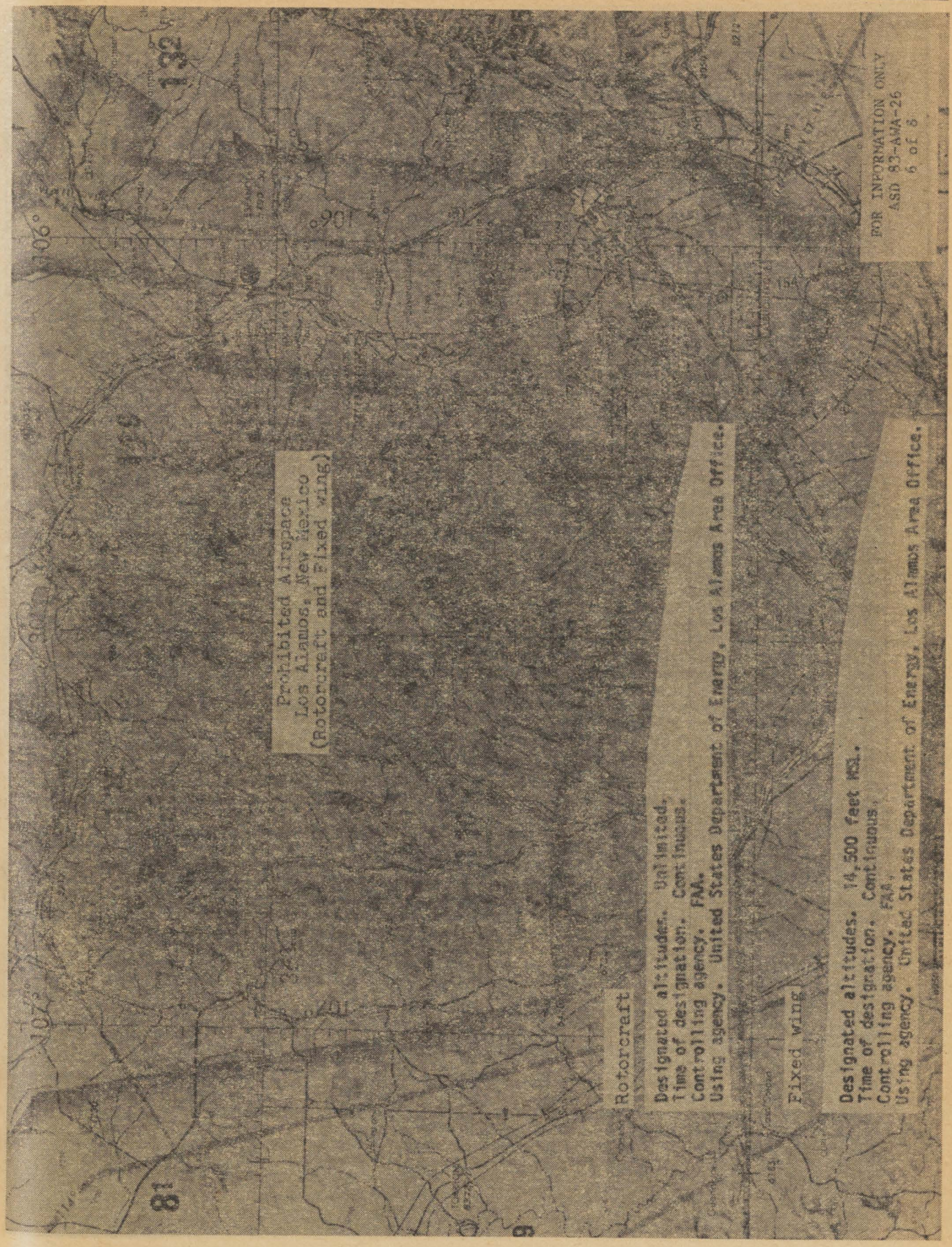
FOR INFORMATION ONLY
ASD 83-AWA-26
3 of 8


FOR INFORMATION ONLY
ASD 83-AWA-26
4 of 8
Designated altitudes. Unlimited.
Time of designation. Continuous.
Controlling agency. FAA.
Using agency. United States Department of Energy, Rocky Flats Area Office.
Proposed Airspace
Colorado Control Area (Continental)


Prohibited Airspace
Idaho Falls, Idaho
(Rotorcraft and Fixed wing)
Rotor craft
Rotorcraft and Fixed wing
Fixed Wing
Rotorcraft
Designated altitudes. Unlimited.
Time of designation. Continuous.
Controlling agency. FAA.
Using agency. United States Department of Energy, Idaho Operations Office.
Designated altitudes. 3,000 feet AGL.
Time of designation. Continuous.
Controlling agency. FAA.
Using agency. United States Department of Energy, Idaho Operations Office.
FOR INFORMATION ONLY
ASD 83-AWA-26
5 of 8
112
79


FOR INFORMATION ONLY
ASD 83-AWA-26
6 of 8
Prohibited Airspace
Los Alamos, New Mexico
(Rotorcraft and Fixed wing)
Designated altitudes. Unlimited.
Time of designation. Continuous.
Controlling agency. FAA.
Using agency. United States Department of Energy, Los Alamos Area Office.
Rotorcraft
Designated altitudes. 14,500 feet MSL.
Time of designation. Continuous.
Controlling agency. FAA.
Using agency. United States Department of Energy, Los Alamos Area Office.
Fixed wing
106°
107°
35°
36°
81
18
9

Prohibited Airspace
Oak Ridge, Tennessee
(Rotorcraft and Fixed wing)
Rotorcraft only
Designated altitudes. Unlimited.
Time of designation. Continuous.
Controlling agency. FAA.
Using agency. United States Department of Energy, Oak Ridge Operations Office.
Rotorcraft
Fixed wing
Designated altitudes. 3,000 feet AGL.
Time of designation. Continuous.
Controlling agency. FAA.
Using agency. United States Department of Energy, Oak Ridge Operations Office.
FOR INFORMATION ONLY
ASD 83-AWA-26
7 of 8

RESTRICTED
45
R-6714A
R-6714 C
R-6714B
Prohibited Airspace
Richland, Washington
(Rotorcraft and Fixed wing)
Rotorcraft
and
Fixed wing
Rotor craft
only
46
Rotorcraft
Designated altitudes. Unlimited.
Time of designation. Continuous.
Controlling agency. FAA.
Using agency. United States Department of Energy, Richland Operations Office.
Fixed wing 46
Designated altitudes. 3,000 feet AGL.
Time of designation. Continuous.
Controlling agency. FAA.
Using agency. United States Department of Energy, Richland Operations Office.
1500 TO 10,000
FOR INFORMATION ONLY
ASD 83-AWA-26
8 of 3

14 CFR Part 75

[Airspace Docket No. 83-AGL-29]

Proposed Alteration of Jet Route J-106—Green Bay, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to realign Jet Route J-106 between the Green Bay, WI, VORTAC and the Flint, MI, VORTAC. The realigned route would reduce route mileage to users and reduce controller workload.

DATES: Comments must be received on or before March 26, 1984.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Great Lakes Region, Attention: Manager, Air Traffic Division, Docket No. 83-AGL-29, Federal Aviation Administration, 2300 East Devon, Des Plaines, IL 60018.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Neil Saunders, Airspace and Air Traffic Rules Branch (AAT-230), Airspace—Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties 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 proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted i n 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-AGL-29." 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 proposal 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's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to realign Jet Route J-106 between Green Bay, WI, VORTAC and Flint, MI, VORTAC. The realignment would establish a direct course between the cited VORTACs resulting in reduced route mileage to users and reduced coordination workload for controllers. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3A dated January 3, 1983.

List of Subjects in 14 CFR Part 75

Airspace, Navigation (air), Jet routes.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as follows:

J-106 [Amended]

By deleting the words "INT Green Bay 106° and Flint, MI, 310° radials; Flint" and substituting the words "Flint, MI"

(Secs. 307(a) and 313(a), 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 11.65)

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

Issued in Washington, D.C., on February 1, 1984.

John W. Baier,

Acting Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 84-3391 Filed 2-7-84; 8:45 am]

BILLING CODE 4910-13-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 3, 4 and 140

Commodity Pool Operators and Commodity Trading Advisors; Exemption From Registration and From Subpart B of Part 4 for Certain Otherwise Regulated Persons and Other Regulatory Requirements

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rules.

SUMMARY: The Commodity Futures Trading Commission (the "Commission") is proposing to exempt certain otherwise regulated persons from registration as a commodity pool operator ("CPO") and from the provisions of Subpart B of Part 4 of the Commission's regulations upon the filing of a notice of eligibility with the Commission. To implement this proposal, certain other amendments would be made to the Commission's regulations. Similarly, and so that it may know the identities of all persons who are operating as a CPO pursuant to an exemption from registration as such, the Commission is proposing to require that each person who is exempt from registration as a CPO pursuant to § 4.13(a)—the operators of family, club and small pools—file with the Commission the prescribed statement of exemption that it currently is required to deliver to prospective participants pursuant to § 4.13(b)(1). The Commission also is proposing to

prohibit CPOs from receiving income generated from their pools' assets other than for the purpose of recovering actual organizational and offering expenses. Without specifying any proposed language at this time, the Commission further is considering the adoption of other amendments to the Part 4 regulations that would: exempt other persons from registration as a CPO or from certain provisions of Part 4; exempt certain persons registered as an investment adviser ("IA") under the Investment Advisers Act of 1940 (the "IAA") from registration as a commodity trading advisor ("CTA"); supplement the current format for presenting the actual past performance records of CPOs, and their principals; and establish financial requirements for CPOs.

DATE: Comments must be received by April 9, 1984.

ADDRESS: Comments should be sent to: Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581. Attention: Secretariat.

FOR FURTHER INFORMATION CONTACT: Barbara R. Stern, Special Counsel for Commodity Pool Operators and Commodity Trading Advisors, Division of Trading and Markets, 2033 K Street NW., Washington, D.C. 20581. Telephone: (202) 254–8955.

SUPPLEMENTARY INFORMATION:

I. Proposed Exemption for Certain Otherwise Regulated Persons from Registration as a CPO and From the Provisions of Subpart B of Part 4

A. Introduction

The term "commodity pool operator" is defined in section 2(a)(1)(A) of the Commodity Exchange Act, as amended (the "Act"), 7 U.S.C. 2 (1982), to mean:

> [A]ny person engaged in a business which is of the nature of an investment trust, syndicate, or similar form of enterprise, and who, in connection therewith, solicits, accepts, or receives from others, funds, securities, or property, either directly or through capital contributions, the sale of stock or other forms of securities, or otherwise, for the purpose of trading in any commodity for future delivery on or subject to the rules of any contract market, but does not include such persons not within the intent of this definition as the Commission may specify by rule or regulation or by order.

Section 4m(1) of the Act, 7 U.S.C. 6m(1) (1982), makes it unlawful for any person to engage in business as a CPO without being registered as such. Part 4 of the Commission's regulations, 17 CFR Part 4 (1983), as amended by 48 FR 35248 (August 3, 1983), governs the operations and activities of CPOs.[1] In particular, § 4.10(d) defines the term "pool" to mean "any investment trust, syndicate or similar form of enterprise operated for the purpose of trading commodity interests." [2] In adopting this definition, the Commission stated:

> Whether a particular entity is operated 'for the purpose' of trading commodity interests, and thus is a pool within the scope of § 4.10(d), depends on an evaluation of all the facts relevant to the entity's operation. The Commission recognizes that in the past its staff has issued interpretations of the Part 4 rules. Consistent with that practice, the Commission invites interested persons to seek such staff interpretation of § 4.10(d) . . . . 46 FR 26004, 26006 (May 8, 1981).

Pursuant to this invitation certain interested persons have sought and have received staff interpretations [3] that they would not be CPOs and that the entities they operated would not be pools within the scope of § 4.10(d).[4] The representations given in connection with the receipt of these "not a pool" letters typically stated that the entity in question (1) was subject to extensive Federal or State regulation; (2) would be using commodity interests for hedging purposes; (3) would commit only a small percentage of its assets—*e.g.*, 5%—to its commodity interest trading; (4) would not be promoted as a commodity pool; and (5) would disclose, as appropriate, the purpose of and limitations on its commodity interest trading.[5]

In connection with the adoption of the Futures Trading Act of 1982, Pub. L. No. 97–444, 96 Stat. 2294 *et seq.* (1983) (the "1982 Act"), the Senate Committee on Agriculture, Nutrition, and Forestry (the "Committee") considered an amendment to the CPO definition which would have exempted the persons specified therein from the CPO definition. As the Committee Report states:

> Chairman Helms then offered an amendment to clarify the definition of the term "commodity pool operator." In general, the amendment would exempt from the definition of "commodity pool operator" (1) any group of individuals less than five in number, (2) any person regulated under the Investment Company Act of 1940 or any insurance company or any trust department of a bank or trust company, each of which utilizes less than 10 percent of its pooled assets (as initial margins or options premiums) for futures trading and which was not established to conduct business as a commodity pool, (3) any benefit plan that is subject to the provisions of the Employee Retirement Income Security Act of 1974, and (4) any other person exempted by the Commission. . . . The Chairman indicated that adoption of the amendment would make it easier for commercial interests which pool funds for long-term investment in bonds and other long-term interest bearing vehicles to hedge the risk associated with fluctuation in interest rates. The Chairman further stated that, since virtually all the persons or entities to which the exception would apply are regulated by other Federal or State agencies, it is reasonable to take them out of this regulatory mechanism. S. Rep No. 384, 97th Cong., 2d Sess. 79–80 (1982).

In connection with the Committee's consideration of this amendment, the Commission made the Committee aware of the "not a pool" interpretations its staff previously had provided and of the representations upon which these interpretations had been based.[6]

After discussing whether the amendment may have been too broad and after noting the fact that the Commission intended to further review the issue of which entities should not be treated as commodity pools, the Committee declined to adopt the suggested amendment. Instead, the

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[1] Part 4 also governs the operations and activities of CTAs. For the purposes of this **Federal Register** release, references to a particular Part 4 regulation may be found in 17 CFR Part 4 (1983).

While the Act provides the Commission with general authority to regulate both CPOs and commodity pools, it provides the Commission with specific authority only to register CPOs. With respect to the registration of commmodity pools and of units of participation therein, Section 4m(2), 7 U.S.C. 6m(2) (1982), states:

> Nothing in this Act shall relieve any person of any obligation or duty, or affect the availability of any right or remedy available to the Securities and Exchange Commission or any private party arising under the Securities Act of 1933 or the Securities Exchange Act f 1934 governing the issuance, offer, purchase, or sale of securities of a commodity pool, or of persons engaged in transactions with respect to such securities, or reporting by a commodity pool.

[2] The term "commodity interest" is defined in § 4.10(a) to mean:

> (1)Any contract for the purchase or sale of a commodity for future delivery; and
>
> (2) Any contract, agreement or transaction subject to Commission regulation under section 4c or 19 of the Act.

[3] These interpretations have been issued by the Commission's Division of Trading and Markets, which is responsible for, among other things, administering and interpreting the Part 4 regulations.

[4] *See, e.g., IDS Bond Fund, Inc.* (available December 23, 1981); *Harris Trust and Savings Bank* (available November 13, 1981); *Montgomery Street Income Securities, Inc.* (available August 14, 1981).

[5] It should be noted that not all of the persons who requested such "not a pool" staff interpretations received them. Where one or more of these representations were absent, the Division of Trading and Markets has declined to issue such an interpretation. The Division has, however, afforded such persons certain relief from the Part 4 rules. The nature of this relief is discussed below in Part II of this **Federal Register** release.

[6] The Commission also advised the Committee that the staff had been proceeding very cautiously in issuing these interpretations in light of the recent expanded interest of institutional investors in commodity related pooled investment media.

Committee directed the Commission to issue regulations which would have the effect of exempting certain otherwise regulated persons from registration as a CPO. Specifically, the Committee Report states:

> The Committee believes, consistent with the amendment offered by Chairman Helms, that certain entities are not within the intent of the definition of the term "commodity pool operator", as that term is defined in the Act, unless these entities have other attributes or features which would warrant their regulation as a commodity pool operator. Specifically, an entity regulated under the Investment Company Act of 1940 or an insurance company or a bank or trust company acting in its fiduciary capacity and subject to regulation by any State or the United States could ordinarily be excluded from the definition of the term "commodity pool operator," provided that (1) the entity uses commodity futures contracts of options thereon solely for hedging purposes; (2) initial margin requirements or premiums for such futures or options contracts will never be in excess of 5 percent of the fair maket value of the entity's assets (in the case of an investment company) or of the assets of any trust, custodial account or other separate unit of investment for which the entity is acting as a fiduciary; (3) the entity has not been and will not be, marketing participations to the public as or in a commodity pool or otherwise as or in a vehicle for trading in the commodities markets; and (4) the entity will disclose to each prospective participant the purpose of and limitations on the scope of the commodity futures or commodity option trading it conducts for such participants.
>
> Also, a defined benefit plan that is subject to the provisions of the Employee Retirement Income Security Act of 1974 (ERISA) and is insured by the Pension Benefit Guaranty Corporation, or any fiduciary thereof, ordinarily could be excluded from the definition of the term "commodity pool operator", provided that its commodity futures (or options on futures) trading activity is solely incidental to the conduct of its business as such a plan or as a fiduciary thereof. The Committee understands that such a plan and its fiduciaries are subject to extensive regulation under ERISA. Therefore, while the Commission should retain discretion in this area, the Committee believes that, unless otherwise inappropriate, exemption by rule, regulation, or order from commodity pool operator registration and related requirements, other than antifraud provisions, should generally be granted to these classes of entities. *Id.* at 80.

To implement this directive, by this **Federal Register** release the Commission is proposing § 4.5 and certain related amendments to its regulations.

B. Proposed § 4.5

Prior to discussing the mechanics of the proposed rule, the Commission believes that a general discussion of the relationship between a CPO and its pool would be helpful to persons who would be affected by the proposal.

Under the Commission's regulatory framework, a CPO and its pool generally must be organized as separate entities. Specifically, Rule 4.20(a) provides that, subject to exception in the case of certain corporations, a CPO must operate its pool as an entity cognizable as a legal entity separate from that of the pool operator.[7] The rule leaves to the discretion of the CPO the form of organization of its pool, so long as that form is one which would be recognized as a separate entity by a court of competent jurisdiction—e.g., a general partnership, a limited partnership, a trust or other form of association. Among other things, Rule 4.20(a) is intended to afford pool participants the maximum amount of protection in the event of the CPO's insolvency, to prohibt a CPO from soliciting or accepting orders from members of the public for the purchase or sale of commodity futures contracts without being registered as a futures commission merchant ("FCM"),[8] and to clarify the responsibility of the CPO for the activities and investment policies of its pool.

Frequently, Commission staff is called upon by members of the public to offer guidance on determing who, in fact, would be the CPO of a particular pool. In providing such guidance, the staff typically looks at such factors as who will be acting in the manner contemplated by the statutory definition of the term "commodity pool operator"—*e.g.*, who will be promoting the pool by soliciting, accepting or receiving from others, property for the purpose of commodity interest trading—and who will have the authority to hire (and to fire) the pool's CTA and to select (and to change) the pool's FCM.

To be effective, then, any exemption under proposed § 4.5 must not only be applicable to a " person" who could be deemed to be a CPO but also to the pool such person intended to operate—*i.e.*, its "qualifying entity.,"Accordingly, paragraph (a) of the proposed rule pertains to the persons that would be eligible for exemption from CPO registration and from Subpart B and paragraph (b) specifies the corresponding qualifying entity for which such exemption would be available. The Commission has strictly followed the language of the Committee Report in specifying the persons and the qualifying entities eligible for the exemption. Since who the pool operator of a given entity would be might extend to operating officials, principals or employees, to clarify the scope of the exemption, paragraph (a) includes not only the person itself (*e.g.*, a bank or trust company) but also "any principal or employee thereof."[9] For similar reasons, paragraph (b) provides that a qualifying entity must be operated in a specified manner, which essentially is the manner specified in the Committee Report, discussed below.

To qualify for the exemption, a person would file a notice of eligibility with the Commission, as provided for in paragraph (c). The Commission is not now proposing that this notice be supported by any specific documentation. The Commission is, however, requesting comment on whether such documentation would be appropriate and, if so, what would be approrpiate.[10] (In this connection, the

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[7] 4.20(a) provides:

(a)(1) Except as provided in paragraph (a)(2) of this section, a commodity pool operator must operate its pool as an entity cognizable as a legal entity separate from that of the pool operator.

(a)(2) The Commission may exempt a corporation from the requirements of paragraph (a)(1) if:

(i) The corporation represents in writing to the Commission that each participant in its pool will be issued stock or other evidences of ownership in the corporation for all funds, securities or other property that the participant contributes for the purchase of an ownership interest in the pool;

(ii) The corporation demonstrates to the satisfaction of the Commission that it has established procedures adequate to assure compliance with paragraphs (b) and (c) of this section; and

(iii) The Commission finds that the exemption is not contrary to the public interest and the purposes of the provision from which the exemption is sought.

Pargarphs (b) and (c) of Rule 4.20 provide:

(b) All funds, securities or other property received by a commodity pool operator from an existing or prospective pool participant for the purchase of an interest or as an assessment (whether voluntary or involuntary) on an interest in a pool that it operates or that it intends to operate must be received in the pool's name.

(c) No commodity pool operator may commingle the property of any pool that it operates or that it intends to operate with the property of any other person.

[8] Section 2(a)(1)(A) of the Act defines the term "futures commission merchant" to mean:

[Any person] engaged in soliciting or in accepting orders for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market and that, in or in connection with such solicitation or acceptance of orders, accepts any money, securities, or property (or extends credit in lieu thereof) to margin, guarantee, or secure any trades or contracts that result or may result therefrom.

Section 4d(1) of the Acxt, U.S.C. 6d(1) (1982), makes it unlawful for any person to engage in business as a FCM without being reqisteredc as such.

The other prohibited activities specified in paragraphs (b) and (c) of Rule 4.20 similarly are intended to insure that a CPO does not improperly commingle, convert or otherwise mishandle the property of its pool. *See* 45 FR 51600, 51604 (August 4, 1980) and 46 FR 34310, 34311 (July 1, 1981).

[9] *See* § 4.20(a)(2), *Supra* n. 7, which allows for an entity to also be its CPO in certain cases.

[10] For example, documentation that an entity is a registered investment company—and therefore is a

Continued

Commission requests that the comments addressed to this issue, and to all other issues raised by proposed § 4.5, specifically identify the person and qualifying entity to which such comments are addressed.[11])

Under the proposal, the notice of eligibility would be required to contain the names of the person and the qualifying entity and the applicable provisions under paragraphs (a) and (b) pursuant to which they are eligible for exemption. The Commission is aware that an entity registered as an investment company under the Investment Company Act of 1940 (the "ICA"), which is one of the specified qualifying entities, may be accorded certain exemptions under the Federal securities laws concerning disclosure and financial reporting to participants and other matters.[12] The Commission is concerned that the nature and extent of such exemptions could be such that the investment company should not be treated as "an otherwise regulated entity" for purposes of proposed § 4.5.[13] Therefore, where the qualifying entity is a registered investment company, the notice of eligibility also would contain information on any such exemptions to which the company was subject or, if it was not so subject, a statement to that effect. The Commission is not aware that any of the other qualifying entities specified in the proposal may be accorded exemptions concerning disclosure and financial reporting to participants or other exemptions from their respective regulatory schemes sufficient to warrant reconsideration of the applicability of proposed § 4.5 to them and, therefore, the Commission has not proposed that the notice contain similar information with respect to any other qualifying entities. However, the Commission requests comments on this issue.

The notice of eligibility also would be required to contain certain representations oncerning the standards by which the qualifying entity would be operated. As discussed more fully below, these standards—which are criteria for the exemption—generally would require the entity: (1) To trade commodity interests solely for hedging purposes; (2) to commit no more than 5% of its assets as margin or premiums for its commodity interest trading; (3) to not market itself as a commodity pool; (4) to disclose to its participants the purpose of and limitations on its, commodity interest trading; and (5) to submit to special calls for information by the Commission. With the exception of the representation concerning special calls, which is intended to permit the Commission to monitor the continued applicability of the exemption by verifying compliance with the terms and conditions of the exemption, these standards of operation are taken from the Committee Report. It should be noted that although this proposal has not itself gone beyond the specific langauge of the Committee Report to further define the meaning and scope of these criteria, the Commission specifically is requesting comments on the actual content of these representations which address specifically the differences in the other regulatory frameworks to which the qualifying entities set forth in the proposal are subject. The Commission expects that the final rules on these representations will more fully describe the parameters of such operating conditions. Moreover, the Commission expects to interpret the express criteria of the rule in accord with the specific standards contained in the staff interpretations of § 4.10(d) which have been issued to date. Absent comment which suggests further interpretation or modification of the rule itself, the Commission expects to continue to follow such interpretations and to consider requests for further delineation of the criteria based on specific fact situations.

The first representation concerning the standards by which a qualifying entity would be operated is that the entity must "use commodity futures or options contracts solely for bona fide hedging purposes." In this regard, the Commission believes that the definition of the term "bona fide hedging transactions and positions" contained in § 1.3(z)(1), 17 CFR 1.3(z)(1) (1983), should be controlling.[14] Among other things, this means that in using commodity futures and options contracts the qualifying entity must take into account the correlation in the fluctuations in the value of its futures or options positions relative to the value of its actual or anticipated cash positions. This also means that such futures or options positions must be entered into with the intent required by § 1.3(z)(1).

In this connection, Commission staff has found that certain "anticipatory" or "long hedge" strategies do not, in fact, come within the scope of § 1.3(a)(1). With respect to futures contracts, a traditional anticipatory hedge is a transaction in which a futures contract is purchased to protect against an increase in the price of the commodity subject to the futures contract where there is a fixed commitment to purchase the underlying commodity at a later date. With respect to options, a so-called anticipatory hedge typically would involve the purchase of a call option to protect against an increase in the price of the commodity subject to the option where there is a fixed commitment to purchase such commodity. Where there is an anticipatory transaction but no fixed commitment to make a transaction at a later time in a physical marketing channel, the Commission is concerned that distinguishing between what is the anticipatory reduction of risk and speculation may be exceedingly difficult. This is particularly true in the case of pooled investment media where there is no independent business need generated by the commercial activities of the entity (other than the need to increase investment return) for using the

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qualifying entity—might include the most recent prospectus for the investment company.

[11] This request refers to generic identities—*e.g.*, a bank subject to Federal regulation and the assets of any trust for which it is acting as a fiduciary—and not to actual identities—*e.g.*, XYZ Bank, N.A. and the XYZ Bank, N.A. Collective Trust.

[12] For example, Section 6(c) of the ICA, 15 U.S.C. 80a-6(c) (1982), provides:

The Commission by rules and regulations upon its own motion, or by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of this [Act] or of any rule or regulation thereunder, if an to the extent that such exemption is necessary or appropriate in the public intrerest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of this [Act].

[13] As stated above, the Committee Report excludes from its scope otherwise qualifying entities having "attributes or features" which warrant their regulation by the Commission.

[14] Section 1.3(z)(1) states:

Bona fide hedging transactions and positions shall mean transactions or positions in a contract for future delivery on any contract market, where such transactions or positions normally represent a substitute for transactions to be made or positions to be taken at a later time in a physical marketing channel, and where they are economically appropriate to the reduction of risks in the conduct and management of a commercial enterprise, and where they arise from:

(i) The potential change in the value of assets which a person owns, produces, manufactures, processes, or merchandises or anticipates owning, producing, manufacturing, processing, or merchandising,

(ii) The potential change in the value of liabilities which a person owes or anticipates incurring, or

(iii) The potential change in the value of services which a person provides, purchases or anticipates providing or purchasing.

Notwithstanding the foregoing, no transactions or positions shall be classified as bona fide hedging for purposes of section 4a of the Act unless their purpose is to offset price risks incidental to commercial cash or spot operations and such positions are established and liquidated in an orderly manner in accordance with sound commercial practices and unless the provisions of paragraphs (z) (2) and (3) of this section and §§ 1.47 and 1.48 of the regulations have been satisfied.

commodity markets to anticipate future commitments.

Nonetheless, the Commission believes that there may be situations where it would not be economically appropriate for such an entity to complete an anticipatory hedge.[15] In this connection, the staff has employed an intent test to determine whether an anticipatory hedge which is not in fact followed by the purchase of the commodity—*i.e.*, "completed"—is outside the scope of § 1.3(z)(1). Accordingly, Commission staff previously has required that to receive a "not a pool" interpretation an entity must represent that it "will use commodity futures or options contracts solely for bona fide hedging purposes" and, further, that: (1) All transactions will be entered into with the intent required by § 1.3(z)(1); and (2) a substantial majority—*i.e.*, 75%—of all anticipatory hedge transactions entered into each year will be completed.[16] The Commission proposes to continue to so interpret the hedging criteria for purposes of the exemption in § 4.5 but specially requests comments on whether additional or different standards should be set forth.

Second, the qualifying entity must "not enter into commitments which require as deposits for initial margin for [its] futures or options contracts more than 5 percent of the fair market value of its assets." The reason for this criterion is that the exemption is not intended to be for pooled media primarily dealing in commodity interest trading but for qualifying entities that use commodity interests as risk reduction transactions as an adjunct to their other stated investment activities.

Third, the qualifying entity must be operated in a manner so that it "will not be, and has not been, marketing participations to the public as or in a commodity pool or otherwise as or in a vehicle for trading in the commodity futures or commodity options markets." For purposes of this representation, the Commission proposes to interpret the term "marketing" to include oral, written and electronic promotional materials.[17]

The Commission further proposes that an entity would be "marketing participations" in a manner inconsistent with the required representation if it was actively promoted as a hybrid—*e.g.*, a securities *and* a commodities—trading vehicle or as an investment vehicle in which commodity futures and options trading was particularly significant and critical to the growth of its assets, as opposed to being incidental to protecting those assets against a decline in value. The Commission is aware, however, that the other regulatory agencies to which the qualifying entity is subject may prescribe the form and content of the entity's marketing materials.[18] The Commission therefore is requesting comment on whether "marketing" should be further interpreted in light of the prescriptions of such other regulatory agencies.[19]

Fourth, the qualifying entity must disclose in writing to each prospective participant the purpose of and limitations on its commodity futures and options trading. Again, in view of the differences in the other regulatory frameworks to which the entity may be subject and, in particular, any differences in applicable disclosure requirements, the Commission requests comment on whether further specificity as to how this criterion would best be met is needed.

Fifth, and finally, the qualifying entity must "submit to such special calls as the Commission shall make of it to demonstrate compliance with the requirements for exemption" specified in § 4.5.[20] The Commission believes that it must be able to readily obtain such information as may be necessary to verify compliance with the terms and conditions of the exemption and would expect to make very limited use of this special call provision. Inasmuch as proposed § 4.5 would provide for exemption from the recordkeeping requirements of § 4.23, this provision would enable the Commission upon complaint to establish whether an entity operating under the exemption was in continued compliance with the exemption criteria. It may also help the Commission to further refine the hedging or other criteria required by the exemption or to expand such criteria by rendering data on commodity interest activity by such entities generally accessible.

The Committee Report contemplated that any rule proposed by the Commission in response thereto would not require prior approval on a case-by-case basis to apply. The Commission therefore has proposed that the notice of eligibility under § 4.5 would be effective upon filing.[21] To continue the effectiveness of the exemption, the Commission has proposed in paragraph (d) that a supplemental notice be filed to render the information contained in the notice of eligibility accurate and complete. For example, a supplemental notice would be required to be filed in the event of a change in the name of the person as to whom the exemption was effective or the qualifying entity for which it was effective. Similarly, a supplemental notice would be required to be filed in the event the person as to whom the exemption was effective or the entity for which it was effective had ceased to come within the scope of paragraph (a) or (b), respectively—*e.g.*, such entity had ceased to be registered as an investment company under the ICA or had ceased doing business as such. In the cases presented in this latter example, however, and as discussed below, the exemption would cease to be effective. The supplemental notice would be due fifteen business days after the occurrence of such event. This proposed requirement recognizes the continued importance of the Commission knowing who is operating under the exemption and, accordingly, compliance therewith would be essential to continue the effectiveness of the exemption.

As the representations given in connection with the receipt of the previously issued "not a pool" staff interpretative letters closely parallel the representations which would be required in connection with qualifying for the exemption contained in proposed § 4.5, the Commission does not believe that it should be necessary for the recipients of such interpretative letters to, in effect, "re-submit" an application for exemption—*i.e.*, to file an initial notice of eligibility—in the event the proposal is adopted. However, to insure that these persons (and entities) would

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[15] For example, if due to drastically changed market conditions since the purchase of a long futures contracts, the cash market for the commodity subject to the contract has declined *and a further decline appears likely*, the purchase of the commodity at the time of offset of the contract may not be prudent.

[16] *See Pension Hedge Fund Inc.*, Comm. Fut. L. Rep. (CCH) ¶21,908 (available November 3, 1983); *SteinRoe Bond Fund, Inc.*, Comm. Fut. L. Rep. (CCH) ¶21,906 (available October 21, 1983); *Prudential-Bache Option Growth Fund, Inc.*, Comm. Fut. L. Rep. (CCH) ¶21,905 (available September 13, 1983). *See also Piedmont Income Fund, Inc.*, Comm. Fut. L. Rep. (CCH) ¶21,910 (available November 21, 1983).

[17] This is consistent with the revised definition of the term "commodity trading advisor" in Section 2(a)(1)(A) of the Act and with the staff's "not a pool" interpretative letters. *See* Section 201(2) of the 1982 Act, 96 Stat. 2297–98 and *supra* n. 16, respectively.

[18] *See, e.g.*, Section 8(b)(5) of the ICA, 15 U.S.C. 80a–8(b)(5) (1982).

[19] *CF.* Division of Trading and Markets Staff Intepretative Letter, Comm. Fut. L. Rep. (CCH) ¶21,788 (available March 18, 1983).

[20] The Commission is proposing in § 140.93(a)(5) to delegate to the Director of the Division of Trading and Markets the authority to make such special calls. This would be consistent with other delegations of authority under Part 4 that the Commission has made. *See* §§ 140.93(a) (1)–(4), 17 CFR 140.93(a) (1)–(4) (1983).

[21] Under proposed § 4.5(c)(3), the notice of eligibility would be required to be filed with the Commission "*prior* to the date upon which such person intends to operate the qualifying entity" (emphasis added).

be in compliance with the requirements of the proposed rule, the Commission intends to take the position that such persons must file supplemental notices in the event that any of the representations they previously had made to the Commission changed or that, to the extent that the proposal would require any additional representations, they were not in compliance with them. This position would ensure equal treatment of all persons claiming exemption under the rule.

Under paragraph (e), an exemption effective under the rule would immediately cease to be effective upon the ineligibility of the person as to whom the exemption was effective or the entity for which it was effective for inclusion in paragraph (a) or (b), respectively, or upon the failure of the entity to be operated in the manner specified in paragraph (c)(2). The Commission emphasizes that failure to provide a supplemental notice of this information under paragraph (d) would not affect the fact that the exemption had ceased. (conversely, the providing of this information in a supplemental notice would not affect the fact that the exemption had ceased.) Under paragraph (e), the Commission also could terminate an exemption if it determined that: (1), The notice of eligibility was inaccurate or incomplete; (2) a person or qualifying entity thereof possesses other attributes or features which warrant CPO registration—*e.g.*, in the event of substantial de-regulation of the person or qualifying entity; or (3) the continuance of the exemption would be contrary to the public interest. This termination authority was contemplated by the Committee Report, which states that "the Commission should retain discretion in this area." It should be noted, however, that the Commission has not proposed to delegate its authority to terminate an exemption to the staff.

The final paragraph of the proposed rule, paragraph (f), specifies the requirements for each notice required to be filed under the proposal—*i.e.*, it must be in writing, signed by a duly authorized representative, and filed at the address stated in § 4.2.

C. The Effects of Proposed § 4.5

The proposed rule would provide relief for the otherwise regulated persons specified therein in two ways. First, it would exempt them from registration as a CPO with the Commission. Therefore, unlike registered CPOs, these persons would not be required to file registration applications and fingerprint cards with the Commission nor would they be subject to any registration fees. *See generally* Part 3 of the Commission's regulations, 17 CFR Part 3 (1983), as amended by 48 FR 35248. In furtherance of this relief from registration, the Commission is proposing to amend § 3.16(a)(4) to provide that an associated person of a person exempt from CPO registration and from Subpart B under § 4.5 would, likewise, be exempt from registration with the Commission.[22]

Second, the proposed rule would provide relief from *all* of the provisions of Subpart B of Part 4. This means relief from the disclosure, reporting and recordkeeping requirements under §§ 4.21, 4.22 and 4.23, respectively, for each CPO who is "registered or required to be registered." This also means relief from the prohibited activities specified in § 4.20, discussed above, for each person that comes within the CPO definition and which apply regardless of whether that person is registered or required to be registered as a CPO.[23] As noted, the purpose of § 4.20 is to insure that pool participants' funds will not be improperly commingled, converted or otherwise mishandled by their pool's CPO. The Commission believes that the other regulatory frameworks to which the persons and qualifying entities specified in proposed § 4.5 are subject generally address the purposes of the prohibitions contained in § 4.20.[24] Therefore, the Commission believes that such relief is appropriate.[25] The Commission nonetheless requests comments on this matter.

Pursuant to the directive of the Committee Report, the Commission also is proposing to amend § 4.15. This proposal would exclude from the reparations provisions of setion 14 of the Act, 7 U.S.C. 18 (1982), any person exempt from registration as a CPO under Part 4—*e.g.*, under § 4.5.[26] Although such person would continue to be subject to the anti-fraud provisions of section 4*o* of the Act, 7 U.S.C. 6*o* (1982), the Commission is declining at this time to exercise its authority to subject such person to the reparations provisions of section 14. Moreover, with respect to the persons specified in proposed § 4.5, this exclusion would be consistent with the Committee Report language that "exemption . . . other than [from] antifraud provisions . . . should generally be granted." In contrast, and for this same reason, the Commission has not proposed to amend § 4.41, which prescribes certain advertising standards for all CPOs, to exclude therefrom any person who would be exempt from CPO registration under § 4.5.[27] Therefore, § 4.41 would continue to apply to each person who comes within the CPO definition, whether or not such person is required to register as a CPO with the Commission.

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[22] Section 1.3(aa), 48 FR 35248, 35279, defines the term "associated person" to mean in pertinent part: [A]ny natural person who (as provided in Section 4k of the Act) is associated in any of the following capacities with:

* * * * *

(3) A commodity pool operator as a partner, officer, employee, consultant, or agent (or any natural person occupying a similar status or performing similar functions), in any capacity which involves (i) the solicitation of funds, securities, or property for a participation in a commodity pool or (ii) the supervision of any person or persons so engaged * * *.

[23] The Commission notes that by this **Federal Register** release it is proposing to amend § 4.20 to prohibit certain additional activities. This proposal is discussed later at Part II of this release.

[24] *See, e.g.*, Section 17(f) of the ICA, 15 U.S.C. 8a–17(f) (1982).

[25] In this connection, it should be noted that if a person (or qualifying entity) was operating in a manner inconsistent with the purpose of § 4.20, under proposed § 4.5(e) the Commission would have the authority to terminate the person's exemption.

[26] This proposal also would apply to persons exempt from registration as a CPO under § 4.13, which currently is the only section of Part 4 which provides for such an exemption and to persons exempt from registration as a CTA under § 4.14.

[27] Section 4.41 provides:

(a) No commodity pool operator, commodity trading advisor, or any principal thereof, may advertise in a manner which:

(1) Employs any device, scheme or artifice to defraud any participant or client or prospective participant or client; or

(2) Involves any transaction, practice or course of business which operates as a fraud or deceit upon any participant or client or any prospective participant or client.

(b)(1) No person may present the performance of any simulated or hypothetical commodity interest account, transaction in a commodity interest or series of transactions in a commodity interest of a commodity pool operator, commodity trading advisor, or any principal thereof, unless such performance is accompanied by the following statement: "Hypothetical or simulated performance results have certain inherent limitations. Unlike an actual performance record, simulated results do not represent actual trading. Also, since the trades have not actually been executed, the results may have under-or-over compensated for the impact, if any, of certain market factors, such as lack of liquidity. Simulated trading programs in general are also subject to the fact that they are designed with the benefit of hindsight. No representation is being made that any account will or is likely to achieve profits or losses similar to those shown."

(2) If the presentation of such simulated or hypothetical performance is other than oral, the prescribed statement must be prominently disclosed.

(c) The provisions of this section shall apply:

(1) To any publication, distribution or broadcast of any report, letter, circular, memorandum, publication, writing, advertisement or other literature or advice, including the texts of standardized oral presentations and of radio, television, seminar or similar mass media presentations, and

(2) Regardless of whether the commodity pool operator or commodity trading advisor is exempt from registration under the Act.

II. Other Proposals

A. Introduction

The Part 4 regulations were issued by the Commission on January 2, 1979 and they became effective April 1, 1979. *See* 44 FR 1918. Based upon the significant growth in CPO and CTA activity and the Commission's experience in monitoring the implementation of and compliance with these original regulations, revisions to the Part 4 regulations were issued on May 8, 1981, and they essentially became effective on August 24, 1981. *See* 46 FR 26004; 46 FR 34799 (July 6, 1981). Based upon the continuing growth of CPO and CTA activity and experience with these revisions, the Commission today is proposing further amendments to the Part 4 regulations.

B. Proposed Amendments to Existing Regulations

Section 4.13: Exemption from registration as a CPO. Section 4.13 exempts the operators of family, club and small pools from registration as a CPO.[28] Under paragraph (b)(1) of this rule, a persons who qualifies for and operates pursuant to such exemptions must deliver a prescribed statement to each prospective participant in its pools. This statement essentially advises the prospective participant that the CPO is not registered as such with the Commission and therefore that the CPO is not required to comply with the disclosure and reporting requirements applicable to registered CPOs under §§ 4.21 and 4.22, respectively. The statement must also describe the exemption pursuant to which the CPO is not registered.

Currently, § 4.13(b)(1) does not require that this prescribed statement be filed with the Commission. Because it is critical to the Commission's oversight of the operations and activities of CPOs to know the identities of *all* persons who are acting as a CPO, the Commission is proposing to amend § 4.13(b)(1) to require that the statement specified therein be filed with the Commission.[29] It should be noted that this proposal is in no way intended to affect who is eligible for exemption from registration as a CPO under § 4.13 or to delay the effectiveness of any such exemption.[30]

Section 4.20: Prohibited activities for CPOs. The Commission believes that a CPO has a fiduciary duty to its pool participants to use the assets of its pool for a program of commodity interest trading which can result in gain—that is, to use assets for purposes for which they were contributed.[31] The Commission further believes that the current regulatory framework for CPOs under Part 4 may not contain adequate provisions to ensure tha this fiduciary duty is fulfilled. Specifically, the Commission is concerned that, absent any prohibition, a CPO may not commit sufficient assets of its pool to commodity interest trading but, instead, may keep those assets our of the commodity interest markets to permit the § 4.21 to receive the income generated therefrom.[32] This would not be permitted if properly disclosed under § 4.21(a)(9).

Accordingly, the Commission is proposing in § 4.20(d) to prohibit a CPO from receiving income generated by its pool's assets other than for the sole purpose of offsetting the actual organizational and offering expenses of the pool which have been incurred by the CPO. The term "organizational and offering expenses" would be defined in § 4.20(d)(2)(ii) to include legal and accounting fees, printing expenses, escrow charges, and filing, registration and recording fees. The Commission specifically requests comment on this proposed definition.

C. Notice of Further Rulemaking

In addition, the Commission also is considering the adoption of certain other amendments to Part 4 of its regulations. Set forth below is a narrative discussion of these other amendments that the Commission is considering as well as a discussion of certain issues related thereto on which the Commission seeks comment. The Commission has not yet formulated specific language to implement these proposals and, accordingly, no such language is reflected in the text of the proposals reprinted at the end of the notice.

Exemptions for other CPOs. As noted, the Commission has strictly followed the Senate Report in specifying the persons and qualifying entities who would be eligible for exemption under proposed § 4.5. The Commission does, however, request comments on which other persons and entities, if any, are subject to such pervasive Federal or State regulation so as to make the availability of the proposed exemption appropriate as to them. Of course, such other persons and entities would still be required to meet the criteria specified in § 4.5 to be eligible for the exemption.

The Commission wishes to make clear that it does not believe that the mere liability of a person or entity to its participants under such other Federal or State regulation would be sufficient to make the proposed exemption appropriate.[33] Rather, such person or

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[28] *See* 44 FR 1918, 1919. Specifically, § 4.13(a) provides in pertinent part:

A person is not required to register under the Act as a commodity pool operator if:

(1)(i) It does not receive any compensation or other payment, directly or indirectly, for operating the pool, except reimbursement for the ordinary administraative expenses of operating the pool;

(ii) It operates only one commodity pool at any time;

(iii) It is not otherwise required to register with the Commission and is not a business affiliate of any person requifred to register with the Commission; and

(iv) Neither the person nor any other person involved with the pool does any advertising in connection with the pool (for purposes of this section, advertising includes the systematic solicitation of prospective participants by telephone or seminar presentation); or

(2)(i) The total gross capital contributions it receives for units of participation in all of the pools that it operates of that it intends to operate do not in the aggregate exceed $200,000; and

(ii) None of the pools operated by it has more than 15 participants at any time.

[29] This proposal would parallel proposed § 4.5(c), discussed above.

[30] Section 4.14 exempts certain persons from registration as a CTA. That rule does not, however, require the delivery of any prescribed statement such as that specified in § 4.13(b)(1) for CPOs.

[31] For example, if a CPO were to place but a minimal amount of is pool's assets at risk in the commodity interest markets, the CPO might be in breach of its fiduciary duty to afford its pool participants the opportunity of achieving their objective of profiting from their participation in the pool. *See also Stewart* v. *Decade Management Co.*, Com. Fut. L. Rep. (CCH) ¶ 20,864 (Initial Decision Aug. 29, 1978), wherein it was stated the a CPO assumes a fiduciary obligation to its pool participants by accepting the participants' funds and receiving the power of attorney to trade those funds.

In making this statement, however, the Commission is not unmindful of the fact that for prudent business pruposes, a CPO typically does not commit all the assets of its pool for initial margin and premiums on futures and options contracts but maintains a reserve of pool assets for the payment of such items as additional margin and legal and accounting fees. This statement, then, is in now way intended to impair the ability of a CPO to maintain a reserve of pool reserve of pool assets for such purposes or other purposes related to the prudent management of pool assets or to affect the propriety of such activity. Rather, this proposal is intended to remove any incentive for personal gain on the part of the CPO related to the form of investment of the pool's assets.

[32] Thus, if only small portion of the assets it collected from its pool participants were placed into the commodity interest markets, the CPO, although deriving income from such assets in its own behalf, would virtually assure that the participants would not profit from their investments in the pool. This is because in order for a pool participant to profit from his investment, a sufficient percentage of the pool's assets must be deposited as initial margin. Otherwise, the pool would have to generate a virtually unattainable rate of return.

[33] Compare, for example, the regulatory requirements applicable to a company that is registered as an investment company unde the ICA ans whose securities have been registered under the Securities Act of 1933 with those applicable to a company that has sold its securities in reliance upon the availablility of an exemption from such registration in Regulation D issued under such Act. 17 CFR 230.501–230–506 (1983).

entity must be subject to ongoing regulation of its activities with respect to its participants in a manner generally equivalent to the regulation of a CPO's activities as provided for under the Part 4 regulations. [34]

In this connection, the Commission is aware that in the course of administering Part 4, its staff has issued certain exemptions from the disclosure requirements of Rule 4.21 and the reporting requirements of Rule 4.22 to persons and entities who would not be eligible for exemption under proposed § 4.5. [35] These exemptions were conditioned upon effectiveness of such persons' registration as a CPO and were based upon, among other things, representations that: (1) The entity was organized and would be operated for a purpose other than commodity interest trading; (2) the entity was restricted by its enabling documents [36] to committing a small percentage of its net assets—*e.g.*, 10%—as initial margin and option premium deposits; (3) the entity had not been, and would not be, marketed as a commodity pool; (4) the entity would disclose the purpose of and limitations on its commodity interest trading to its participants; and (5) the entity was required by its enabling documents to furnish certified financial statements to its participants on an annual basis. [37] Upon such representations, the staff has exempted these persons from the specific requirements of Rules 4.21 and 4.22 and has accepted in lieu thereof the disclosure and reporting documents that they intended to provide to their participants under the regulations which address the primary purpose of the entity's operation. [38] The staff required such persons, however, to remain subject to the recordkeeping requirements of § 4.23.

The Commission is considering adopting a rule that would codify both the relief accorded under these exemptions and the representations upon which such relief was based. The Commission requests comments on this proposal and, in particular, on the representations that would be required to be made thereunder.

Exemption from registration as a CTA for certain persons registered as an IA. In connection with the recent amendments to the Act, the CTA definition was amended to, among other things, exclude additional persons therefrom. Specifically, Section 2(a)(1)(A) of the Act now defines the term "commodity trading advisor" to mean:

> [A]ny person who, for compensation or profit, engages in the business of advising others, either directly or through publications, writings or electronic media, as to the value of or the advisability of trading in any contract of sale of a commodity for future delivery made or to be made on or subject to the rules of a contract market, any commodity option authorized under section 4c, or any leverage transaction authorized under section 19, or who, for compensation or profit, and as part of a regular business, issues or promulgatets analyses or reports concerning any of the foregoing; but such term does not include (i) any bank or trust company *or any person acting as an employee thereof*, (ii) any news reporter, news columnist, or news editor of the print or electronic media, or any lawyer, accountant, or teacher, (iii) any floor broker or futures commission merchant, (iv) the publisher or producer or any print or electronic data of general and regular dissemination, including its employees, (v) *the fiduciary of any defined benefit plan which is subject to the provisions of the Employee Retirement Income Security Act of 1974*, (vi) any contract market, and (vii) such other persons not within the intent of this definition as the Commission may specify by rule, regulation, or order; Provided, that the furnishing of such services by the foregoing persons is solely incidental to the conduct of their business or profession* * *. (Emphasis added.)

As a result of this amendment, it appears that many of the persons who would be providing advice on commodity interest trading to persons and entities who have qualified for exemption under proposed § 4.5 would, themselves, be excluded from the CTA defintion—*i.e.*, banks, trust companies and employees thereof, and the named fiduciary of any defined benefit plan subject to ERISA or any fiduciary whose sole business is to advise that plan. [39]

Section 2(a)(1)(A) was not amended to exclude from the CTA definition a person registered as an IA under the IAA. [40] The Commission is aware that there may be situations in which a person registered as an IA would desire to provide advice on both securities and commodity interest trading to persons and entities who have qualified for exemption under proposed § 4.5. Since Section 2(a)(1)(A) does not exclude a person registered as an IA from the CTA definition, absent an exemption such person would be required to register as a CTA with the Commission. [41]

Section 4m(1) of the Act provides in general for registeration as a CTA. Section 4m(1) does, however, exempt from registration as CTA certain persons who come within the statutory definition, by providing in pertinent part:

> [T]he provisions of this section shall not apply to any commodity trading advisor who, during the course of the preceding twelve months, has not furnished commodity trading advice to more than fifteen persons *and* who does not hold himself out generally to the public as a commodity trading advisor. (Emphasis added.)

In furtherance of the purpose of the Committee Report, but in light of the limits of Section 4m(1), the Commission is considering adopting a rule that would exempt from registration as a CTA a person who is registered as an IA and who was formed for the sole purpose of and whose sole business is to provide investment advice to a person and an entity who have qualified for exemption under proposed § 4.5. The Commission wishes to emphasize that this rule would not apply to a registered IA who advised two or more persons and entities who had qualified under proposed § 4.5—because that IA would be "[holding] himself out generally to the public as a commodity trading advisor." Moreover, a person exempted

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[34] As noted above, among other things Part 4 provides for disclosure, reporting and recordkeeping requirements for CPOs.

[35] These exemptions have been issued pursuant to Rule 140.93(a)(1), which delegates to the Director of the Division of Trading and Markets the authority to issue exemptions from the Part 4 regulations.

[36] Typically, such documents have been limited partnership agreements.

[37] *See, e.g.*, Division of Trading and Markets Staff Interpretative Letters available May 24, 1983 and January 28, 1983.

[38] Typically, these documents have included, with respect to Rule 4.21, confidential offering memoranda prepared in accordance with Regulation D and, with respect to Rule 4.22, a certified annual report containing Statement of Financial Condition, Income (Loss), Changes in Financial Position and Changes in Ownership Equity.

[39] *See* the definition of the term "commodity trading advisor" contained in § 1.3(bb), 48 FR 35248, 35279.

[40] Section 202(a)(11) of the IAA, 15 U.S.C. 80b-2(a)(11) (1982), defines the term "investment adviser" to mean:

> [A]ny person who, for compensation, engages in the business of advising others, either directly or through publications or writing, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as part of a regular business, issues or promulgates analyses or reports concerning securities; but does not include [certain specified persons].

Section 203(a), 15 U.S.C. 80b-3(a) (1982), generally makes it unlawful for a person to engage in business as an IA without being registered as such.

[41] In this connection, the Commission notes that the staff of the Division of Investment management of the Securities and Exchange Commission has stated that it would not recommend that that Commission take any enforcement action under:

> the Investment Advisers Act, if, without registering under such Act, [certain commodity pools'] trading advisers provide the [pools] with advice concerning approved futures and CFTC options, provided that such advisers are not otherwise investment advisers as defined in the Investment Advisers Act who are required to register under the Investment Advisers Act. Peavey Commodity Futures Fundings I, II and III, Fed. Sec. L. Rep. (CCH) ¶ 77,511 at 78,652 (available June 2, 1983).

from registration as a CTA under this rule would continued to be subject to the anti-fraud provisions of Section 4*o* of the Act and to the advertising standards for CTAs specified in Rule 4.41, discussed above.[42]

Prohibited activities of CPOs. As stated above, the Commission believes that a CPO has a fiduciary duty to its pool participants to use the assets of its pool for a program of commodity interest trading which can result in gain. In this connection, the Commission further believes that a CPO has a fiduciary duty to its pool participants to serve as the pool's CPO until either another CPO assumes responsibility for operating the pool or until the pool's assets are liquidated.

The current Part 4 rules, however, contain no specific provisions to ensure that this fiduciary duty is fulfilled. Accordingly, the Commission also is considering the adoption of an additional provision in § 4.20 that would prohibit a CPO from abandoning its pool. The Commission requests comments on this proposal.

Presentation of actual past performance of CPOs, CTAs, and their principals. Sections 4.21(a) and 4.31(a) respectively require each CPO who must register under the Act and certain CTAs who must register[43] to furnish a Disclosure Document to prospective customers. In particular, §§ 4.21 (a)(4) and (a)(5) and § 4.31(a)(3) require the Disclosure Document to contain information on the actual past performance of CPOs, CTAs, and their principals in a specified format.

As originally adopted, this format included an annual rate of return (compounded annually) and a table of periodic net asset values. 44 FR 1918, 1925–1926 and 1928. The Commission adopted this format to require that past performance be presented in an understandable and meaningful manner to prospective customers and in a uniform format that would enable members of the public to compare the performance of different commodity interest accounts and to compare those accounts with other financial investments. *See* 44 FR 1918, 1921. Experience with this format indicated that it was not, however, completely fulfilling its purposes. Therefore, the Commission determined to revise the format by adopting "a less complex approach to the presentation of past performance, which may sacrifice comparability but which is more readily understood." 45 FR 51600, 51602.

This revised format, which currently is in effect, requires that actual past performance must be displayed in a table showing at least quarterly the following information: (A) Beginning net asset value; (B) all additions; (C) all withdrawals and redemptions; (D) net performance; (E) ending net asset value; and (F) the rate of return, calculated by dividing net performance by beginning net asset value. Specifically, this format is required by §§ 4.21 (a)(4)(ii) and (a)(5)(ii) for CPOs and by § 4.31(a)(3)(ii) for CTAs.[44] Based upon its experience with this current format for the presentation of actual past performance the Commission believes that certain further revisions may be appropriate and seeks comments thereon as discussed below.

The Commission's experience with the current format indicates that the format does not specifically take into account when additions or withdrawals occurred during a particular performance period in arriving at the net performance for such period.[45] This is because the format assumes that any such additions or withdrawals occurred at the end of the performance period. Therefore, when there have been net additions—*i.e.*, more additions than withdrawals—during the period, the specified format may produce a higher percentage of gain than that which would be produced under a format that takes the timing of such additions into account. Conversely, when there have been net withdrawals—*i.e.*, more withdrawals than additions—during the period, the specified format may produce a lower percentage of loss than that which would be produced under a format that takes the timing of such withdrawals into account. Accordingly, the Commission seeks comment on whether the past performance format for CPOs, CTAs, and their principals should be revised to take the timing of additions and withdrawals into accounts and, if so, how this revision would best be made.

The current format also does not specifically account for situations where commodity interests have been traded for hedging—as opposed to speculative—purposes. The Commission is aware that a growing number of CPOs and, in particular, CTAs are seeking to trade in such instruments as financial and stock index futures and options contracts for hedging purposes in managing customers' assets which include the instruments underlying these contracts. Accordingly, the Commission seeks comments on whether the past performance format should be supplemented to take the results of such trading for hedging purposes into account and, if so, how this revision would best be made.

The Commission's experience with the current format further indicates that the format might best serve it purposes if it were to also require past performance to be presented on an annual basis. As noted above, currently performance must only be presented "at least quarterly." However, the Commission's experience indicates that for performance to be presented in a meaningful manner and in a manner capable of ready comparison with other investment vehicles, it also should be presented on an annual basis. Therefore, the Commission seeks comments on whether the past performance format for CPOs, CTAs, and their principals should be revised to require, in addition to the current information called for at least quarterly, an annual rate of return and, if so, how this rate of return should be computed.

Financial requirements for CPOs. The framework of the Act and the Commission's regulations thereunder allows three categories of registrants to have direct access to customer funds committed for the purpose of trading commodity interests: FCMs, introducing brokers ("IBs") and CPOs.[46] For FCMs and IBs, the Commission has established certain minimum financial and related reporting requirements [47] to

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[42] In making this proposal, the Commission is not seeking to define the term "person" for purposes of the exemption from registration as a CTA in Section 4m(1) but, as stated above, is acting in furtherance of the purposes of the Committee Report. In this regard, the Commission notes that the Court of Appeals for the Ninth Circuit has held that a person who furnishes trading advice to a futures commission merchant which "incorporate[s] that advice directly into actual transactions" for its discretionary account customers who number more than fifteen people is thus furnishing trading advice to more than fifteen people. *CFTC* v. *Savage*, 611 F. 2d 270, 281 (9th Cir. 1979).

[43] Section 4.31(a) only applies to those CTAs who must register and who seek to direct or to guide a client's commodity interest account.

[44] In addition, under § 4.21(a)(4)(ii)(G) a CPO must also include in the prescribed table the number of units outstanding at the end of each period for which performance is disclosed.

[45] Of course, under the current rules a CPO or a CTA could supplement the specified format so as to take this information into account. As the Commission stated:

[T]he format the Commission has adopted for the presentation of past performance is a minimum disclosure standard which CPOs and CTAs must meet. More comprehensive or more frequent disclosure could thus be made as needed—*e.g.*, where the format potentially could mislead prospective customers. 46 FR 26004, 26008.

See also §§ 4.21(h) and 4.31(g).

[46] Section 4.30 generally prohibits a CTA from receiving customers funds committed for the purpose of trading commodity interests.

[47] *See* §§ 1.10, 1.12, 1.16, 1.17 and 1.18, 17 CFR 1.10, 1.12, 1.16, 1.17 and 1.18 (1983), *as amended* by 48 FR 35248.

ensure that they meet their obligations as registrants and "to guarantee accountability and responsible conduct." [48] For CPOs, however, the Commission has not established such requirements to date.

Section 1.17(a) prescribes these minimum financial requirements. For an FCM, who may receive customer funds directly in its own name, this requirement basically is an adjusted net capital of $50,000. For an IB who, like a CPO, may not receive customer funds directly in its own name but who must transmit those funds to an FCM,[49] this requirement basically is an adjusted net capital of $20,000.

In proposing minimum financial requirements for IBs, the Commission stated:

> [R]equiring a registered intorducing broker to have a permanent capital base not only would establish a benchmark of economic viability, but would also be an important element of customer protection. 48 FR 14933, 14942 (April 6, 1983).

The Commission believes that financial requirements for CPOs similarly would serve these vital functions. The Commission further believes that because CPOs, like IBs, must transmit their customers' funds to an FCM, financial requirements for CPOs similar to those for IBs would be appropriate. In this connection, the Commission requests comments on the actual dollar amounts and the method of computing of such amounts as they should apply to CPOs.[50]

III. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601 *et seq.* (1982), requires that agencies, in proposing rules, consider the impact of those rules on small business. The Commission has already established certain definitions of "small entities" to be used by the Commission in evaluating the impact of its rules on such small entities in accordance with the RFA.[51]

These definitions do not address the persons and qualifying entities set forth in proposed § 4.5 because, by the very nature of the proposal, the operations and activities of such persons and entities generally are regulated by Federal and State authorities other than the Commission.[52] Assuming, *arguendo*, that such persons and entities would be "small entities" for purposes of the RFA, the Commission does not believe that proposed § 4.5 would have a significant economic impact on them because it merely would require the filing of a notice with the Commission, the documentation for which should be pre-existing. Moreover, the proposal would relieve these persons (and entities) from the requirement to register as a CPO and from the disclosure, reporting and recordkeeping requirements applicable to registered CPOs is required. With respect to persons exempt from registration as a CPOs. As for other persons who may come within the CPO definition, the Commission has determined that registered CPOs are not small entities for purposes of the RFA.[53] Thus, no economic analysis of these proposals as they relate to registered CPOs is required. With respect to persons exempt from registration as a CPO pursuant to § 4.13(a), however, such analysis may be required. The proposals that would affect such exempt CPOs are found in §§ 4.13(b)(1) and 4.20(d).[54] The Commission does not believe that these two proposals should have a significant economic impact on such exempt CPOs because, in the case of the revision to § 4.13(b)(1), the proposal would merely require the CPO to provide the Commission with a copy of an already required statement of exemption and, in the case of § 4.20(d), the proposal would affect only the manner in which the CPO could be compensated but not the amount of such compensation. Thus, with respect to CPOs, pursuant to Section 3(a) of the RFA, 5 U.S.C. 605(b), the Chairman, on behalf of the Commission, certifies that these proposed rules will not have a significant economic impact on a substantial number of small entities. The Commission nonetheless invites comments from any CPO which believes that these rules would have a significant impact on its operations.[55]

B. Paperwork Reduction Act

The Commission has submitted to the Director of the Office of Management and Budget ("OMB"), pursuant to the provisions of the Paperwork Reduction Act, 44 U.S.C. Chapter 35, an explanation and details of the information collection and recordkeeping requirements which would be necessary to implement these proposals. Since all of the information collection proposals contained herein consist of proposed amendments to Part 4, which has already been assigned an OMB control number, the Commission understands that these proposals will be assigned the same OMB control number.[56]

Interested members of the public may obtain a complete copy of the information collection proposals relating to the proposed rules contained herein by contacting Joseph Salazar at (202) 254–9735. Persons wishing to comment on the Paperwork Reduction Act implications of these proposals are asked to send a copy of their comments to Mr. Salazar at the Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, and to the OMB Desk Officer for the agency, Katie Lewin, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

List of Subjects

17 CFR Part 3

Registration, Associated persons, Commodity futures.

17 CFR Part 4

Commodity pool operators, Commodity trading advisors, Commodity futures.

17 CFR Part 140

Authority delegation (Government agencies), Commodity futures.

In consideration of the foregoing and pursuant to the authority contained in the Commodity Exchange Act and, in particular, Sections 2(a)(1), 4k, 4l, 4m, 4n, 4*o*, 8a and 14 thereof, 7 U.S.C. 2, 6k, 6l, 6m, 6n, 6*o*, 12a and 18 (1982), and in 5 U.S.C. 552 and 552b (1982), the Commission hereby proposes to amend Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 3—REGISTRATION

1. Section 3.16(a)(4) is proposed to be revised to read as follows:

[**Note.**—Paragraph (a) is not proposed to be amended but is included solely for the convenience of the reader inasmuch as it does not at this time appear in the Code of Federal Regulations]:

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[48] *See* S. Rep. No. 384 at 41.

[49] *See* the discussion of § 4.20, *supra*, for CPOs and § 1.57(c), 48 FR 35248, 35291 for IBs.

[50] The Commission intends that such financial requirements would be applicable only to CPOs registered or required to be registered under the Act. This would be consistent with the purposes of exemption from registration as a CPO—whether that exemption be for an "otherwise regulated entity" under proposed § 4.5 or for the operator of a "family, club or small pool" under § 4.13(a).

[51] 47 FR 18618–18621 (April 30, 1982).

[52] For example, a registered investment company is regulated by the Securities and Exchange Commission.

[53] 47 FR 18619–18620.

[54] Section 4.20(d) would also apply to CPOs who are registered or required to be registered with the Commission.

[55] Proposed § 3.16(a)(4) would exempt from registration as an AP of a CPO an AP of a person exempt under § 4.5. An AP must be an individual: *See* Section 4k of the Act, 7 U.S.C. 6k (1982). Because the RFA does not apply to "individuals," no economic analysis of proposed § 3.16(a)(4) is required.

[56] The OMB control number for Part 4 is 3038–0005.

§ 3.16 Registration of associated persons of commodity trading advisors and commodity pool operators.

(a) *Registration required.* Except as otherwise provided in § 3.12(f) or in paragraph (e) of this section, it shall be unlawful for any person to be associated with a commodity trading advisor or with a commodity pool operator as an associated person unless that person:

* * * * *

(4) Is exempt from registration as a commodity pool operator pursuant to the provisions of § 4.5 or 4.13 of this chapter or is associated with a person who is so exempt from registration: *Provided,* That the provisions of this paragraph (a)(4) shall not apply to the solicitation of funds, securities, or property for a participation in a commodity pool, or the supervision of any person or persons so engaged, by, for, or on behalf of a commodity pool operator (i) which is not exempt from registration pursuant to the provisions of § 4.5 or 4.13 of this chapter or (ii) which is registered as a commodity pool operator notwithstanding the availability of any such exemption;

* * * * *

PART 4—COMMODITY POOL OPERATORS AND COMMODITY TRADING ADVISORS

2. Section 4.5 is proposed to be added to read as follows:

§ 4.5 Exemption for certain otherwise regulated persons from registration as a commodity pool operator and from the provisions of Subpart B.

(a) The following persons, and any principal or employee thereof, shall be eligible for exemption from registration as a commodity pool operator and from the provisions of Subpart B with respect to the operation of a qualifying entity specified in paragraph (b) of this section:

(1) An investment company registered as such under the Investment Company Act of 1940;

(2) An insurance company subject to regulation by any State;

(3) A bank or trust company subject to regulation by any State or the United States; and

(4) A trustee or named fiduciary of a defined benefit pension plan.

(b) For the purposes of this section, the term "qualifying entity" means:

(1) With respect to any person specified in paragraph (a)(1) of this section, an investment company registered as such under the Investment Company Act of 1940;

(2) With respect to any person specified in paragraph (a)(2) of this section, assets of any trust, custodial account or other separate unit of investment for which it is acting as fiduciary;

(3) With respect to any person specified in paragraph (a)(3) of this section, the assets of any trust, custodial account or other separate unit of investment for which is is acting as a fiduciary; and

(4) With respect to any person specified in paragraph (a)(4) of this section, a defined benefit pension plan that is subject to the provisions of the Employee Retirement Income Security Act of 1974 and is insured by the Pension Benefit Guaranty Corporation; *Provided, however,* that such entity will be operated in the manner specified in paragraph (c)(2) of this section

(c) Any person who desires to qualify for exemption pursuant to this section shall file with the Commission a notice of eligibility.

(1) The notice of eligibility must contain the following information:

(i) The name of such person;

(ii) The applicable subparagraph of paragraph (a) of this section pursuant to which such person is eligible for exemption;

(iii) The name of the qualifying entity which such person intends to operate pursuant to the exemption; and

(iv) (A) The applicable subparagraph of paragraph (b) of this section pursuant to which such entity is a qualifying entity.

(B) If such qualifying entity is an investment company registered as such under the Investment Company Act of 1940, the notice of eligibility must specify and fully describe each exemption concerning disclosure and financial reporting to participants to which such entity is subject under said Act or under the Securities Act of 1933 or the Securities Act of 1934. If such entity is not subject to any such exemption, the notice of eligibility must contain a statement to that effect.

(2) The notice of eligibility must contain representations that such person will operate the qualifying entity specified therein in a manner such that the qualifying entity:

(i) Will use commodity futures or commodity options contracts solely for bona fide hedging purposes;

(ii) Will not enter into commitments which require as deposits for initial margin or premiums for such futures or options contracts more than 5 percent of the fair market value of its assets;

(iii) Will not be, and has not been, marketing participations to the public as or in a commodity pool or otherwise as or in a vehicle for trading in the commodity futures or commodity options markets;

(iv) Will disclose in writing to each prospective participant the purpose of and the limitations on the scope of the commodity futures and commodity options trading in which the entity intends to engage; and

(v) Will submit to such special calls as the Commission shall make of it to demonstrate compliance with the requirements for exemption specified in this section.

(3) The notice of eligibility must be filed with the Commission prior to the date upon which such person intends to operate the qualifying entity pursuant to the exemption provided by this section.

(4) The notice of eligibility shall be effective upon filing.

(d)(1) Each person as to whom an exemption has become effective hereunder must, in the event that any of the information contained or representations made in the notice of eligibility becomes inaccurate or incomplete, file a supplemental notice with the Commission to that effect which, if applicable, includes such amendments as may be necessary to render the notice of eligibility accurate and complete.

(2) The supplemental notice required by paragraph d(1) of this section shall be due within fifteen business days after the occurrence of such event.

(e)(1) An exemption effective hereunder shall cease to be effective upon any change which would render:

(i) A person as to whom such exemption is effective ineligible under paragraph (a) of this section;

(ii) The entity for which such exemption is effective ineligible under paragraph (b) of this section; or

(iii) Either the representations made pursuant to paragraph (c)(2) of this section inaccurate or the continuation of such representations false or misleading.

(2) The Commission may terminate an exemption effective hereunder by providing written notice of such termination to a person as to whom such exemption is effective if the Commission determines that:

(i) The notice of eligibility is inaccurate or incomplete in any respect;

(ii) A person as to whom such exemption is effective, or the qualifying entity for which it is effective, possesses other attributes or features which would make the treatment of such person as a commodity pool operator more consistent with the definition of and regulations applicable to a commodity pool operator; or

(iii) The continued effectiveness of the exemption would be contrary to the public interest.

(f) Any notice required to be filed hereunder must be:

(1) In writing;

(2) Signed by a duly authorized representative of a person specified in paragraph (a) of this section as follows: if such person is a corporation, by the chief executive officer, chief financial officer or counterpart thereto; if a partnership, by a general partner; and if a sole proprietorship, by the sole proprietor; and

(3) Filed with the Commission at the address specified in § 4.2.

3. Section 4.13 is proposed to be amended by revising paragraph (b)(1) to read as follows:

§ 4.13 Exemption from registration as a commodity pool operator.

* * * * *

(b)(1) No person who is exempt from registration as a commodity pool operator under paragraphs (a)(1) or (a)(2) of this section and who is not registered as such pursuant to that exemption may, directly or indirectly, solicit, accept or receive funds, securities or other property from any prospective participant in a pool that it operates or that it intends to operate unless, on or before the date it engages in that activity, the person delivers or causes to be delivered to the prospective participant a written statement that must disclose this fact as follows: "The commodity pool operator of this pool is not required to register, and has not registered, with the Commodity Futures Trading Commission. Therefore, unlike a registered commodity pool operator, this commodity pool operator is not required by the Commission to furnish a Disclosure Document, periodic Account Statements, and an Annual Report to participants in the pool." The person must:

(i) Describe in the statement the exemption pursuant to which it is not registered as a commodity pool operator;

(ii) Provide its name, main business address and main business telephone number on the statement;

(iii) Manually sign the statement as follows: if such person is a corporation, by the chief executive officer, chief financial officer or counterpart thereto; if a partnership, by a general partner; and if a sole proprietorship, by the sole proprietor; and

(iv) File two copies of the statement with the Commission at the address specified in § 4.2 within seven business days after the date the statement is first delivered to a prospective participant.

* * * * *

4. Section 4.15 is proposed to be revised to read as follows:

§ 4.15 Continued applicability of antifraud section.

The provisions of section 4*o* of the Act shall apply to any person even though such person is exempt from registration under this Part 4, and it shall continue to be unlawful for any such person to violate section 4*o* of the Act.

5. Section 4.20 is proposed to be amended by adding paragraph (d) to read as follows:

§ 4.20 Prohibited activities.

* * * * *

(d)(1) Except as provided in paragraph (d)(2) of this section, no commodity pool operator may receive any income generated from the assets of any pool that it operates or that it intends to operate.

(2)(i) A commodity pool operator may receive income generated from the assets of any pool that it operates or that it intends to operate provided that such income is received for the sole purpose of recovering the organizational and offering expenses of such pool which have been incurred by the commodity pool operator and that such income is limited to the actual amount of such organizational and offering expenses.

(ii) For purposes of this paragraph (d)(2) of this section, the term "organizational and offering expenses" may include legal and accounting fees, printing expenses, escrow charges, and filing, registration and recording fees.

PART 140—ORGANIZATION, FUNCTIONS AND PROCEDURES OF THE COMMISSION

6. Section 140.93 is proposed to be amended by adding paragraph (a)(5) to read as follows:

§ 140.93 Delegation of Authority to the Director of the Division of Trading and Markets.

(a) * * *

(5) All functions reserved to the Commission in § 4.5(c)(2)(v) of this Chapter.

* * * * *

Issued in Washington, D.C. on February 2, 1984, by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 84-3341 Filed 2-7-84; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-26-83]

Elections and Miscellaneous Procedural Matters Under Section 338 of the Internal Revenue Code

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations portion of this issue of the **Federal Register**, the Internal Revenue Service is issuing amendments to temporary income tax regulations relating in part to elections and miscellaneous procedural matters under section 338 of the Internal Revenue Code of 1954. The text of § 5f.338–1 of the temporary regulations as revised also serves as the comment document for this notice of proposed rulemaking.

DATES: Written comments and requests for a public hearing must be delivered or mailed by April 9, 1984. The regulations are proposed to be effective, generally, for stock acquisitions made after August 31, 1982.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–26–83) Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Duane H. Pellervo of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CC:LR:T (202–566–3458, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations in the Rules and Regulations portion of this issue of the **Federal Register** revise §§ 5f.338–1 and 5f/338–2 of the Temporary Income Tax Regulations under the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), as published in the **Federal Register** on November 22, 1982 (47 FR 52433), and add new § 5f.338–3. The final regulations that are proposed to be based on § 5f.338–1, as revised by these temporary regulations, would be added to Part 1 of Title 26 of the Code of Federal Regulations to provide rules for making elections under section 338(g) (other than elections subject to section 224(d)(2) of TEFRA, as amended by

section 306 of the Technical Corrections Act of 1982) and to provide guidance relating to miscellaneous procedural matters. For the text of the temporary regulations, see T.D. 7942, published in the Rules and Regulations portion of this issue of the **Federal Register**. The preamble to the temporary regulations explains the addition to the regulations.

Regulatory flexibility Act and Executive Order 12291

Although this document is a notice of proposed rulemaking that 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). The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required.

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 herein have been submitted for OMB review under the Paperwork Reduction Act, and comments on them should be sent to the Office of Information and Regulatory Affairs of OMB, ATTN: Desk Office for Internal Revenue Service, New Executive Office Bldg, Washington, D.C. 20503. The Internal Revenue Service requests persons submitting comments to OMB to also send copies of the comments to the Service.

Drafting Information

The principal author of these proposed regulations is Duane H. Pellervo of the Legislation and Regulations 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 regulations, both on matters of substance and style.

List of Subjects in 26 CFR 1.301–1.385–6

Income taxes, Corporations, Corporate distributions, Corporate adjustments, Reorganizations

These amendments are necessary because of the addition of section 338 to the Code by Pub. L. 97–248 (96 Stat. 324). These regulations are proposed to be issued under the authority contained in sections 338 and 7805 of the Internal Revenue Code of 1954 (96 Stat. 324, 26 U.S.C. 338; 68A Stat. 917, 26 U.S.C. 7805, respectively).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 84–3459 Filed 2–7–84; 8:45 am]

BILLING CODE 4830–01–M

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26 CFR Part 48

[I–99–82]

Excise Tax on Tires

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed amendments which revise the regulations concerning the excise tax on tires. This revision would change the definition of manufacturing for excise tax purposes to exclude a particular method of recapping or retreading tires. The regulations provide necessary guidance to the public for compliance with the law and affect all persons required to pay excise taxes on recapped or retreaded tires.

DATES: Written comments and requests for a public hearing must be delivered or mailed by March 9, 1984. The amendments are proposed to be effective for articles sold on or after January 1, 1984.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, 1111 Constitution Avenue NW., Wasington, D.C. 20224, Attention: CC:LR:T (I–99–82).

FOR FURTHER INFORMATION CONTACT: Jane E. Wilson of the Interpretative Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CC:LR:T, 202–566–4069 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Manufacturers and Retailers Excise Tax Regulations (26 CFR Part 48) under section 4071 of the Internal Revenue Code of 1954 (Code) with respect to the excise tax on recapped or retreaded tires.

Prior to its amendment by section 514 of the Highway Revenue Act of 1982 (Pub. L. 97–424), effective on January 1, 1984, referred to as the 1982 Act, section 4071(a) generally imposed excise taxes on manufacturers, producers, and importers of tires and tread rubber. The excise tax on tires exceeded the tax on tread rubber.

Section 48.4071—1(d) of the regulations draws a distinction between tires that have been retreaded from "shoulder to shoulder," a retreading process that involves the application of tread rubber to the road surface of the worn tire, and tires that have been retreaded from "bead to bead," a retreading process that involves not only the application of tread rubber to the road surface of the worn tire, but also the application of a veneer of rubber on the outside of each tire over the sidewall.

Under the existing regulations, retreading a tire from shoulder to shoulder is not classified as manufacturing of a taxable tire. No excise tax is payable on a tire retreaded shoulder to shoulder so long as there had been a prior taxable sale of the tire in the United States. Retreading a tire from bead to bead, however, does constitute manufacturing of a taxable tire under the current regulations, with the result that the excise tax imposed on the sale of tires under section 4071 of the Code applies to a tire that has been retreaded from bead to bead. The distinction between shoulder to shoulder and bead to bead retreaded tires was adopted in section 4071(f) which subjects an imported, shoulder to shoulder retreaded tire to the manufacturers excise tax on the sale of tread rubber. Section 4071(f) does not apply to bead to bead retreaded tires, since imported, bead to bead retreaded tires are subject to the manufacturers excise tax on the sale of tires.

As amended by the 1982 Act, section 4071(a) no longer imposes an excise tax on tread rubber. The amendment is generally effective for articles sold on or after January 1, 1984. Section 4071(f), therefore, ceases applicability on or after that date.

This document proposes to remove the distinction drawn in § 48.4071–1(d) between shoulder to shoulder and bead to bead retreaded tires. The difference between the two types of retreaded tires is cosmetic rather than structural. The bead to bead process is used where the tire carcass has small defects in the sidewall, which if not recapped, would detract from the attractiveness of the tire. A bead to bead retreaded tire does

not compete with a new tire in the original equipment market and would only compete, if ever, with the lowest quality of new tire in the replacement market. A retreaded tire must be sold for less than a new tire, if it is to be marketed. A bead to bead retreaded tire competes with a shoulder to shoulder retreaded tire in the replacement market. Thus, the proposed regulations would treat bead to bead retreaded tires in the same manner as shoulder to shoulder retreaded tires are treated under § 48.4071–1(d).

The proposed amendment to the regulations would be effective for articles sold on or after January 1, 1984.

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.**

Regulatory Flexibility Act and Executive Order 12291

Although this document is a Notice of Proposed Rulemaking that solicts public comments, the Internal Revenue Service has concluded that the requlations proposed herein are interpretative and that the notice and public procedure requirments 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). The Commissioner of the Internal Revenue Service has also determined that the proposed regulation is not a major regulation as defined in Executive Order 12291 and therefore a regulatory impact analysis is not required.

Drafting Information

The principal author of these proposed regulations is Jane E. Wilson of the Interpretative 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 regulations both on matters of substance and style.

List of Subjects in 26 CFR Part 48

Agriculture, Arms and munitions, Coal, excise taxes, Gasohol, Gasoline, Motor vehicles, Petroleum, Sporting goods, Tires

Proposed Amendments to the regulations

The proposed amendments to 26 CFR Part 48 are as follows:

PART 48—[AMENDED]

Section 48.4071–1(d) is revised to read as set forth below:

§ 48.4071–1 Imposition and rates of tax.

* * * * *

(d) *Recapped or retreaded tires.* The recapping or retreading of a tire, whether from shoulder to shoulder or bead to bead, does not consititute manufacture of a taxable tire. The tax on tires imposed by section 4071 does not apply to the sale of a recapped or retreaded tire, except that a used tire or tire carcass not previously sold in the United States that is recapped or retreaded from shoulder to shoulder or bead to bead in a foreign country and imported into the United States is subject to the tax imposed by section 4071 when such tire is sold or used by the importer. This paragraph (d) is effective for recapped and retreaded tires sold on or after January 1, 1984.

* * * * *

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 84–3457 Filed 2–7–84; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

Public Comment and Opportunity for Public Hearing on the Modification to the Pennsylvania Permanent Regulatory Program

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

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for the public comment period and for a public hearing on the substantive adequacy of a program amendment submitted by the Commonwealth of Pennsylvania as a modification to the Pennsylvania Permanent Regulatory Program (hereinafter referred to as the Pennsylvania program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment pertains to changes in the State's regulations relating to reaffecting previously mined lands with pollutional discharges.

This notice sets forth the times and locations that the Pennsylvania program and the proposed amendment are available for public inspection, the comment period during which interested persons may submit written comments on the proposed program elements, and the procedures that will be followed regarding the public hearing.

DATES: Written comments must be received on or before 4:00 p.m., March 9, 1984 to be considered.

If requested, a public hearing on the proposed modifications will be held on March 5, 1984, beginning at 10:00 a.m. at the location shown below under **"ADDRESSES."**

ADDRESSES: Written comments should be mailed or hand delivered to: Robert Biggi, Harrisburg Field Office, Office of Surface Mining, 101 South 2nd Street, Suite L–4, Harrisburg, Pennsylvania 17101.

If a public hearing is held its location will be at: The Holiday Inn, 5401 Carlisle Pike, Mechanicsburg, Pennsylvania 17055.

FOR FURTHER INFORMATION CONTACT: Robert Biggi, Harrisburg Field Office, Office of Surface Mining, 101 South 2nd Street, Suite L–4, Harrisburg, Pennsylvania 17101, Telephone: (717) 782–4036.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

Availability of Copies

Copies of the Pennsylvania program, the proposed modifications to the program, a listing of any scheduled public meeting and all written comments received in response to this notice will be available for review at the OSM offices and the office of the State regulatory listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Harrisburg Field Office, Office of Surface Mining, 101 South 2nd Street, Suite L–4, Harrisburg, Pennsylvania 17101.

Office of Surface Mining Reclamation and Enforcement, Room 5315, 1100 "L" Street, NW., Washington, D.C. 20240.

Pennsylvania Department of Environmental Resources, Fulton Bank Building, Third and Locust Streets, Harrisburg, Pennsylvania 17120.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **"DATES"** or at locations other than Harrisburg, Pennsylvania, will not necessarily be considered and included in the Administrative Record for this final rulemaking.

Public Hearing

Persons wishing to comment at a public hearing should contact the person listed under **"FOR FURTHER INFORMATION CONTACT"** by the close of business February 23, 1984. If no one requests to comment at a public hearing, the hearing will not be held.

If only one person requests to comment, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

Filing of a written statement at the time of the hearing is requested and will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment, have been heard.

Public Meeting

Persons wishing to met with OSM representatives to discuss the proposed amendments may request a meeting at the OSM office listed in **"ADDRESSES"** by contacting the person listed under **"FOR FURTHER INFORMATION CONTACT."**

All such meetings are open to the public and, if possible, notices of meetings will be posted in advance in the Administrative Record. A written summary of each public meeting will be made a part of the Administrative Record.

II. Background on the Pennsylvania State Program

On February 29, 1980, the Secretary of the Interior received a proposed regulatory program from the State of Pennsylvania. On October 22, 1980, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary disapproved the Pennsylvania program. The State resubmitted its program on January 25, 1982, and subsequently the Secretary approved the program subject to the correction of minor deficiencies. Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Pennsylvania program can be found in the July 30, 1982 **Federal Register** notice (47 FR 33050).

III. Submission of Program Amendment

By a letter dated December 23, 1983, Pennsylvania submitted to OSM pursuant to 30 CFR 732.17, a revision to its approved program pertaining to the reaffecting of previously mined lands with pollutional discharges.

In the amendment, Pennsylvania proposes to amend its regulations at Subchapter F of Chapter 87 and Subchapter G of Chapter 88. The proposed changes allow an operator to reaffect mined lands with pollutional discharges without the operator being required to treat discharges to applicable effluent limitations unless the discharges become worse.

Additionally, the proposal povides a mechanism for bond release for these areas when the water quality does not meet approved effluent limitations. Pennsylvania hopes to provide, through this amendment, an incentive for industry to remine these areas and therefore reclaim previously mined lands with pollutional discharges. The full text of the proposed amendment is available for review at the addresses listed above.

Therefore, the Director is seeking public comment on the adequacy of the proposed program amendment. Comments should specifically address the issues of whether the proposed amendments are consistent with SMCRA and no less effective than the Federal regulations. If approved, the amendment will become part of the Pennsylvania program.

IV. Additional Determinations

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

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

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

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

List of Subjects in 30 CFR Part 938

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

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

Dated: January 31, 1984.

James R. Harris,

Director, Office of Surface Mining.

[FR Doc. 84–3143 Filed 2–7–84; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[KY–007; A–4–FRL 2522–4]

Approval and Promulgation of Implementation Plans; Kentucky, 1982 Ozone and Carbon Monoxide Attainment Plans for Jefferson County

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: On February 3, 1983 (48 FR 5040) EPA proposed to disapprove the 1982 State Implementation Plan (SIP) revision to the Jefferson County ozone and carbon monoxide (CO) plans, which were submitted in draft by Kentucky on June 30, 1982. The reason for the proposed disapproval was the absence of the required auto inspection/maintenance (I/M) program. The remainder of the plan appeared approvable with the correction of numerous minor deficiencies outlined in the notice. The final plan was submitted February 9, 1983, with additional submittals on June 15, September 12, November 21 and December 9, 1983.

Kentucky has added the required I/M plan and has corrected the remaining minor deficiencies. The revised plans now meet the requirements of the Clean Air Act and EPA policy; therefore, EPA now proposes to approve these revisions.

DATE: EPA must receive your comments on or before March 9, 1984.

ADDRESSES: Send any comments to Thomas P. Lyttle, Air Planning Section, US EPA Region IV, 345 Courtland Street NE., Atlanta, Georgia 30365.

You may inspect copies of the submittal and EPA's evaluation during normal business hours at the following locations:

EPA, Region IV, Air Management Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365.

Kentucky Division of Air Pollution Control, 18 Reilly Road, Frankfort, Kentucky 40601.

Kentucky Regional Planning and Development Agency, 914 E. Broadway, Louisville, Kentucky 40204.

FOR FURTHER INFORMATION CONTACT: Thomas P. Lyttle at the address above or 404/881-2864 (FTS 257-2864).

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1977 added a new Part D to Title I of the Act. Part D required the states to revise their SIPs for all nonattainment areas and submit the revisions to EPA by January 1, 1979. The revised plans had to provide for attainment by December 31, 1982, unless the states demonstrated that they could not attain either the ozone (O_3) or carbon monoxide (CO) standard by that date.

If EPA approved this demonstration, the attainment date for O_3 or CO could be extended up to December 31, 1987. States receiving such extensions were to submit a second SIP revision that provides for attainment by the approved attainment date and complies with all of the Part D requirements.

These second SIP revisions had to be submitted by July 1, 1982. On January 22, 1981 (46 FR 7182), EPA published final criteria for reviewing these revisions. The criteria supplement the "General Preamble for SIP Revisions for Nonattainment Areas", which was published on April 4, 1979 (44 FR 20372).

Kentucky submitted an initial SIP revision for the Jefferson County CO/O_3 nonattainment area in June 1979. Kentucky requested that EPA extend the attainment date for the CO standard in this area until December 31, 1987. EPA approved this request and approved the initial CO plan revision on August 7, 1981 (46 FR 40186). Kentucky also requested an extension to December 1987 for attaining the O_3 standards in Jefferson County. This extension was granted on January 25, 1980 (45 FR 6092), when EPA conditionally approved the ozone SIP for Jefferson County; full approval was given on August 7, 1981 (46 FR 40188).

Kentucky submitted draft revisions to the Jefferson County CO and ozone SIPs on June 30, 1982. On February 3, 1983 (48 FR 5040), EPA proposed to disapprove the SIP because of its failure to provide for an I/M program. Various other deficiencies were pointed out in the proposal notice, although it was expected many of these deficiencies would be corrected in the final submittal. The final submittal was made on February 9, 1983. Additional submittals were made on June 15, September 12, November 21 and December 9, 1983. These submittals correct the deficiencies noted in the draft document, includling I/M.

In its February 3 proposal, EPA found that, except for I/M, the draft SIP revisions were genrally approvable. The draft submittal, and EPA's evaluation of it, were discussed in detail in that notice and will not be repeated in detail here. Three main items will be discussed in this notice: (1) corrections to the minor deficiencies in the SIP, (2) the I/M program and (3) public comments on the February 3 proposal.

A. Corrections to Minor Deficiencies

Various deficiencies were noted in the draft revisions. In the final version and subsequent submittals, revised or additional data were provided to correct these deficiencies. A discussion of the deficiencies and the corrective actions follows.

1. Emisssion Inventories

For the ozone SIP, several minor problems were noted with the emission inventory. Among these were lack of documentation for the volatile organic compounds (VOC) point source growth factors used. The final submission indicates that an overall growth factor for employment in manufacturing was applied to the 1980 base year point source inventory. These factors, which were supplied by the Department of Commerce, were 0.74% per year growth for 1978–1985 and 0.92% per year for 1985–1990. These factors were applied to all VOC point sources, except for whiskey warehouses. This category has been experiencing a significant decline in activity. A survey of existing sources projected a reduction of 41% in the number of barrels stored from 1980 to 1987 and this factor was used for whiskey warehousing emissions.

EPA requested a revised 1978 point source listing to account for the use of these growth factors. This list was provided in the final document. EPA also noted minor discrepancies between the Kentucky and Indiana SIP inventories for the Indiana point source categories. Indiana has recently submitted a new inventory. A brief review of the Indiana inventory indicates there are still minor differences between the two states' inventories, but the differences are insignificant, especially considering the relatively small contribution of the Indiana counties compared to Jefferson County. The revised Indiana inventory also claims lower emission reduction from RACT controls than were in the original inventory. This addresses another point made in EPA's initial review.

The main deficiency noted in both the CO and VOC inventories was the use of a January 1983 start-up date for the I/M program for the purposes of calculating the mobile source emission reductions in 1987. Delays in the I/M program have pushed back the start-up date to January 1, 1984, which would cause I/M to deliver a smaller emission reduction, assuming no other changes were made. Jefferson County has performed additional modeling and has determined that the one year delay will cause emission in 1987 to increase by only about 1% overall. Thus, the delay in start-up will not cause problems with the 1987 attainment projection. The program will still produce sufficient emission reduction to meet the RACT requirement.

Based on these corrections, EPA proposes to approve the emissions inventories.

2. Stationary Source Controls

The draft did not include a specific commitment to adopt regulations for sources covered by Group III of EPA's Control Techniques Guidelines (CTGs) or for other 100 ton per year sources not covered by CTGs. The Jefferson County Air Pollution Control District (APCD) has committed to adopt such regulations within 1 year of publication of CTG's or within 1 year of the discovery of the need for controls for non-CTGs sources. APCD had already included a demonstration that exist major non-CTG sources already have in place the equivalent of RACT control. The final SIP contains these commitments. Based on these commitments, EPA proposes to approve the stationary source controls.

3. Transportation Control Measures (TCM's)

The draft submittal did not include commitments to implement all TCM

measures contained in the SIP. The final submittal included in the Transportation Improvement Program all but twoTCMs and identified funding sources and the responsible agencies. Initially, three CO "hot spot" intersections were not projected to meet the CO standard by the end of 1987. A further analysis of one of the intersections indicated the I/M and planned TCM's would allow it to meet the standard by 1987. For the remaining two intersections, additional intersection improvements were necessary. Commitments to implement the last two intersection improvements have since been submitted.

Based on the correction of the deficiencies in the TCM commitments, EPA proposes to approve the TCM portion of the SIP.

4. Reasonable Further Progress (RFP)

The draft submittal did not include RFP demonstrations for CO or hydrocarbons. The final submittal contained RFP demonstration for both pollutants. Subsequently, RFP demonstrations which account for the delayed start-up of the I/M program were submitted. These demonstrations meet EPA requirements. Therefore, EPA proposes to approve the RFP portion of the SIP.

B. Inspection/Maintenance (I/M)

The draft submittal contained no provision for an I/M program for Jefferson County. Because of indecision on the part of the local governments as to which agency would be responsible for the program, no significant progress was made until late 1982. On January 5, 1983, the Jefferson County Air Pollution Control Board adopted an I/M program by regulation and established an implementation schedule for the program. The program adopted will be centralized and run by a private contractor. The schedule called for award of a contract by June 1, 1983, and start-up of the program by July 1, 1983, or as soon as possible thereafter, as determined in the contract. The contract was signed on June 7 with a start-up date of January 1, 1984. The contract was included as part of the SIP submittal. The I/M program started in January 1983.

EPA's 1982 SIP policy for I/M areas published on January 22, 1982 (46 FR 1782), contains several items which must be contained in an approvable I/M plan. A discussion of each of these items as contained in the submittal follows.

The basic requirement of the program is that it must produce HC and CO emission reductions of at least 35 percent (using Mobile II) by 1987. The Louisville program has been demonstrated to produce HC and CO reductions of slightly over 40 percent by 1987.

1. Inspection Test Procedures

The test to be used is an idle test with a preconditioning period of 15 seconds at half throttle prior to the test. Vehicle identification will be entered into the data handling system on the analyzers and test results will automatically be recorded, compared to the applicable standards and the pass/fail decision made for both CO and HC.

HC and CO tests are required for all gasoline powered automobiles, light trucks up to 10,000 pounds gross vehicle weight rating, heavy duty vehicles with official registration and 4-cycle motorcycles. In addition, an opacity test is required for diesel vehicles and 2-cycle motorcycles. All model years are covered, except those vehicles registered as "historic" (vehicles over 25 years old) are exempted.

These procedures meet current requirements for Section 207(b) warranty coverage. EPA has proposed requiring an engine restart test procedure for most Ford vehicles. If EPA's proposal is adopted, minor modifications to APCD's test procedure would be necessary to continue 207(b) warranty coverage for such vehicles.

Provisions are also made for fleet testing either by the fleet operators or by contractor personnel. The test requirements are equivalent to the regular test procedures.

2. Emission Standards

Emission standards for the various vehicle classes have been adopted as part of the I/M regulations. Based on the EPA recommended cut points, the standards for the light duty vehicles are expected to produce a program stringency of 20%. Emission standards for automobiles and light trucks are consistent with the 207(b) warranty requirements.

3. Emission Analysis Specifications and Maintenance/Calibration Requirements

Jefferson County's request for proposals specified that analyzers used in the program meet the EPA recommended specifications contained in technical reports EPA–AA–IMS–80–5–A, B, and C for computerized analyzers. Alterations to these specifications were allowed if justified by the contractor. The analyzers chosen for the program were designed to BAR 80 specifications and generally meet the EPA recommended specifications. The analyzers also meet 207(b) warranty requirements.

Regular scheduled maintenance includes weekly filter changes and cleaning by contractor personnel and monthly preventative maintenance performed by the analyzer manufacturer.

4. Record Keeping and Submittal

The contractor has agreed to supply weekly, monthly, and annual reports to APCD on basic program data such as number of vehicles tested, failure rates, retest results, warning notices for failure to obtain a test, repair cost data and quality control. The computerized data base will also allow generation of other specialized reports as required. APCD has agreed to provide EPA with a detailed annual status report on the program.

5. Quality Control, Audit and Surveillance

Quality control of testing and the analyzers is largely insured by the use of computerized analyzers and data handling. The contractor is required to perform various weekly and monthly calibration procedures as described above. APCD will be conducting weekly calibration audits and random audits of the contractor's performance and records. APCD will also perform periodic financial and management audits.

6. Procedures To Ensure Non-Complying Vehicles Will Not be Operated on Public Roads

Jefferson County does not have authority to require I/M testing as a prerequisite for obtaining annual registration. The Kentucky General Assembly refused to enact such authority in 1982. Recognizing potential problems with sticker enforcement, APCD developed a procedure to verify compliance by comparing test records with monthly vehicle registration lists. When a vehicle is registered, a notice will be given to the motorist informing him that his car must be tested during the following two months. If the vehicle is not tested, a warning notice will be issued. If the vehicle is still not tested by the following month, a summons to appear in court will be issued. When the motorist appears in court, he is subject to a fine of $10.00 to $50.00, plus court costs of $37.50. This system effectively ties the testing requirement to registration and should allow identification and prosecution of all motorists who do not comply with the I/M requirement. The details of the enforcement mechanism are contained

in APCD Regulation 8 and the contract, which are part of the submittal.

7. Other Rules, Regulations and Procedures

The program regulations contain a provision to limit the amount of money a motorist must spend to repair his car if it fails the test. If the cost limit is reached, the motorist will be given a one year exemption even if his car does not meet the standards on the retest. The cost limits vary depending on the model year of the vehicle. For 1980 and earlier vehicles the limits are $15.00 for CO failures, $35.00 for HC failures and $50.00 for both. This reflects the fact that simple repairs will usually bring such cars into compliance. For 1981–83, vehicles, the limits are $30.00, $50.00 and $65.00, respectively. For 1984 and later vehicles, which will be in the program from the start, the limits are $100.00, $100.00 and $200.00. In all cases, a basic tune up procedure must be completed as part of the cost in order to qualify for a waiver.

8. Public Information Plan

APCD has contracted with a local marketing firm to develop and implement a public information program for the I/M program. The public information program includes a preliminary information campaign which began December 1, 1983, the main information campaign which will commence with the start of testing on January 3, and surveys to identify specific public awareness issues which need to be addressed. The initial campaign utilizes press conferences, public speaking engagements, brochures and slide presentations to explain why the program is being implemented and how it will work. The main campaign will also utilize television and radio advertising to increase public understanding of the program.

9. Mechanics Training Program

Mechanics training is provided by the Jefferson State Vocational School under contract to APCD. The school is offering 12 hour—2 week courses of instruction to all mechanics in the County. The course includes basic emission tune up information, a description of the operation of the inspection program and how to properly complete the vehicle repair form issued to vehicles which fail the test.

Although the program missed the Decembr 31, 1982, start-up date required by EPA policy, this issue is no longer significant since the program is now operating here. EPA finds all of the other elements meet the I/M requiements and therefore proposes to approve the I/M portion of the SIP.

C. Comments on February 3, 1983, Proposal

Three comments were received in response to the February 3 proposal to disapprove the Jefferson County SIP revision. The Kentucky Natural Resources and Environmnetal Protection Cabinet and APCD both responded that substantial progress had been made on I/M from January 5 through April. Available information, including the general form of the program and the implementation schedule were included, along with a promise to forward the remaining I/M elements as soon as they were developed. Both agencies also noted that many deficiencies noted in the draft SIP revisions had been corrected in the official submittal of February 9. APCD also included miscellaneous comments to address other deficiencies noted in the notice.

In response to these comments, EPA agrees that the deficiencies noted in the February 3, 1983, notice have been corrected. For those reasons EPA is now proposing to approve the SIP revisions in full.

An environmental group commented that the automobile manufacturers, rather than motorists, should be required to clean up auto emissions. In response, EPA believes the auto manufacturers have contributed significantly to cleaning up emissions and that I/M is the most effective way to futher reduce such emissions. This is the basis for the inclusion of the I/M requirement in the Clean Air Act.

Proposed Action

All deficiencies noted in the February 3, 1983, proposal to disapprove the Jefferson County CO and ozone SIP have now been corrected. The revisions to CO and ozone SIPs for Jefferson County submitted by Kentucky on February 9, 1983, and supplementary submittals of June 15, September 14, November 21, and December 9, 1983, meet the requirements of the Clean Air Act and EPA policy. Therefore, EPA now proposes to approve these SIP revisions.

Interested parties who wish to participate in this rulemaking may do so by sending comments to the address given above.

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

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

List of Subjects in 40 CFR Part 52

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

(Secs. 110 and 172 of the Clean Air Act (42 U.S.C. 7410 and 7502))

Dated: December 22, 1983.

Charles R. Jeter,

Regional Administrator.

[FR Doc. 84-3378 Filed 2-7-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-9-FRL 2522-5]

Approval and Promulgation of Implementation Plans; California State Implementation Plan (SIP) Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: The State of California recently submitted to EPA eighteen volatile organic compound (VOC) rules. These rules have been evaluated and found to be in conformance with the requirements of 40 CFR Part 51 and EPA policy. This notice proposes to approve the rules and incorporate them into the State Implementation Plan. The intended effect of this action is to achieve net VOC emissions reductions in ozone nonattainment areas and meet the requirements of Part D of the Clean Air Act.

DATES: Comments may be submitted on or before March 9, 1984.

ADDRESSES: Comments may be sent to: Regional Administrator, Attn: Air Management Division, Air Programs Branch, State Implementation Plan Section (A-2-3), Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105.

Copies of the proposed revisions and EPA's associated Evaluation Report are available for public inspection during normal business hours at the EPA Region 9 office at the above address, and at the following location: California Air Resources Board, 1102 "Q" Street, P.O. Box 2815, Sacramento, CA 95812.

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Acting Chief, State Implementation Plan Section, Air Programs Branch, Air Management Division, Environmental Protection Agency, Region 9, (415) 974-7640.

SUPPLEMENTARY INFORMATION:

Background

Part D of the Clean Air Act requires states to revise their State Implementation Plan for all areas that have not attained the National Ambient Air Quality Standards (NAAQS).

EPA's April 4, 1979 General Preamble describes the Part D requirements for submittal of Reasonably Available Control Technology (RACT) regulations. The first set of RACT regulations for VOC was required for sources covered by the Group I Control Techniques Guidelines (CTG) documents published before January 1978. Regulations for sources covered by the Group I documents here to have been submitted by January 1, 1979. A second set of RACT regulations was required for sources covered by the Group II CTG documents, published between January 1978 and January 1979. Regulations for sources covered by the Group II CTG documents were to have been submitted January 1, 1981.

EPA published the CTGs in order to assist the states in determining RACT. The CTGs contain information on available air pollution control techniques and provide recommendations on what EPA calls the "presumptive norms" for RACT.

This notice addresses several Group I and II CTG rules and 4 non-CTG/VOC rules including a semiconductor operations rule of the Bay Area Air Quality Management District. This new rule will require installation of carbon adsorption control devices and solvent metal cleaning control devices for the source category.

Description of Regulations

The State of California submitted revisions to the following regulations on the indicated date, which cover *Group I CTG categories:*

(July 19, 1983)

Merced County Air Pollution Control District

Rule 409.5. Cutback Asphalt Paying Materials
Rule 411 Gasoline Transfer Phase I

San Diego County Air Pollution Control District

Rule 67.4. Can and Coil Coating Operations
Rule 67.6 Solvent Cleaning Operation

Shasta County Air Pollution Control District

Rule 3.3(b). Gasoline Loading and Transfer
Rule 3.15(c) Cutback Asphalt Paving Materials

In addition, the State submitted the following rules which cover *Group II CTG categories*, on July 19, August 2 and August 30, 1983:

(July 19, 1983)

Fresno County Air Pollution Control District

Rule 409.4. Surface Coating of Manufactured Metal Parts and Products

Merced County Air Pollution Control District

Rule 409.4. Surface Coating of Manufactured Metal Parts and Products
Rule 409.7 Graphic Arts

Sacramento County Air Pollution Control District

Rule 17. Surface Coating of Manufactured Metal Parts and Products

San Diego County Air Pollution Control District

Rule 67.3. Coating of Metal Parts and Products

(August 2, 1983)

Kings County Air Pollution Control District

Rule 414.4. Pumps and Compressor Seals at Petroleum Refineries

Yuba County Air Pollution Control District

Rule 3.9. Storage of Petroleum Products

(August 30, 1983)

Yolo-Solano County Air Pollution Control District

Rule 2.13(1). Graphic Arts

The State also submitted the following non-CTG rules on July 19 and August 30, 1983 respectively:

(July 19, 1983)

Merced County Air Pollution Control District

Rule 411.1 Transfer of Gasoline Phase II

Shasta County Air Pollution Control District

Rule 3.4(d) Industrial Use of Organic Solvents

(August 30, 1983)

Bay Area Air Management District

Rule 8.30 Semiconductor Manufacturing

Stanislaus County Air Pollution Control District

Rule 409.1 Architectural Coatings

Proposed Actions

EPA proposes to approve, under Part D, the rules listed above since they are consistent with the Clean Air Act, EPA policy and 40 CFR Part 51. These rules have been evaluated and found to represent reasonably available control technology. A copy of EPA's evaluation is available for inspection at the Region 9 Office.

I certify that SIP approvals do not have a significant economic impact on a substantial number of small entities. The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52:

40 CFR 52, Air Pollution Control, Ozone, Sulfur oxides, Nitrogen dioxides, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Authority: Sections 110, 129, 171 to 178 and 301(a) of the Clean Air Act as amended (42 U.S.C. 7410, 7429, 7501 to 7508, and 7601(a)).

Dated: December 29, 1983.

Judith E. Ayres,

Regional Administrator.

[FR Doc. 84-3339 Filed 2-7-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-5-FRL 2521-8]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: The EPA announces proposed rulemaking on a revision to the ozone portion of the Ohio State Implementation Plan (SIP) for Volatile Organic Compounds (VOC). The SIP revision will provide for an alternative emission reduction plan (bubble) and an extended compliance schedule for eight vinyl coating lines at B.F. Goodrich's (BFG) facility located in Washington County, Ohio. This revision will allow BFG additional time to convert to waterborne coatings and inks. EPA's action is based upon a request which was submitted by the State.

DATE: Comments on this revision and on the proposed EPA action must be received by March 9, 1984.

ADDRESS: Copies of the SIP revision are available for inspection at the following addresses: (It is recommended that you telephone Uylaine E. McMahan, at (312)

353–0396 before visiting the Region V Office).

Environmental Protection Agency, Region V, Air and Radiation Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

Ohio Environmental Protection Agency, Office of Air Pollution Control, 361 East Broad Street, Columbus, Ohio 43216.

Written comments should be sent to: Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR–26), Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Uylaine E. McMahan, (312) 353–0396.

SUPPLEMENTARY INFORMATION: On April 7, 1982 (47 FR 15076), the Environmental Protection Agency issued a proposed Emissions Trading Policy Statement which sets forth general principles for the creation, banking and use of emission reduction credits. This statement indicated that it is the policy of EPA to encourage use of emissions trades to achieve more flexible, rapid and efficient attainment of national ambient air quality standards (NAAQS). It describes emissions trading, sets out general principles EPA will use to evaluate emissions trades under the Clean Air Act, and expands opportunities for States and industry to use these less costly control approaches. The April 7, 1982, notice noted that, until EPA takes final action on its policy statement, State actions involving emission trades would be evaluated under the provisions set forth in the proposed statement.

On March 9, 1983, the Ohio Environmental Protection Agency (OEPA) submitted a revision to its ozone SIP for BFG. The revision request contains an alternative emission control program (bubble) and an alternative compliance schedule which is in the form of a variance for eight vinyl coating lines located at BFG's facility in Washington County, Ohio. Under the existing federally approved SIP, each vinyl coating line is subject to the emission control requirements contained in Ohio Administrative Code (OAC) Rule 3745–21–09(H) and to the compliance schedule contained in OAC Rule 3745–21–04(C)(7). EPA approved these rules as meeting the reasonably available control technology (RACT) requirements of the Clean Air Act on June 29, 1982.

In lieu of the limitations contained in the existing federally approved SIP, the State is proposing a bubble for eight vinyl coating lines. Under the proposed bubble, BFG will convert to waterborne coatings and inks to achieve an emission limitation of 4.8 pounds of VOC per gallon of coating and ink solids (lbs VOC/gal coating and ink solids), excluding water, for the eight vinyl coating lines. Compliance with this limitation will be determined on a monthly basis and represents a 68 percent VOC reduction from the uncontrolled emission limits. In addition, the eight vinyl coating lines are also limited in total to a daily maximum of 6,000 pounds of VOC emissions, based on the RACT emission limitation at the historical maximum daily production rate. The 68 percent emission reduction attributable to the alternative control program is equivalent to the emission reduction required under OAC Rule 3745–21–09(H)(1)(a) or (H)(2) of the existing federally approved SIP.

The variance contains a compliance schedule which includes legally enforceable increments of process toward compliance. To ensure reasonable progress in achieving the allowable emission limitations, minimum reductions in average VOC content of all waterborne coatings and inks are established for: December 1982, December 1983, December 1984, and December 1985. The table below specifies the the emission reductions required.

The BFG's facility is located in Washington County, Ohio which has always been an rural ozone attainment area.

Date	Percent of coatings and inks which are water-borne [1]	Pounds of VOC per gallon of coating and inks, excluding water [1]	Pounds of VOC per gallon of solids [1]	Percent reduction in VOC emissions [2]
-	0	5.95	49.6	0
Dec. 1982	27	5.5	28.8	42
Dec. 1983	37	5.3	23.8	52
Dec. 1984	43	5.1	20.4	59
Dec. 1985	52	4.8	16.1	68

[1] Volume-weighted average for month.
[2] Percent reduction in VOC emissions is based upon the reduction in pounds of VOC per gallon of solids employed.

BFG is required to submit annual reports to the OEPA which demonstrate compliance with these minimum VOC reductions. If BFG cannot achieve compliance with emission limitations discussed above solely through the use of waterborne coatings and inks, BFG is required by December 31, 1985, to commence installation of add-on control equipment to achieve compliance with OAC 3745–21–09 (H)(2), according to a schedule contained in the variance, which results in compliance by December 1, 1987. Any vinyl coating line where add on control equipment subsequently installed would not be included in the above mentioned bubble.

The BFG's facility is located in Washington County, Ohio, an ozone attainment area. Therefore, the extended compliance schedule and use of monthly averaging will not interfere with the attainment or the maintenance of the ozone NAAQS.

EPA has determined that the bubble is consistent with EPA's proposed Emissions Trading Policy Statement. The bubble consists of enforceable emission limitations which are equivalent to RACT, and there will be no increase in total allowable emissions.

Although the variance and permits each expire 3 years after final approval by USEPA, the emission limitations and other requirements contained therein will remain the enforceable SIP beyond the expiration dates under State law. USEPA is specifically approving not only the permits and variances but also the emission limitations and other permit requirements mentioned above, that are contained in the permits and issuances.

EPA is providing a 30-day comment period on this notice of proposed rulemaking. Public comments received on or before March 9, 1984 will be considered in EPA's final rulemaking. All comments will be available for inspection during normal business hours at the Region V office listed at the front of this notice.

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

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

List of Subjects in 40 CFR Part 52

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

(Sec. 110 of the Clean Air Act, as amended 42 U.S.C. 7410)

Dated: July 19, 1983.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 84–3380 Filed 2–7–84; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 81

[A-5-FRL 2522-1]

Designation of Areas for Air Quality Planning Purposes; Attainment Status Designations; Illinois

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Proposed rule.

SUMMARY: USEPA proposes to change the total suspended particulates (TSP) attainment status designations of all, or part, of 15 Illinois counties: Adams, Cook, DeKalb, DuPage, Grundy, Knox, Lake, LaSalle, Madison, Monroe, St. Clair, Peoria, Tazewell, Will, and Woodford. The proposed revisions are based upon a January 27, 1983, request from the State of Illinois to redesignate these areas, and on supporting data submitted by the State. The request was amended on May 2, 1983, and supplemental information as provided on July 27, 1983. USEPA is also proposing to reject Illinois' request to redesignate the TSP attainment status designations of all, or part, of the following 8 counties: Cook, Kendall, LaSalle, Madison, Peoria, Rock Island, Tazewell, and Will. Under the Clean Air Act (Act) designations can be changed if sufficient data are available to warrant such change.

DATE: Comments on this revision and on the proposed USEPA action must be received by March 9, 1984.

ADDRESSES: Copies of the redesignation request, the technical support documents, and the supporting air quality data are available at the following addresses:

Environmental Protection Agency, Region V, Air Programs Branch, 230 S. Dearborn Street, Chicago, Illinois 60604.

Illinois Environmental Protection Agency Division of Air Pollution Control, 2200 Churchill Road, Springfield, Illinois 62706.

Comments on this proposed rule should be adressed to: Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR–26), USEPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, Air and Radiation Branch (5AR–26), Environmental Protection Agency, Region V, Chicago, Illinois 60604, (312) 886–6035.

SUPPLEMENTARY INFORMATION: Under Section 107(d) of the Act, the Administrator of USEPA has promulgated the National Ambient Air Quality Standards (NAAQS) attainment status for each area of Illinois. See 43 FR 8962 (March 3, 1978) and 43 FR 45993 (October 5, 1978).

Section 107(d)(5) of the Act, as amended in 1977, permits a State to request USEPA to rulemake on a change in the NAAQS attainment/nonattainment status of an area, when the available data warrant such a change. On January 27, 1983, the Illinois Environmental Protection Agency (IEPA) submitted a request to USEPA proposing redesignation of all, or part, of 17 Counties for the pollutant TSP. IEPA amended its request on May 2, 1983, and provided additional information on July 27, 1983. The current designation of each area for which a change has been requested, and the requested change, are as follows:

1. Adams County:	
Ellington, Melrose, and Riverside Townships.	Secondary Nonattainment to Attainment.
2. Cook County:	
Berwyn, Calumet, Lake, Lyons, N. Stickney, Riverside, and Thornton Townships.	Primary Nonattainment to Secondary Nonattainment.
Bremen, Hanover, Lemont, Oak Park, Orland, Palos, and Rich Townships.	Secondary Nonattainment to Attainment.
3. DeKalb County:	
DeKalb and Mayfield Townships.	Do.
4. DuPage County:	
Addison and York Townships.	Primary Nonattainment to Attainment.
Bloomingdale, Downers Grove, Lisle, and Naperville Townships.	Secondary Nonattainment to Attainment.
5. Grundy County:	
AuxSable and Morris Townships.	Unclassified to Secondary Nonattainment.
6. Kendall County:	
Entire County	Secondary Nonattainment to Attainment.
7. Knox County:	
Entire County	Do.
8. Lake County:	
All Secondary Nonattainment Townships.	Do.
9. LaSalle County:	
LaSalle Township	Primary Nonattainment to Attainment.
Ottawa Township	Secondary Nonattainment to Attainment.
10. Madison County:	
Alton Township	Primary Nonattainment to Attainment.
Alhambra, Edwardsvile Hamel, Helvetia, Jarvis, Marine, Omphghent, Pin Oak Saline, and St. Jacob Townships.	Secondary Nonattainment to Attainment.
11. Monroe County:	
Township T.2S–R.10W	Secondary Nonattainment to Attainment.
12. St. Clair County:	
Caseyville, Shiloh Valley, and St. Clair Townships.	Primary Nonattainment to Secondary Nonattainment.
Freeburg, Lebanon, O'Fallon, and Smithton Townships.	Secondary Nonattainment to Attainment.
13. Peoria County:	
Limestone and Peoria Townships.	Primary Nonattainment to Secondary Nonattainment.
All Secondary Nonattainment Townships except Hollis, Richmond, Kickapoo, and Medina Townships.	Secondary Nonattainment to Attainment.
14. Rock Island County:	
Rock Island and S. Rock Island Townships.	Primary Nonattainment to Secondary Nonattainment.
South Moline Township	Primary Nonattainment to Unclassified.
15. Tazewell County:	
Fondulac and Groveland Townships.	Primary Nonattainment to Secondary Nonattainment.
All Secondary nonattainment Townships except Cincinnati, Elm Grove, Pekin, Morton, and Washington Townships.	Secondary Nonattainment to Attainment.
16. Will County:	
DuPage, Lockport, and Joliet Townships.	Primary Nonattainment to Secondary Nonattainment.
Florence, Frankfort Green Garden, Homer, Manhatten, Peotone, and Wilton Township.	Secondary Nonattainment to Attainment.
Monee Township	Attainment to Secondary Nonattainment.
17. Woodford County:	
All Secondary Nonattainment Townships.	Secondary Nonattainment to Attainment.

USEPA's criteria for 107 designations are summarized in the April 21, 1983, memorandum, "Section 107 Designation Policy Summary", by Sheldon Meyers, Director of USEPA's Office of Air Quality Planning and Standards. In general, all available information relative to the attainment status of the area should be reviewed. These data should include the most recent eight consecutive quarters of quality-assured, representative ambient air quality data, plus evidence of an implemented control strategy. Supplemental information, including the available air quality modeling, emissions data, etc., should be used to determine if the monitoring data accurately characterize the worst-case air quality in the area. Information submitted to support attainment redesignations must adequately and accurately reflect long-term operating rates and economic conditions.

A discussion of each proposed redesignation follows:

Adams County

Ellington, Melrose and Riverside Townships (From Secondary Nonattainment to Attainment)

This redesignation is supported by the available monitor and modeling data. The only current monitoring site, located in Quincy, has recorded a violation since 1976. The old sewage treatment plant monitoring site, discontinued after 1977, recorded secondary standard violations which formed the basis for the original secondary standard designation. IEPA's Part D SIP modeling shows attainment at this location.

Cook County

Berwyn, Calumet, Lake, Lyons, N. Stickney Riverside and Thornton Townships (From Primary Nonattainment to Secondary Nonattainment)

For five townships (Berwyn, Riverside, N. Stickney, Lake and Thornton), the redesignation is suupported by the available monitoring and modeling data. There have been no primary standard violations at the two monitors located in Thornton Township, or the three monitors in Lake Township. Thornton and Lake are the only two of these five townships that contain major TSP sources. The modeling suggests only secondary nonattainment in Berwyn, Riverside, and N. Stickney. IEPA attributes recent air quality improvement to the implementation of RACT in nearby industrialized areas, as well as on the major TSP sources located in Lake and Thornton.

For Lyons and Calumet Townships, the redesignations are not supported by the available information. In Lyons, IEPA's modeling predicts substantial primary nonattainment attributable to two firms, Material Services Corporation and Vulcan Material. Two monitors, which were discontinued in 1980, recorded primary standard violations in the late 1970's. In Claumet, IEPA's modiling shows marginal primary nonattainment close to the only major TSP sources in the township, and nearby monitors (Blue Island and Carver High School) have recorded recent primary standard violations.

It is noted that IEPA's redesignation request for Cook County merely involves the narrowing of the primary/secondary nonattainment area boundaries. The Southeast Chicago area's major TSP source area, and the commercialized areas near downtown Chicago remain primary nonattainment.

Bremen, Honover, Lemont, Oak Park, Orland, Palos and Rich Townships (From Secondary Nonattainment to Attainment)

This redesignation is supported by the available monitoring and modeling data. There are three monitors in these townships, one each in Bremen, Rich and Oak Park, which have not recorded violations since 1979, 1976, and 1972, respectively. There are only a few major TSP sources within these townships. For a good portion of these areas, the data would have supported an original designation of attainment. IEPA attributes any recent improvement in ambient TSP levels to the implementation of RACT in the more heavily industrialized upwind areas.

DeKalb County

DeKalb and Mayfield Townships (From Secondary Nonattainment to Attainment)

This redesignation is supported by the available monitoring/modeling data. There are no major TSP sources in the county. The original nonattainment designation is based on secondary standard violations recorded at a monitoring site that was discontinued in 1979.

DuPage County

Addision Township (From Primary to Secondary Nonattainment)

This redesignation is supported by the available monitoring and modeling data, contingent upon IEPA's May 3, 1983, assertion that Chicago Stone Company, the main contributor to modeled violations, has shutdown. Before USEPA can finally approve the redesignation of Addison Township, the State must demonstrate the Chicago Stone Company has permanently shutdown and that the facility has been removed from the emission inventory.

York Township (From Primary Nonattainment to Attainment)

This redesignation is supported by the available monitoring and modeling data. The shutdown of Chicago Stone will also alleviate modeled violations in this township.

Bloomingdale, Downers Grove, Lisle, and Naperville Townships (Secondary Nonattainment to Attainment)

This redesignation is supported by the available monitoring and modeling data. There has not been a monitored violation of the secondary standard since 1978 at the three monitoring sites in these townships. There is only one major TSP source in this area. The improvement is attributed by IEPA to the implementation of RACT in upwind urban areas, and by the shutdown of Chicago Stone (Lisle Township).

Grundy County

AuxSable and Morris Townships (From Unclassified to Secondary Nonattainment)

This redesignation is supported by the available monitoring data. A new monitor, located in Morris, recorded a violation of the secondary standard in 1982.

Kendall County

Entire County (From Secondary Nonattainment to Attainment)

At present, there are no monitors in this county. A monitor in Plano was discontinued in 1977. Secondary violations were recorded in each of three previous years while the monitor was in operation. IEPA indicated that there are no major traditional TSP sources in the county. This redesignation cannot be approved unless IEPA can provide justification for not relying on the only available monitor data.

Knox County

Entire County (From Secondary Nonattainment to Attainment)

This redesignation is supported by the available monitoring and modeling data. There have been no violations of the secondary standard at the monitor in this county since 1976. IEPA attributes any improvement in the county's TSP air quality to the implementation of RACT both within and outside the county.

Lake County

(Remaining Secondary Nonattainment Townships to Attainment)

This redesignation is supported by the available monitoring and modeling data. There have been no violations of the secondary standard at any site in the county since 1978. IEPA attributes any recent air quality improvement to the implementation of controls in the Chicago area, upwind of Lake County.

LaSalle County

LaSalle Township (From Primary Nonattainment to Unclassified)

This redesignation is not supported by the available data. Monitored violations occurred near Marquette Cement through 1981, when the existing monitor sites were discontinued. IEPA has recently negotiated a settlement agreement with Marquette Cement, which will result in a 30% reduction of TSP emissions, and IEPA requests that the township be redesignated to unclassified until an new monitor verifies that the standards have been attained. However, it is not consistent with USEPA's policy to redesignate an area to unclassified at this time. This township should remain primary nonattainment until there is sufficient monitoring and/or other data available to support redesignation.

Ottawa Township (From Secondary Nonattainment to Attainment)

This redesignation is supported by the available monitoring and modeling data. There has been only one violation of the secondary standard (in 1976) at the Ottawa site since its startup in 1974. IEPA's modeling analysis predicts no standard violations in this area. The

original designation could just as well have been attainment in this township.

Madison County

Alton Township (From Primary Nonattainment to Secondary Nonattainment)

The monitoring data from the remaining site in Alton shows attainment of primary standards since 1980. IEPA's modeling predicts primary nonattainment attributable to Mississippi Lime (for which the monitor is not particularly well located). IEPA indicates that substantial emission reductions have been achieved from Mississippi Lime, and from other sources in the area. Until such time as IEPA documents specific legally enforceable emission reductions beyond RACT levels, and their expected ambient impact, from Mississippi Lime and/or other sources which are contributing to the high modeled concentrations, this redesignation cannot be approved.

Alhambra, Edwardsville, Hamel, Helvetia, Jarvis, Marine, Imphghent, Pin Oak, Saline, and St. Jacob Townships (From Secondary Nonattainment to Attainment)

This redesignation is supported by the available modeling data. There are no monitors in this area. IEPA has withdrawn the redesignation request for Choteau Township because a major source in his township is out of compliance with existing TSP regulations. The orginal designation for this area should have been attainment (based on IEPA's modeling and the lack of major TSP sources).

Monroe County

Township T.22–R.10W (From Secondary Nonattainment to Attainment)

This redesignation is supported by the available monitoring and modeling data. The Waterloo site has shown attainment since its startup in 1979. IEPA's modeling predicts attainment of the TSP NAAQS.

St. Clair County

Caseyville, Shiloh Valley and St. Clair Townships (From Primary Nonattainment to Secondary Nonattainment)

This redesignation is supported by the available monitoring and modeling data. The Bellville and Chahokia sites have recorded violations of the primary standard only once since 1976 (Bellville 1980). No violations have occurred, however, in the last 8 quarters of data. There are only two major TSP sources in this area. IEPA's modeling predicts marginal primary nonattainment at a few locations, which is attributable to major area sources. Because the monitors (not influenced by many major TSP sources) have not recorded levels as high as those modeled, and are likely to be representative of the air quality in these townships, these data can be relied on to support the redesignation.

Freeburg, Lebanon, O'Fallon, and Smithton Townships (From Secondary Nonattainment to Attainment)

This redesignation is supported by the available modeling data. There are no monitors in these townships. Any recent improvement in TSP air quality is atttributable, according to IEPA, to the implementation of RACT in the upwind industrialized area.

Peoria County

Peoria and Limestone Townships (From Primary Nonattainment to Secondary Nonattainment)

This redesignation is supported by the available monitoring and modeling data. The two monitors in Peoria Township have not recorded a violation of the primary standard since 1980. IEPA's modeling analysis predicted violations of the magnitude as previously monitored violations. The modeling, however, predicted little impact from the major TSP sources which are likely to have the greatest impact, "dirt roads and entrainment", and Hiram Walker, which has shutdown. The existing monitors are representative of impacts from these types of sources and, consequently, can be relied upon for this redesignation. However, prior to USEPA's approval of the Peoria Township redesignation, the compliance status of major TSP sources in this area must be resolved.

All Secondary Nonattainment Townships Except Hollis, Richmond, Kickapoo and Medina Townships (From Secondary Nonattainment to Attainment)

This redesignation is supported by the available modeling data. There are no monitors in this rural portion of the county, which contains no major TSP sources. There is no valid basis for the original secondary nonattainment designation for these townships.

Rock Island County

Rock Island and South Rock Island Townships (From Primary to Secondary Nonattainment)

This redesignation is supported by the available monitoring and modeling data, with the exception of the southern portion of S. Rock Island Township. In this area, IEPA's modeling predicted substantial primary nonattainment which is attributable to the Allied Stone Company in nearby Rock Island. Any recent air quality improvement can be attributed to the implementation of RACT in the Quad Cities area. There has not been a monitored violation of the primary standard in these townships since 1976. However, these redesignations will not be approved until IEPA:

(1) Provides information that legally enforceable emission reductions have occurred at the Allied Stone Company, which impacts S. Rock Island Township.

(2) Provides certification that a major TSP source in Rock Island Township is in compliance with existing SIP requirements, or that compliance is not necessary to assure attainment and maintenance of the NAAQS in Rock Island Township.

South Moline Township (Primary Nonattainment to Unclassified)

The monitor at 915 16th Avenue had recorded violations of the primary annual standard through 1981. IEPA feels that this site was unduly influenced by eddy effects of the nearby roof and reloacted the monitor to a different section of the roof in April, 1982. IEPA requests an unclassified designation until such time as sufficient data at the relocated site are available. However, it is consistent with USEPA's policy on redesignation to retain the primary nonattainment status until sufficient data are available to redesignate.

Tazewell County

Fondulac and Groveland Townships (From Primary Nonattainment to Secondary Nonattainment)

This redesignation is supported by the same rationale as discussed for Peoria and Limestone Townships in Peoria County (just across the river). Prior to approval of this redesignation, IEPA must certify that the two major utility TSP sources are in compliance with existing SIP requirements or that compliance is not necessary to assure attainment and maintenance of the primary standard.

All Secondary Nonattainment Townships Except Cincinnati, Elm Grove, Pekin, Morton and Washington Townships (From Secondary Nonattainment to Attainment)

This redesignation is supported by the available modeling data. There are no monitors in this rural area. The modeling indicates that the original designation

for this section of the county could have been attainment.

Will County

Joliet, DuPage, and Lockport Townships (From Primary to Secondary Nonattainment)

There has not been a monitored violation of the TSP primary standard since 1980 in Joliet Township, and since 1976 in DuPage and Lockport Townships. IEPA's modeling predicts primary nonattainment in Joliet as a result of the significant contributions from both Commonwealth Edison's Joliet Station and the Olin Corporation. IEPA claims that both of these firms have made recent substantial reductions beyond RACT levels. However, the Joliet redesignation should not be approved until additional information is supplied which demonstrates that these, or other permanent, legally enforceable emission reductions, are sufficient to assure attainment and maintenance of the primary standard. Similarly, IEPA must provide additional information for DuPage and Lockport Townships, demonstrating that recent emission reductions at the Material Service Corporation and the Chicago Stone Company will alleviate modeled high concentrations in these areas.

Florence, Frankfort, Green Garden, Homer, Manhatten, Peotone and Wilton Townships (From Secondary Nonattainment to Attainment)

This redesignation is supported by the available information. There are no monitors or major TSP sources in these areas. IEPA's modeling, which shows marginal secondary nonattainment in portions of this area, is not considered sufficiently reliable in rural areas where major contributors are nonathropogenic area source emissions. There is no basis for the original secondary nonattainment designations.

Monee Township (From Attainment to Secondary Nonattainment)

There has been a recent violation of the secondary standard recorded by a monitor in this township.

Woodford County

All Secondary Nonattainment Townships (From Secondary Nonattainment to Attainment)

This redesignation is supported by the available information. There are no monitors in this rural county and no major TSP sources. IEPA's modeling predicts attainment of the TSP standards. There is no basis for the original secondary nonattainment designation.

Proposed Action

USEPA proposed to change the TSP attainment status designations of the following Illinois townships, as indicated:

1. Adams County:	
Ellington, Melrose, and Riverside Townships.	Secondary Nonattainment to attainment.
2. Cook County:	
Berwyn, Lake, N. Stickney, Riverside, and Thornton Townships.	Primary Nonattainment to Secondary Nonattainment.
Bremen, Hanover, Lemont, Oak Park, Orland, Palos, and Rich Townships.	Secondary Nonattainment to Attainment.
3. DeKalb County:	
DeKalb and Mayfield Townships.	Do.
4. DuPage County:	
Addison, and York Townships.	Primary Nonattainment to Attainment.
Bloomingdale, Downers Grove, Lisle, and Naperville Townships.	Secondary Nonattainment to Attainment.
5. Grundy County:	
AuxSable and Morris Townships.	Unclassified to Secondary Nonattainment.
6. Knox County:	
Entire County	Secondary Nonattainment to Attainment.
7. Lake County:	
All secondary nonattainment townships.	Do.
8. LaSalle County:	
Ottawa township	Do.
9. Madison County:	
Alhambra, Edwardsville, Hamel, Helvetia, Jarvis, Marine, Omphghent, Pine Oak, Saline, and St. Jacob Townships.	Do.
10. Monroe County:	
Township T.2S–R.10W	Do.
11. St. Clair County:	
Caseyville, Shiloh Valley, and St. Clair Townships.	Primary Nonattainment to Secondary Nonattainment.
Freeburg, Lebanon, O'Fallon, and Smithton Townships.	Secondary Nonattainment to Attainment.
12. Peoria County:	
Limestone Township	Primary Nonattainment to Secondary Nonattainment.
All secondary nonattainment townships except Hollis, Richmond, Kickapoo, and Medina Townships.	Secondary Nonattainment to Attainment.
13. Tazewell County:	
All secondary nonattainment townships except Cincinnati, Elm Grove, Pekin, Morton and Washington townships.	Do.
14. Will County:	
Florence, Frankfort, Green Garden, Homer, Manhatten, Peotone, and Wilton Townships.	Do.
Monee Township	Attainment to Secondary Nonattainment
15. Woodford County:	
All secondary nonattainment townships.	Secondary Nonattainment to Attainment.

USEPA Proposes to reject Illinois' request to change the TSP attainment/nonattainment status of the following Illinois Townships:

1. Cook County: Lyons and Calumet Townships.
2. Kendall County:
3. LaSalle County: LaSalle Township.
4. Madison County: Alton Township.
5. Peoria County: Peoria Township.
6. Rock Island County: Rock Island, South Rock Island and South Moline Townships.
7. Tazewell County: Fondulac and Groveland Townships.
8. Will County: Joliet, DuPage, and Lockport Townships.

USEPA has determined that there is insufficient information available to support the requested redesignation for the above areas at this time. If, however, the State provides adequate technical support during the public comment period, which addresses the problem noted in the above discussion for these redesignations, USEPA will take final action to approve the State's requested redesignation of these townships.

All interested persons are invited to submit written comments on the proposed redesignations. Written comments received by the date specified above will be considered in determining whether USEPA will approve the redesignations. After review of all comments submitted, the Administrator of USEPA will publish in the **Federal Register** the Agency's final action on the redesignations.

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

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

List of Subjects in 40 CFR Part 8

Air pollution control, National parks, Wilderness areas.

(Sec. 107(d) of the Act, as amended (42 U.S.C. 7407))

Dated: December 29, 1983.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 84–3377 Filed 2–7–84; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 180

[OPP–300084; PH–FRL 2520–4]

Synthetic Paraffin and Its Succinic Derivatives; Proposed Exemptions From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that synthetic paraffin and its succinic derivatives be exempted from the requirement of a tolerance when used as

inert ingredients in pesticide formulations. This proposed regulation was requested by the Petrolite Corp.

DATE: Written comments must be received on or before March 9, 1984.

ADDRESS: By mail, submit comments to:

Program Management and Support Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, deliver comments to:

Registration Support and Emergency Response Branch, Registration Division (TS–767), Environmental Protection Agency, Rm. 724A, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: By mail:

N. Bhushan Mandava, Registration Support and Emergency Response Branch, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number:

Registration Support and Emergency Response Branch, Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703–557–7700).

SUPPLEMENTARY INFORMATION: At the request of the Petrolite Corp., the Administrator proposes to amend 40 CFR 180.1001 by establishing an exemption from the requirement of a tolerance for synthetic paraffin and its succinic derivatives as a carrier, binder, and coating agent in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest.

Inert ingredients which are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as water; baits such as sugar, starches, and meat scraps; dust carriers such as talc and clay; fillers; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

Preambles to proposed rulemaking documents of this nature include the common or chemical name of the substance under consideration, the name and address of the firm making the request for the exemption, and toxicological and other scientific bases used in arriving at a conclusion of safety in support of the exemption.

Name of inert ingredient: Synthetic paraffin and it succinic derivatives.

Name and address of requestor: Petrolite Corp., Tulsa, OK 74112.

Basis for approval: Synthetic paraffin and its succinic derivatives are cleared under 21 CFR 172.275 as direct food additives for use in fruit coatings.

Based on the above information, and review of its use, it has been found that, when used in accordance with good agricultural practices, these ingredients are useful and do not pose a hazard to humans or the environment. It is concluded, therefore, that the proposed amendment to 40 CFR Part 180 will protect the public health, and it is proposed that the regulation be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains this inert ingredient, may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)).

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating both the subject and the petition and document control number, "[OPP–300084]". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the Registration Support and Emergency Response Branch at the address given above from 8 a.m. to 4: p.m., Monday through Friday, except legal holidays.

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

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

List of Subjects in 40 CFR Part 180

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

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

Dated: January 23, 1984.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180–[AMENDED]

Therefore, it is proposed that 40 CFR 180.1001(c) be amended by adding and alphabetically inserting the inert ingredient as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Insert ingredients	Limits	Uses
* * * * *		
Synthetic paraffin and its succinic derivatives conforming to 21 CFR 172.275.	.....	Carrier, binder, and coating agent.
* * * * *		

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[FR Doc. 84–3256 Filed 2–7–84; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 260

[SHW–FRL 2505–5]

Processing Delisting Petitions; Additional Information Request

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of intent to request additional information in processing delisting petitions.

SUMMARY: This notice announces our intention to request additional information from those persons who have submitted exclusion ("delisting") petitions pursuant to 40 CFR 260.20 and 260.22 of the Resource Conservation and Recovery Act (RCRA). This is needed so that the EPA can be assured that the waste no longer must be managed as a hazardous waste.

FOR FURTHER INFORMATION CONTACT: RCRA Hotline, toll free at (800) 4524–9346 or at (202) 382–3000. For technical information contact Messrs. Myles Morse or William Sproat, Office of Solid Waste (WH–562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 382–4761.

SUPPLEMENTARY INFORMATION: On January 16, 1981, as part of its final and interim final regulations implementing Section 3001 of the Resource Conservation and Recovery Act (RCRA), EPA published an amended list of hazardous waste from non-specific and specific sources. See 40 CFR 261.31 and 261.32. These wastes were listed as

hazardous because they typically and frequently exhibit the characteristics of hazardous waste identified in Subpart C of Part 261 or meet the criteria for listing contained in 40 CFR 261.11(a)(2) or 261.11(a)(3).

Individual waste streams may vary, however, depending on raw materials, industrial processes, and other factors. Thus, while a waste that is described in these regulations is typically hazardous, a specific waste meeting the listing description from an individual facility may not be hazardous. For this reason, §§ 260.20 and 260.22 of the hazardous waste regulations provide an exclusion procedure, allowing persons to demonstrate that a specific waste from a particular generating facility should not be regulated as a hazardous waste.

Most of the hazardous wastes identified in Subpart D of Part 261 are toxic according to the criteria described in § 261.11(a)(3). In listing these wastes as hazardous, the Agency has identified the specific toxic constituents which caused the waste to be listed (see Appendix VII of Part 261). The existing standard for delisting, however, requires petitioners to address only those factors considered by the Agency in listing the waste as hazardous, *i.e.*, the specific toxic constituents identified by the Agency. Therefore, there could be a situation where a specific waste may not contain the toxic constituents that caused the waste to be listed (or may not contain them in an immobile form or at levels below those of regulatory concern) while it contains other toxicants at harmful levels. Such situations have actually occurred in the past.

We believe that such an outcome is unacceptable because it precludes the Agency from addressing other hazardous constituents known to be in the waste and may force the Agency to "delist" a waste that may still be hazardous. As a result, the Office of Solid Waste intends to amend the delisting procedures to require the Agency to consider these additional constituents before making a decision.

A number of bills being considered by Congress would amend RCRA to require the Agency to evaluate wastes, for which exclusion petitions are filed, for the presence of hazardous constituents other than those for which a waste is listed. These bills would also require notice and comment before any new exclusions are granted and would further require the Agency to make final determinations on pending temporary exclusions within a short time. (The House of Representatives already has passed such legislation (see Hazardous Waste Control and Enforcement Act of 1983, H.R. 2867, Section 13) while the Senate Committee on Environment and Public Works has favorably reported such legislaton (Solid Waste Disposal Act Amendments of 1983, S. 757, Section 8).)

Consequently, the Office of Solid Waste and Emergency Response will soon begin to request this additonal information. EPA does not intend to withhold consideration of petitions under the existing regulations. Once new legislation is enacted, the Agency will have a very short time to finalize all existing temporary exclusions. Given this deadline, the Agency would probably have a difficult time meeting this schedule unless the additional information is already in hand. Furthermore, with respect to new petitions, if we proceed with delisting decisions without addressing data on other hazardous constituents that may be present in the waste, we probably would have to withdraw the rules once legislation is enacted or shortly thereafter. Such action would continue to leave petitioners uncertain as to the regulatory status of their wastes.

Therefore, we intend to request that petitioners, on an individual basis, address additional factors and hazardous constituents other than those for which their waste was initially listed. Our concern is limited to those constituents for which there is a reasonable basis to believe that their presence in the waste could pose a significant threat to human health or the environment. Although the type and amount of additional information that will be requested for each petition will vary, we will be asking for the following general type of information:

Generators of Hazardous Waste

- A complete list of raw materials, intermediates, by-products, and products used in the manufacturing process (grouped by sub-process);
- A description and schematic diagram of each process which may contribute waste to the waste stream petitioned for exclusion;
- Testing of representative waste samples for total oil and grease and total organic carbon (TOC);
- Testing of representative waste samples for all of the Extraction Procedure (EP) toxic metals listed in Table 1 of 40 CFR 261.24, nickel, and cyanide (both total and free) for bulk analysis using a complete digestion procedure; and
- Testing of representative waste samples for all of the EP toxic metals listed in Table 1 of 40 CFR 261.24, nickel, and cyanide (both total and free) using an appropriate leachate procedure.

If, after reviewing this data, the Agency finds that other toxicants are used at the facility and reasonably may be present in the waste at significant levels, additional representative test data may be requested.

Hazardous Waste Treatment Facilities

- Testing of representative waste samples for total oil and grease;
- Testing of representative waste samples for the Appendix VIII toxic constituents or some sub-set of them; and
- Testing of representative samples for all the EP toxic metals listed in Table 1 of 40 CFR 261.24, nickel, and cyanide (both total and free) using an appropriate leachate procedure.

All petitioners will be notified, by letter, of the particular, additional information they will be requested to provide.

Dated: January 3, 1984.

Lee M. Thomas,

Assistant Administrator.

[FR Doc. 84-3257 Filed 2-7-84; 8:45 am]

BILLING CODE 6560-50-M

COUNCIL ON ENVIRONMENTAL QUALITY

40 CFR Parts 1502 and 1508

Withdrawal of Proposed Guidance Memorandum of August 11, 1983

AGENCY: Council on Environmental Quality, Executive Office of the President.

ACTION: Notice—Withdrawal of Proposed Guidance Memorandum for Federal Agency NEPA Liaisons.

SUMMARY: Due to suggestions received during the public comment period, the Council on Environmental Quality withdraws the proposed guidance regarding the worst case analysis (40 CFR 1502.22) which was published in the **Federal Register** on August 11, 1983 at 48 FR 36486. CEQ is continuing its examination of this issue and intends to publish a new proposal in the near future.

FOR FURTHER INFORMATION CONTACT: Dinah Bear, General Counsel, Council on Environmental Quality, 722 Jackson Place NW., Washington, D.C. 20006, (202) 395-5754.

Dated: February 3, 1984.

A. Alan Hill,

Chairman.

[FR Doc. 84-3443 Filed 2-7-84; 8:45 am]

BILLING CODE 3125-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 17 and 222

Listing Endangered and Threatened Species and Designating Critical Habitat; Action on a Petition to List the Guadalupe Fur Seal

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Petition for Rulemaking and Request for Information.

SUMMARY: The National Marine Fisheries Service has received a petition to add the Guadalupe fur seal, *Arctocephalus townsendi*, to the U.S. List of Endangered and Threatened Wildlife (50 CFR Part 17). A list of endangered species under the jurisdiction of the Department of Commerce is contained in 50 CFR 222.23. In accordance with Section 4 of the Endangered Species Act of 1973, the Assistant Administrator for Fisheries has determined the petition presents substantial scientific information indicating that the action may be warranted. As required by Section 4(b)(3)(A) of the Act, the Service has commenced a review of the status of *A. townsendi* to determine if the petitioned action is warranted. To ensure that the review is comprehensive, the Service is soliciting information and data concerning the status of *A. townsendi*.

DATE: Comments and information should be received by April 9, 1984.

ADDRESS: Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Montanio, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, Washington, D.C. 20235, ((202) 634–7471) or Mr. Dana J. Seagars, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731, ((213) 548–2518).

SUPPLEMENTARY INFORMATION:

Background

Section 4 of the Endangered Species Act of 1973 (ESA) contains provisions allowing interested persons to petition the Secretary of the Interior or the Secretary of Commerce to add a species to, or remove a species from the List of Endangered and Threatened Wildlife (List). Section 4(b)(3)(A) of the ESA requires that, to the maximum extent practicable, within 90 days after receiving such a petition the Secretary must determine whether the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted. This information standard for petitions is the result of an amendment made to Section 4 of the ESA in 1982. Proposed regulations implementing these amendments were published in the **Federal Register** (48 FR 36062–36069) on August 8, 1983. These regulations have not yet been finalized. The Service interprets "substantial scientific or commercial information" to mean the amount of information that would lead a reasonable person to believe that the proposed measure may be warranted. The criteria used in making such determinations are found in 50 CFR 424.14(b).

These criteria are essentially the same as those contained in the proposed regulations implementing the 1982 amendments to Section 4 of the ESA (48 FR 36062–36069).

Listing Factors and Basis for Determinations

Pursuant to Section 4(a)(1) of the ESA, a species is determined to be endangered or threatened for any of the following reasons: (1) Present or threatened destruction, modification, or curtailment of its habitat or range; (2) Overutilization for commercial, recreational, scientific, or educational purposes; (3) Disease or predation; (4) Inadequacy of existing regulatory mechanisms; or (5) Other natural or manmade factors affecting its continued existence.

The 1982 amendments to the ESA clarify that determinations concerning decisions on listings shall be made solely on the best scientific and commercial data available after conducting a status review of the species and after taking into account those efforts, if any, being made by any State, or foreign nation, or subdivision thereof, to protect such species. The purpose of these amendments is to ensure that decisions in every phase of the process to list or delist species are made solely on biological criteria and to prevent non-biological considerations from affecting such decisions (H.R. Rept. No. 97–835, 97th Cong., 2d Sess. 19 (1982) Conference Report).

Petition Received

On November 21, 1983, the Service received a petition from Mr. Richard T. Tinney, Jr., Seal Rescue Fund, Center for Environmental Education, to list the Guadalupe fur seal, *Arctocephalus townsendi*, as an endangered species.

The Assistant Administrator for Fisheries has determined that the petition presents substantial scientific information indicating that the petitioned action may be warranted. Pursuant to Section 4 of the ESA, this determination requires that a review of the status of *A. townsendi* be conducted to determine if the petitioned action is warranted. In addition, Section 4 also requires that within 12 months of the date of receipt of a "substantial" petition the Secretary must make one of the following findings: (1) The petitioned action is not warranted; (2) the petitioned action is warranted; or (30 the petitioned action is warranted, but pending listing proposals preclude immediate proposal of a regulation to implement the action. A Notice of the finding must be published in the **Federal Register** and in the case of (2), above, the complete text of a proposed regulation to implement the action must be included.

Biological Information Solicited

To ensure that the review is complete and is based on the best available scientific and commercial data concerning *A. townsendi*, the Service is soliciting information and comments concerning the status of the species from any interested party. The Service requests that such data, information, and comments be accompanied by: (1) Supporting documentation, such as maps, bibliographic references, or reprints of pertinent publications; and (2) the Party's name, address, and any association, institution, or business that the Party represents.

List of Subjects in 50 CFR Part 17

Endangered and threatened species.

Dated: January 30, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 84–3033 Filed 2–7–84; 8:45 am]

BILLING CODE 3510–22–M

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50 CFR Part 268

[Docket No. 30706–125]

Proposed United States Standards and Labeling Requirements for Minced Fish Meat

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

ACTION: Notice of proposed rulemaking with request for comments.

SUMMARY: The Department of Commerce proposes to amend the Federal regulations for fishery products by establishing standards of identity and quality (including parameters for measuring compliance), and labeling requirements for the small-particle product resulting from the application of mechanical equipment employed to separate edible fish meat from bone and skin. The product recovered by this process is a relatively formless mass of small-particle fish meat essentially free from skin and bone.

This proposed rule is based upon information and data accumulated by industry and Government research and development activities since 1972. The requirements to be established by this proposal would assure that U.S. consumers receive a safe and wholesome product, suitable for human food use.

DATE: Comments must be received on or before August 6, 1984.

ADDRESS: Send comments to the Director, Office of Utilization Research, National Marine Fisheries Service, NMFS, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Mr. James Brooker, (Project Leader, NMFS), 202–634–7458.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce proposes to amend the Federal Fishery Products Inspection Regulations by establishing standards of identity, minimum quality, (including parameters for measuring compliance), and labeling for minced fish meat produced by employing available technology currently in use in the meat, poultry, and fish processing industries.

The impact of the proposed standards would assure the production of a consistent product of uniform quality which would be wholesome, safe, and suitable for use directly as human food, or as a suitable ingredient in combination with other animal or vegetable protein ingredients. Use of these standards by industry will facilitate the production and use of a variety of food products for the benefit of U.S. consumers and industry.

Classification

The NOAA Administrator (Administrator) has reviewed this proposed rule in accordance with Executive Order 12291, and has determined that it is not a "major rule" since promulgation of these standards will have no adverse effect on the economy, costs or prices, and no impact on competition, employment, investments, or productivity. This rule will not result in an annual effect on the economy of $100 million or more. There will be no major increase in cost or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. It will not result in significant adverse effects on competition, employment, investment, productivity, innovations, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. Accordingly, a regulatory impact analysis is not required.

The General Counsel of the Department of Commerce has certified to the Small Business Administration that the proposed rule will not have a significant economic impact on a substantial number of small entities under the provisions of the Regulatory Flexibility Act, because the proposal only relates to the processing of one particular type of fishery product which is currently being produced by very few firms in the United States. It does not address or affect all processed fishery products.

The Administrator has determined that this proposed rule does not require the preparation of an environmental impact statement under the National Environmental Policy Act of 1969.

The proposed rulemaking requires no collection of information from those members of the public who wish to participate in the seafood inspection and grading program; and thereby, contains no information collection requirements as defined by the Paperwork Reduction Act. Participation in the NMFS seafood inspection program is strictly voluntary.

This activity has been identified by the Office of Management and Budget as an observer function and therefore, does not constitute a collection of information requirements under the Paperwork Reduction Act.

Request for Comments

Interested persons are invited to submit written comments concerning this proposal. The Agency is particularly interested in receiving additional scientific information on methods and procedures that can easily be employed by the industry and could be used as possible alternative process controls in the processing of minced fish meat to assure that a wholesome, safe, suitable product is produced.

Written comments should be sent to the Office of Utilization Research. Comments should reference the docket number which appears in the heading of this document.

All comments submitted on this notice will be made available for public inspection in the Office of Utilization Research between 9:30 a.m. and 3:30 p.m., Monday through Friday.

List of Subjects in 50 CFR Part 268

Food grades and standards, Food labeling, Seafood.

Dated: September 22, 1983.

William G. Gordon,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For reasons set forth in the preamble, a new Part 268 is proposed to be added to Chapter II of 50 CFR to read as follows:

PART 268—UNITED STATES STANDARDS FOR MINCED FISH MEAT

Subpart A—Minced Fish Meat From Codfishes

Sec.

268.100 Product identity.
268.101 Handling, processing, and packaging.
268.102 Processing controls.
268.103 Quality requirements.
268.104 Labeling.
268.105 Methods of analysis and sampling.

Authority: 7 U.S.C. 1621–1630.

Subpart A—Minced Fish Meat From Codfishes

§ 268.100 Product identity.

(a) Minced fish meat (MFM) is the food product mechanically separated from any four species of the family Gadidae—codfishes:

(1) *Gadus morhua*—Atlantic cod;

(2) *Merluccius bilinearis*—silver hake (aka whiting);

(3) *Theragra chalcogramma*—walleye pollock (aka Alaska pollock); and

(4) *Urophycis chuss*—red hake.

The MFM mechanically spearated from the skin and bone must be processed and maintained in accordance with good commercial practices and meet the provisions of this part.

(b) No more than 2 percent of the bone particles present in MFM by weight may have a length greater than 5.0 millimeters, and no bone may be greater than 10 millimeters in length.

(c) The MFM resulting from the separating process may not have a calcium content exceeding 0.20 percent, must have a minimum protein content (Kjedahl determination) of not less than 14.5 percent and a minimum protein efficiency ratio (PER) of 2.6, and must have a fat content of not more than 2.0

percent. No food additives are allowed in this product.

§ 268.101 Handling, processing, packaging.

Fish to be processd into MFM must be preserved at sea and ashore at temperatures not to exceed 36°F (2°C) for a period not to exceed 4 days. If frozen at sea or ashore, the fish must be hard frozen (0°F at thermal center) within 48 hours after the freezing process has begun, and maintained at temperatures not to exceed 0°F (−18°C). Parts of fish ("V" and "J" cuts, tail portions of frames, and belly flaps) containing edible fish meat but excluding heads and whole frames to be subjected to the separation process may be held for no more than 24 hours at 36°F (2°C) or held in coded containers or packaging material suitable for direct contact with food for a period not to exceed 60 days at 0°F (−18°C) or less before the separating process is carried out. Minced fish meat directly after being separated, must be used immediately as an ingredient in a food product except that it may be held prior to such use for no more than 12 hours at 36°F (2°C) or less; or must be frozen to an internal temperature of 0°F (−18°C) or less within 12 hours after the freezing process has commenced, and held prior to use for no more than 180 days in coded containers or packaging material suitable for direct contact with food.

§ 268.102 Processing controls.

Minced fish meat must be produced in accordance with the good manufacturing regulations contained in 21 CFR Part 110.

§ 268.103 Quality requirements.

(a) In addition to the requirements given in § 268.100, MFM must have an odor (for the raw product) and flavor and odor (for the cooked product) that are characteristic of the species and free from rancidity, bitterness, staleness, and off-flavors and off-odors.

(b) Frozen minced fish meat must be thawed for evaluation of the raw odor. For the evaluation of flavor and odor of MFM after cooking, any of the AOAC cooking procedures may be used. Sensory evaluation of cooked samples will be carried out as soon as practical after cooking while the samples are warm.

§ 268.104 Labeling.

Packaged MFM requires special handling to maintain the quality and wholesomeness condition and must have prominently displayed on the container—

(a) The date of manufacture of the minced fish meat:

(b) Marked "Keep Refrigerated," "Keep Frozen," "Perishable Keep Under Refrigeration," as is appropriate; or similar statements.

§ 268.105 Methods of analysis and sampling.

(a) Finished product samples of MFM will be analyzed in accordance with "Official Methods of Analysis of the Association of Official Analytical Chemists" (AOAC), 13th ed., 1980, Sections 43.212–43.216 (pages 774–775), 18.003 (page 285), 18.002 (page 289) and the Journal of the Association of Official Analytical Chemists (JAOAC), Vol. 66, No. 2, 1983, Sections 24.D01–24.D02 (pages 530–531), and 43.D01–43.D02 (page 543), which are incorporated by reference. Alternative methods of analysis may be submitted to the Administrator to determine their acceptability based upon their accuracy, repeatability, reproduceability, and lowest level of reliable measurement as demonstrated by at least three laboratories. Copies of AOAC methods may be obtained from: AOAC, 1111 N. 19th Street, Arlington, VA 22209.

(b) When Type I—Official establishment and product inspection is requested and provided by the U.S. Department of Commerce, the following sampling plans and procedures for determining compliance shall be used:

(1) Except as provided below, a sample of at least one pound of MFM will be taken from each lot to verify the requirements contained in § 269.100 and § 268.103. For purposes of this paragraph, a lot consists of MFM produced in no more than one continuous shift of up to 12 hours. All units of any lot must be available for inspection.

(2) Analysis of calcium, protein, and fat quality may be performed on a one pound sample from only one randomly selected lot out of every five consecutive lots if the preceding ten consecutive analyses for calcium, protein, and fat establish compliance with the requirement of § 268.100.

(3) Analysis for the PER value in § 268.100 will be performed on a one pound sample at a rate of at least once per month during production. If the preceding three consecutive analyses establish compliance with the requirements of § 268.100, these analyses may be performed on a one pound sample only once every six months.

(c) When Type II—Lot inspection is requested and provided by the U.S. Department of Commerce, the sampling plans and procedures as provided in 50 CFR Part 260 shall be used.

[FR Doc. 84-3263 Filed 2-7-84; 8:45 am]
BILLING CODE 3510-22-M

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50 CFR Parts 654 and 658

Gulf of Mexico Fishery Management Council; Shrimp/Stone Crab Public Hearings

Correction

FR Doc. 84–2367 was published on page 3504 in the Friday, January 27, 1984 issue of the **Federal Register**. This document announced public hearings by the Gulf of Mexico Fishery Management Council to discuss a proposed amendment to the Shrimp and Stone Crab Fishery Management Plans. This document was inadvertently published in the Notices section of the **Federal Register**. It should have appeared in the Proposed Rules section.

BILLING CODE 1505-02-M

Notices

Federal Register
Vol. 49, No. 27
Wednesday, February 8, 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.

ACTION

Information Collection Request Under Review

AGENCY: ACTION.

ACTION: Information Collection Request Under Review.

SUMMARY: This notice sets forth certain data about an information collection proposal by ACTION, the National Volunteer Agency.

Background

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

Information About This Proposed Collection

Agency Clearance Officer—William W. Lovelace—202–634–9310
Agency Address: ACTION, 806 Connecticut Ave., NW., Washington, D.C. 20525
Office of ACTION Issuing Proposal: Domestic Operations
Title of Form: Project Application (Young Volunteers In ACTION (YVA))
Type of Request: Reinstatement
Frequency of Collection: Annually
General Description of Respondents: ACTION will award grants to State or local governments, non-profit institutions, and small organizations.
Estimated Annual Reporting or Disclosure Burden: 8,500 hours.
Respondent's Obligation to Reply: Required to obtain or retain benefit.
Person responsible for OMB Review: James L. Thomas, 202–395–6880

James B. Williams,

Director, Office of Policy and Planning, ACTION.

[FR Doc. 84–3410 Filed 2–7–84; 8:45 am]

BILLING CODE 6050–28–M

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Meeting

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice.

SUMMARY: Notice is hereby given in accordance with Section 800.6(d)(3) of the Council's regulations, "Protection of Historic and Cultural Properties" (36 CFR Part 800), that the Advisory Council on Historic Preservation will meet in the Auditorium of the Georgia World Congress Center, 285 International Boulevard, Atlanta, Georgia, on February 27, 1984, and in the Veterans Hall Room of the Alumni Hall, Georgia State University, 30 Courtland Street, Atlanta, Georgia, on February 28, 1984.

The Council was established by the National Historic Preservation Act of 1966 (16 U.S.C. Section 470) to advise the President and Congress on matters relating to historic preservation and to comment upon Federal, federally assisted, and federally licensed undertakings having an effect upon properties listed in or eligible for inclusion in the National Register of Historic Places. The Council's members are the Architect of the Capitol, the Secretaries of the Interior, Agriculture, Housing and Urban Development, Treasury, Transportation; the General Services Administrator; the Chairman of the National Trust for Historic Preservation; the President of the National Conference of State Historic Preservation Officers; a Governor, a mayor, and eight non-Federal members appointed by the President.

The Agenda for the meeting includes the following:

Call to Order
Chairman's Welcome
Order of Business
Consideration of Minutes of December 12–13, 1983, Meeting
I. Section 106 Case: Presidential Parkway, Atlanta, Georgia
II. Report of the Executive Director
III. Report of the General Counsel: Regulations Review
IV. Report of the Office of Cultural Resource Preservation
V. New Initiatives: Policy and Planning
VI. New Business

DATE: The meeting will begin at 9:00 a.m., Monday, February 27, 1984, and continue through February 28, 1984.

FOR FURTHER INFORMATION CONTACT: Additional information concerning either the meeting agenda or the submission of oral and written statements to the Council is available from the Executive Director, Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue NW., Suite 809, Washington, D.C. 20004, 202–786–0503.

Dated: February 3, 1984.

Robert R. Garvey, Jr.,

Executive Director.

[FR Doc. 84–3414 Filed 2–7–84; 8:45 am]

BILLING CODE 4310–10–M

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

February 3, 1984.

The Department of Agriculture has submitted to OMB 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. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry.

Copies of the proposed forms and supporting documents may be obtained from: Department of Clearance Officer, USDA, OIRM, Room 108–W, Admin. Bldg., Washington, D.C. 20250, (202) 447–4414.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attn.: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Reinstatement

• Extension Service
Wisconsin Forests Products Price Review Survey Forms
2A, 2B, 3A, 4, 5, 6, 7A, 8A, 8C, 9
Quarterly, Semi-Annually
State or Local Government, Federal Agencies or Employees, Small Businesses or Organizations: 900 responses; 150 hours, not applicable under 3504(h)
Theodore Peterson, (606) 262–0249

Revised

• Animal and Plant Health Inspection Service
9 CFR Part 166 Swine Health Protection
VS—13—15
On Occasion, Recordkeeping
Farms, Businesses: 200 responses; 132 hours; not applicable under 3504(h)
R. D. Good, (301) 436–8487
• Agricultural Marketing Service
Dairy Research and Promotion Order
DA—15, 16, 17, 18, 19, 20, 26
On Occasion, Monthly
State or Local Government, Farms, Businesses: 92,290 responses; 19,437 hours; not applicable under 3504(h)
Benjamin C. Weaver, (207) 447–7101

Extension (Burden Change)

• Statistical Reporting Service
Listing Sampling Frame Surveys
On Occasion
Farms: 102,000 responses; 8,500 hours; not applicable under 3504(h)
Lee Sandberg, (202) 447–6820

Susan B. Hess,

Acting Department Clearance Officer.

[FR Doc. 84–3429 Filed 2–7–84: 8:45 am]

BILLING CODE 3410–01–M

Packers and Stockyards Administration

Deposting of Stockyards

It has been ascertained, and notice is hereby given, that the livestock markets named herein, originally posted on the respective dates specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et* seq.), no longer come within the definition of a stockyard under said Act and are, therefore, no longer subject to the provisions of the Act.

Facility No., name, and location of stockyard	Date of posting
MN–134 Motley Livestock Sales, Motley, Minnesota.	Jan. 19, 1963.
MN–143 Rushford Sale Barn, Rushford, Minnesota.	Mar. 18, 1971.
MN–147 Wisconsin Feeder Pig Marketing Cooperative, Sauke Centre, Minnesota.	Aug. 31, 1970.
MN–165 Wisconsin Feeder Pig Marketing Cooperative, Perham, Minnesota.	Sept. 9, 1974.
MN–167 Simon Horse Co., Rosemount, Minnesota.	Sept. 8, 1975.
ND–112 Tri-State Auction Market, Hettinger, North Dakota.	May 22,1959.

Notice or other public procedure has not preceded promulgation of the foregoing rule. There is no legal justification for not promptly deposting a stockyard which is no longer within the definition of that term contained in the Act.

The foregoing is in the nature of a change relieving a restriction and may be made effective in less than 30 days after publication in the **Federal Register.** This notice shall become effective upon publication in the **Federal Register.**

(42 Stat. 159, as amended and supplemented; 7 U.S.C. 181 *et seq.)*

Done at Washington, D.C., this 1st day of February, 1984.

Jack W. Brinckmeyer,

Chief, Financial Protection Branch Livestock Marketing Division.

[FR Doc. 84–336 Filed 2–7–84: 8:45 am]

BILLING CODE 3410–02–M

CIVIL RIGHTS COMMISSION

Wyoming Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Wyoming Advisory Committee to the Commission will convene at 1:00 p.m. and will end at 4:00 p.m., on March 30, 1984, at the Laramie County Community College, ARP Building, Room 142, Cheyenne, Wyoming. The purpose of this meeting is to present material on Section 504 of the Rehabilitation Act of 1973 and discuss future projects.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Chairperson, Fuji Adachi, at (307) 766–6139 or the Rocky Mountain Regional Office at (303) 837–2211.

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

Dated at Washington, D.C., February 3, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84–3394 Filed 2–7–84: 8:45 am]

BILLING CODE 6335–01–M

Wyoming Advisory Committee; Amendment

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a meeting of the Advisory Committee of the Commission originally scheduled for February 11, 1984, at Laramie, Wyoming (FR Doc 84–2100 on page 3231), has a new convening date.

The meeting will be on March 3, 1984. The address and time will remain the same.

Dated at Washington, D.C., February 3, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84–3395 Filed 2–7–84: 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Office of the Secretary

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C Chapter 35).

Agency: Bureau of the Census
Title: Survey of Government Finances (School Systems)
Form Numbers: Agency—F–33, F–33–1, F–33–L1 OMB—0607–0165
Type of Request: Revision of a Currently Approved Collection
Burden: 524 respondents; 1,125 reporting hours
Needs and Uses: This survey collects financial data for public school systems. Data are incorporated with other local government finance data and entered into the national income accounts. Tax data gathered in this survey are used by the Treasury Department to determine the tax effort portion of the formula used to administer the State and Local Fiscal

Assistance Program of 1972 (General Revenue Sharing) School Finance data are supplied annually to the Bureau of Economic Analysis (BEA) for use in determining the gross national product.

Affected Public: State or Local Governments

Frequency: Annually

Respondent's Obligation: Voluntary

OMB Desk Officer: Timothy Sprehe, 395–4814.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent to the respective OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Dated: February 2, 1984.

Edward Michals,

Department Clearance Officer.

[FR Doc. 84–3360 Filed 2–7–84; 8:45 am]

BILLING CODE 3510–CW–M

Bureau of the Census

Members of the Bureau of the Census Performance Review Board

The following individuals will serve as members of the Bureau of the Census Performance Review Board:

(1) Barbara A. Bailar
(2) Bryant Benton
(3) William P. Butz
(4) Jerome A. Mark
(5) Roland H. Moore
(6) Charles A. Waite
(7) Katherine K. Wallman

Dated: February 2, 1984.

C. L. Kincannon,

Deputy Director, Bureau of the Census.

[FR Doc. 84–3430 Filed 2–7–84; 8:45 am]

BILLING CODE 3510–07–M

International Trade Administration

Export Trade Certificate of Review; Application

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of application.

SUMMARY: The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce has received an application for an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and invites interested parties to submit information relevant to the determination of whether a certificate should be issued.

DATES: Comments on these applications must be submitted on or before February 28, 1984.

ADDRESS: Interested parties should submit their written comments, original and five (5) copies, to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 5618, Washington, D.C. 20230.

Comments should refer to this application as "Export Trade Certificate of Review, application number 84–00006."

FOR FURTHER INFORMATION CONTACT: Charles S. Warner, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/377–5131, or Eleanor Roberts Lewis, Assistant General Counsel for Export Trading Companies, Office of General Counsel, 202/377–0937. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (Pub. L. 97–290) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 48 FR 10596–10604 (March. 11, 1983) (to be codified at 15 CFR Part 325). A certificate of review protects its holder and the members identified in it from private treble damage actions and from civil and criminal liability under Federal and state antitrust laws for the export trade, export trade activities and methods of operation specified in the certificate and carried out during its effective period in compliance with its terms and conditions.

Standards for Certification

Proposed export trade, export trade activities, and methods of operation may be certified if the applicant establishes that such conduct will:

1. Result in neither a substantial lessening of competition or restraint of trade within the United States nor a substantial restraint of the export trade of any competitor of the applicant,

2. Not unreasonably enhance, stabilize, or depress prices within the United States of the goods, wares, merchandise, or services of the class exported by the applicant.

3. Not constitute unfair methods of competition against competitors engaged in the export of goods, wares, merchandise, or services of the class exported by the applicant, and

4. Not include any act that may reasonably be expected to result in the sale for consumption or resale within the United States of the goods, wares, merchandise, or services exported by the applicant.

The Secretary will issue a certificate if he determines, and the Attorney General concurs, that the proposed conduct meet these four standards. For a further discussion and analysis of the conduct eligible for certification and of the four certification standards, see "Guidelines for the Issuance of Export Trade Certificates of Review," 48 FR 15937–10 (April 13, 1983).

Request for Public Comments

The Office of Export Trading Company Affairs (OETCA) is issuing this notice in compliance with section 302(b)(1) of the Act which requires the Secretary to publish a notice of the application in the **Federal Register** identifying the persons submitting the application and summarizing the conduct proposed for certification. The OETCA and the applicant have agreed that this notice fairly represents the conduct proposed for certification. Through this notice, OETCA seeks written comments from interested persons who have information relevant to the secretary's determination to grant or deny the application below. Information submitted by any person in connection with the application(s) is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552).

The OETCA will consider the information reiceved in determining whether the proposed conduct is "export trade," "export trade activities," or a "method of operation" as defined in the Act, regulations and guidelines and whether it meets the four certification standards. Based upon the public comments and other information gathered during the analysis period, the Secretary may deny the application or issue the certificate with any terms or conditions necessary to assure compliance with the four standards.

The OETCA has received the following application for an Export Trade Certificate of Review:

Applicant: Fleetwood International, Inc., Wall Street Plaza, 88 Pine Street, New York, NY 10005.

Telephone No.: 212–425–2100.

Application No.: 84–00006.

Date Received: January 24, 1984.

Date Deemed Submitted: January 25, 1984.

Members in Addition to Applicant: None.

Controlling Entity: Balfour, Maclaine International, Ltd. (BMIL), which is in turn a wholly owned subsidiary of Kay Corporation. Summary of Application: Fleetwood International, incorporated in the State of Delaware, currently exports under its own name and the trade name of BMIL International. Fleetwood International submitted an application seeking certification for the following export trade activities and methods of operation.

A. Export Trade

1. Commercial and industrial refrigeration equipment; coldstore, cold storage and freezer equipment, including insulated panels for the construction of cold storage and freezer facilities; spare parts and supplies; and complementary products ("Refrigeration and Cold Storage Equipment").

2. *Related Services:* including export marketing sales research, product research and design, foreign advertising, bid preparation, joint trade promotions, financing, transportation, insurance, warehousing, legal, management, engineering and architectural services.

B. Export Markets

Worldwide.

C. Export Trade Activities and Methods of Operation

1. To enter into agreements to act as an exclusive export representative for Bally Case & Cooler, Inc. and other manufacturers of Refrigeration and Cold Storage Equipment and, in so acting, to provide Related Services.

2. To enter into exclusive agreements with distributors in the U.S. and foreign countries for export sales of Refrigeration and Cold Storage Equipment in foreign countries.

3. For its own account or with manufacturers, distributors and sales or marketing agents to enter into agreements to determine prices, quantities, territories and customers for export sales.

4. To exchange confidential business information among manufacturers, distributors, sales or marketing agents and customers.

5. To act as a Purchasing Agent for buyers in the Export Markets.

Dated: February 3, 1984.

Irving P. Margulies,

Acting General Counsel.

[FR Doc. 84-3426 Filed 2-7-84; 8:45 am]

BILLING CODE 3510-DR-M

[Case No. 646]

Microelectronics Research Institute and Dr. Athol M. Harrison; Order Temporarily Denying Export Privileges

This Order consolidates, reverses the sequence of listing the respondents, and corrects errors in two orders issued previously in this proceeding: The Order of November 23, 1983 (48 FR 54259 (December 1, 1983)), and the Order of December 21, 1983 (48 FR 57347 (December 29, 1983)). The Order of November 23, 1983 temporarily denied the respondents Microelectronics Research Institute and Dr. Athol M. Harrison, and eleven named related parties all privileges of participating in any manner or capacity in the export of U.S.-origin commodities or technical data. The Order of December 21, 1983 amplified the addresses listed in the Order of November 23, 1983 for Dr. Harrison and three of the named related parties.

The instant Order consolidates the two previous Orders, thus listing in one place the addresses as amplified for all respondents and related parties, reverses the sequence of listing the two respondents, and also corrects the following two errors in the Order of November 23, 1983. First, in the addresses of respondents Microelectronics Research Institute and Dr. Harrison, that Order spelled "Cape Town" as one word, rather than as two. Second, that Order inadvertently omitted, from Paragraph IV, immediately before the colon preceding Subparagraph (a), the following phrase:

, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with the respondent or any related party, or whereby the respondent or any related party may obtain any benefit therefrom or have any interest in or participation therein, directly or indirectly.

The Department of Commerce (the "Department"), pursuant to the provisions of section 388.19 of the Export Administration Regulations (15 CFR Parts 368–399 (1983)) (the "Regulations"), has petitioned the Hearing Commissioner for an order temporarily denying all export privileges: to the Microelectronics Research Institute, P.O. Box 7232 Loop Station, 7th Floor, Motor and General Building, Cape Town, South Africa, and Banhock Road, Stellenbosch, South Africa; and to Dr. Athol M. Harrison, Administrative Director, P.O. Box 7232 Loop Station, 7th Floor, Motor and General Building, Cape Town, South Africa, and 13th Floor, BP Center, Thiebolt Center, Cape Town, South Africa. The Microelectronics Research Institute and Dr. Harrison are hereinafter referred to collectively as "respondents."

The Department states that the respondents are under investigation by the Department's Office of Export Enforcement and that its investigation gives it reason to believe: (1) That respondents reexported to West Germany and attempted to divert to the Soviet Union U.S.-origin commodities exported to the respondents; (2) that, without obtaining specific authorization from the Department, respondents have engaged in transactions, involving U.S.-origin commodities, with Richard Mueller, a person previously denied all U.S. export privileges by Order dated August 6, 1981; and (3) that respondents may make similar attempts to reexport or divert U.S.-origin commodities or technical data, and engage in transactions involving such commodities or technical data with persons denied all U.S. export privileges, contrary to the Regulations, unless appropriate action is taken to preclude such attempts.

Based on the showing made by the Department, I find that an order temporarily denying all export privileges to the Microelectronics Research Institute and Dr. Athol M. Harrison, and to parties related to them, is required in the public interest to facilitate enforcement of the Export Administration Act of 1979, as amended (50 U.S.C. app. 2401–2420 (Supp. V 1981)), and the Regulations and to permit completion of the Department's investigation.

Anyone who is now or may in the future be dealing with the above-named respondents or any related party in transactions that in any way involve U.S.-origin commodities or technical data is specifically alerted to the provisions set forth in Paragraph IV below.

Accordingly, it is hereby ordered:

I. All outstanding validated export licenses in which respondents appear or participate, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Administration for cancellation.

II. The respondents, their successors or assignees, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the Regulations. Without limitation of the generality of the foregoing, participation prohibited in any such

transaction, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to a validated export license application, (b) in the preparation or filing of any export license application or reexport authorization, or of any document to be submitted therewith, (c) in the obtaining or using of any validated or general export license or other export control document, (d) in the carrying on of negotiations with respect to, or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported from the United States, or to be exported, and (e) in the financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. Such denial of export privileges shall extend not only to the respondents, but also to their agents and employees and to any successors. After notice and opportunity for comment, such denial may also be made applicable to any person, firm, corporation, or business organization with which respondents are now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of export trade or related services. Those parties now known to be affiliated with at least one of the respondents, and which are accordingly subject to the provisions of this order, are:

Detleff Heppner, c/o Electronica-Stellsels, 101 Connaught Road, Parow, Cape Town, South Africa
Manfred Schroder, Buitenverwachtung Farms, Constantia, South Africa
Dr. Hendrik Christo Viljoen, c/o Microelectronics Research Institute, P.O. Box 7232 Loop Station, 7th Floor, Motor and General Building, Cape Town, South Africa
Clive Whitton, 46 Moss Street, Newlands, South Africa
Act-Com, Pty. Ltd., Cape Town, South Africa
Computer Add-ons Pty. Ltd., Cape Town, South Africa
Dancontrol, AG, Zug, Switzerland
Electronica-Stellsels, 101 Connaught Road, Parow, Cape Town, South Africa
Optronix Pty. Ltd., 101 Connaught Road, Parow, South Africa
SEM Investments Pty. Ltd., Cape Town, South Africa
Electronika S.A. (pty.) Ltd., 101 Connaught Road, Beaconvale (Parow), Cape Town, South Africa, and P.O. Box 7232, Roggebuai, Cape Province, 8012, South Africa

IV. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Administration, shall, with respect to U.S.-origin commodities and technical data, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with the respondent or any related party, or whereby the respondent or any related party may obtain any benefit thereform or have any interest in or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for the respondent or any related party denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any export, reexport, transshipment, or diversion of any commodity or technical data exported or to exported from the United States.

V. In accordance with the provisions of § 388.19(b) of the Regulations, the respondents or any related party may move at any time to vacate or modify this temporary denial order by filing with the Hearing Commissioner, International Trade Administration, U.S. Department of Commerce, Room 6716, 14th and Constitution Avenue, NW., Washington, D.C. 20230, an appropriate motion for relief, supported by substantial evidence, and may also request an oral hearing thereon, which, if requested, shall be held before the hearing Commissioner at the earliest convenient date.

VI. This Order is effective immediately, and supersedes, as of the date hereof, the Order of November 23, 1983 and the Order of December 21, 1983. The instant Order remains in effect until the final disposition of any administrative or judicial proceedings initiated against the respondents as a result of the ongoing investigation. A copy of this Order and Parts 387 and 388 of the Regulations shall be served upon the respondents and the above-named related parties.

Dated: January 31, 1984, 5:00 pm E.S.T.

Thomas W. Hoya,

Hearing Commissioner.

[FR Doc. 84-3403 Filed 2-7-84; 8:45 am]

BILLING CODE 3510-DT-M

[A-588-014]

Tuners (of the Type Used in Consumer Electronic Products) From Japan; Partial Revocation of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of partial revocation of antidumping finding.

SUMMARY: On October 25, 1983, the Department of Commerce published a tentative determination to revoke in part the antidumping finding on tuners (of the type used in consumer electronic products) from Japan. The tentative determination to revoke in part applied to one exporter, the Sharp Corporation. Sharp made all sales of this merchandise to the United States at not less than fair value during the period January 1, 1973 through January 31, 1977.

Interested parties were provided an opportunity to submit oral or written comments on the tentative determination to revoke in part. We received no comments. Based on its analysis, the Department is revoking the antidumping finding on tuners (of the type used in consumer electronic products) from Japan with regard to merchandise from Sharp.

EFFECTIVE DATE: February 8, 1984.

FOR FURTHER INFORMATION CONTACT: Edward Haley or John Kugelman, Office of Compliance, International Trade Administration, Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-3601.

SUPPLEMENTARY INFORMATION:

Background

On October 25, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 49328) a tentative determination to revoke in part the antidumping finding on tuners (of the type used in consumer electronic products) from Japan (35 FR 18914, December 12, 1970).

Scope of the Review

Imports covered by the partial revocation are shipments of tuners (of the type used in consumer electronic products) from Sharp. These imports consist primarily of television receiver tuners and tuners used in radio receivers such as household radios, stereo and high fidelity radio systems, and automobile radios. They are virtually all in modular form, aligned and ready for simple assembly into the consumer electronic product for which they were designed. The term "consumer electronic products" relates

to television sets, radios, and other electronic products of a type commonly bought at retail by household consumers, whether or not used in or around the household. Excluded are complete stereophonic tuners which are consumer products themselves, but not excluded are modular-type stereophonic tuners, which are intended to become component parts of such complete stereophonic tuners. These turners are currently classifiable under item numbers 685.1700 and 685.2976 of the Tariff Schedules of the United States Annotated.

The partial revocation is based on the period January 1, 1973 through January 31, 1977, during which Sharp made all sales of tuners (of the type used in consumer electronic products) to the United States at not less than fair value.

Partial Revocation of Finding

We invited interested parties to comment on the tentative determination to revoke in part. We received no comments on requests for a hearing. Based on our analysis, the Department revokes the antidumping finding on tuners (of the type used in consumer electronic products) from Japan with regard to merchandise from Sharp. This partial revocation applies to all unliquidated entries of this merchandise from Sharp entered, or withdrawn from warehouse, for consumption on or after January 19, 1977. The Department will instruct Customs officers to proceed with liquidation of this merchandise without regard to antidumping duties.

This partial revocation and notice are in accordance with sections 751 (a)(1) and (c) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1), (c)) and §§ 353.53 and 353.54 of the Commerce Regulations (19 CFR 353.53, 353.54).

Dated: January 27, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-3389 Filed 2-7-84; 8:45 am]

BILLING CODE 3510-DS-M

Minority Business Development Agency

Financial Assistance; California

AGENCY: Minority Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting applications under its Minority Business Development Center (MBDC) program to operate two projects for a 10-month period in the following locations:

BAKERSFIELD MBDC—PROJECT I.D. NO. 09-10-84011-01	
Basic MBDA Contribution	$120,416
SCS Contribution	12,042
Total Federal Contribution	132,458
Minimum Cost Sharing Contribution	23,375
Minimum Total Project Cost	155,833
Start and End Date: July 1, 1984 to April 30, 1985.	
NAVAJO MBDC—PROJECT I.D. NO. 09-10-84012-01	
Basic MBDA Contribution	$121,125
SCS Contribution	12,112
Total Federal Contribution	133,237
Minimum Cost Sharing Contribution	23,512
Minimum Total Project Cost	156,749
Start and End Date: July 1, 1984 to April 30, 1985.	

Applicants shall be required to contribute at least 15% of the total program cost through Non-Federal funds. Cost sharing contributions can be in the form of cash contributions, fee for services or in-kind contributions.

CLOSING DATE: March 8, 1984.

ADDRESS: Minority Business Development Agency, U.S. Department of Commerce, 450 Golden Gate Avenue, Box 36114, San Francisco, California 94102.

FOR FURTHER INFORMATION CONTACT: Ms. Liz Embry at (415) 556-6733.

SUPPLEMENTARY INFORMATION:

A. Scope and Purpose of this Announcement. Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to eligible clients in areas related to the establishment and operation of businesses. The MBDC program is specifically designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit through which and from which information and assistance to and about minority businesses are funneled.

B. Eligible Applicants. Awards shall be open to all individuals, non-profit organizations, for-profit firms, local and state governments, American Indian tribes and educational institutions.

C. Evaluation Process. All proposals received as a result of this announcement will be evaluated by a MBDA review panel.

D. Evaluation Criteria for Minority Business Development Center Applications. The evaluation criteria is designed to facilitate an objective evaluation of competitive applications for the Minority Business Development Center program.

MBDA reserves the right to reject any or all applications, including the application receiving the highest evaluation, and will exercise this right when it is determined that it is in the best interest of the Government to do so (e.g., the apparent successful applicant has serious unresolved audit issues from current or previous grants, contracts or cooperative agreements with an agency of the Federal Government).

Evaluation of proposals will employ the following criteria:

1. *Capability and Experience of Firm/Staff*—Provide information that demonstrates the organization's capabilities and prior experiences in addressing the needs of minority business individuals and firms. Provide information that demonstrates the staff's capabilities and prior experiences in providing management and technical assistance to minority individuals and firms. Indicate previous experience in MBE community to be served in terms of: inventorying resources and opportunities; the brokering thereof; and providing management and technical assistance.

The following are key factors to be considered in this section:

Firm

—The organization's receptivity in the MBE community to be served, i.e., business contacts in the public and private sector; leadership responsibilities; and experience in assisting MBE business persons and firms. (References from clients assisted are pertinent.)

—Background credientials and references for the owners of the organization and a capability statement of what the organization can do.

—Knowledge of the geographic area to be served in terms of the needs of minority businesses and past ongoing relationships with local, public and private—entities that can possibly enhance the BDC program effort—i.e. Chambers of Commerce, trade association, venture capital organizations, banks, SBA, HUD, state, city and county government agencies, etc.

Staff

—List personnel to be used. Indicate their salaries, educational level and previous experience. Provide resumes for all professional staff personnel.

—Demonstrate competence among staff to effectuate mergers, acquisitions, spin-offs and joint-ventures.
—Provide organizational chart, job descriptions and qualification standards involving all professional staff persons to be utilized on the project.
—If any contractors are to be utilized, identify and indicate areas and level of experience. *Primary consideration will be given to inhouse capability.*

Note.—All contracting proposed should be in accordance with procurement standards in Attachment O of OMB Circulars A-110 or A-102.

II. *Techniques and Methodology*—specify plans for achieving the goals and objectives of the project. This section should be developed by using the outline of the Work Requirements and the MBDC responsibilities as *guides* and will become part of the award document. Include start-up plan and example of work plan format. Fully explain the procedures for: outreach, screening, assisting and monitoring clients; maintaining the profile inventory of minority businesses; and brokering of new business ownership, market and capital opportunities and prevention of business failures. In summary, address how, when and where work will be done and by whom. Including level of performance.

III. *Resources*—address technical and administrative resources, i.e., computer facilites, voluntary staff time and space; and finanical resources in terms or meeting MBDA's 15% cost-sharing requirement and including a fee for services for assistance provided clients. A fee for services in the amount of 10% of the cost of assistance will be charged to all clients receiving management and technical assistance.

Cost-sharing is that portion of project costs not borne by the Federal Government. The composition and amount of cost-sharing are key factors that will be considered in determining the merit of this section. The cost sharing requirement can be met through the following order or priority: (1) Cash contributions; (2) fee for services; and (3) in-kind contributions.

A. *Cash contribution*—means cash that is contributed or donated by the recipient, and other Non-Federal sources, i.e., public agencies and institutions, private organizations, corporations and individuals.

B. *Fee for services*—is a charge to a client for assistance provided by the MBDC for M&TA and-or SCS.

C. *In-Kind contribution*—represents the value of non-cash contributions provided by the recipient and other Non-Federal sources. The order of priority for in-kind contributions are: high technology systems to be utilized to achieve program objectives; top level staff personnel and real and personal property donated by other public agencies, institutions and private organizations. Property purchased with Federal funds will not be considered as the recipient's in-kind contribution. Under no circumstances can the in-kind contribution exceed 50% of the total Non-Federal contribution.

IV. *Costs*—demonstrate in narrative format that costs being proposed will give the minority business client and the government the most effective program possible in terms of quality, quantity, timeliness and efficiency.

Include the principal costs involved for achieving work plan under Cooperative Agreement by completing Part III—the Budget Information Section of the Request for Application.

Provide cost-sharing plan information in terms of methodology and format for billing the costs of management and technical assistance and specialized consulting services to clients.

Total project cost will be evaluated in terms of:

—Clear explanations of all expenditures proposed, and
—The extent to which the applicant can leverage Federal program funds and operate with *economy* and *efficiency*.

In conclusion, the applicant's schedule for start of the MBDC operation should be included in Part II. Part II will be known as the applicant's plan of operation and will be incorporated into the Cooperative Agreement Award.

A detailed justification of all proposed costs is required for Part III for each item must be fully explained.

The failure to supply information in any given category of the criteria will result in the application being considered non-responsive and dropped from competitive review.

All information submitted is subject to verification by MBDA.

E. Disposition of Proposals. Notification of awards will be made by the Grants Officer, U.S. Department of Commerce (DOC) Organizations whose proposals are unsuccessful will be advised by MBDA, DOC.

F. Proposal Instructions and Forms. Questions concerning the preceding information, copies of application forms, and applicable regulations can be obtained at the above address.

Nothing in this solicitation shall be construed as committing MBDA to divide available funds among all qualified applicants.

G. A pre-application conference to assist all interested applicants will be held at the following address and time: San Francisco, Minority Business Development Agency, U.S. Department of Commerce, 450 Golden Gate Avenue, Room 15022, San Francisco, California 94102, February 15, 1984, at 10:00 a.m.

(11.800 Minority Business Development—Catalog of Federal Domestic Assistance)

Dated: February 2, 1984.

Xavier Mena,

Regional Director.

[FR Doc. 84-3424 Filed 2-7-84; 8:45 am]

BILLING CODE 3510-21-M

National Oceanic and Atmospheric Administration

Deep Seabed Mining; Receipt of Amendments to Applications for Exploration Licenses

AGENCY: National Oceanic and Atmospheric Administration.

ACTION: Notice of receipt of amendments to applications for Deep Seabed Mining Exploration Licenses and of intention to prepare an Environmental Impact Statement.

SUMMARY: On June 25, 1982, the National Oceanic and Atmospheric Administration (NOAA) published a notice, at 47 FR 27583, that it had received applications from Ocean Minerals Company (OMCO), 465 N. Bernardo Avenue, Mountain View, California 94043 for licenses to conduct deep seabed mining exploration activities in the Northeastern Equatorial Pacific Ocean within the seabed area generally known as the Clarion-Clipperton Fracture Zone. On September 21, 1983, at 48 FR 43073 and November 1, 1983 at 48 FR 50387, NOAA published notice of amendments to those applications, which consolidated into one application. On January 11, 1984, OMCO filed an amendment to its application withdrawing certain areas of the deep seabed previously included in the application areas and adding new areas not previously included in the application.

NOAA announces its intention to prepare an environmental impact statement (EIS), as required by section 109(d) of the Deep Seabed Hard Mineral Resources Act, upon certification of OMCO's application for an exploration license, and invites participation of interested agencies and persons. NOAA will use information in its programmatic environmental impact statement on first generation seabed mining, which was filed with the Environmental Protection Agency (EPA) in September, 1981, in preparing the EIS on the license

application. NOAA will further make use of public discussion on the general National Pollutant Discharge Elimination System Permit on exploration activities being developed by EPA, as well as any public comments in response to this notice in determing the scope of the EIS. Alternatives to be considered by NOAA are to issue or not issue the license. NOAA expects to act on the EIS and license during 1984.

Subject to 15 CFR 970.902, which excludes confidential information from public disclosure, interested persons will be permitted to examine the materials relevant to the amended application and to provide comments on the contents of the license or on the content or scope of the EIS to NOAA by April 9, 1984. Information concerning the date of certification of this application may be obtained from the officials listed below.

FOR FURTHER INFORMATION CONTACT: John W. Padan or Laurence J. Aurbach, Division of Ocean Minerals and Energy, Office of Ocean and Coastal Resource Management, NOAA, Suite 105, Page 1 Building, 2001 Wisconsin Avenue, NW., Washington, D.C. 20235 (202) 653–8257.

Dated: February 3, 1984.

Approved:

Paul M. Wolff,

Assisting Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 84–3465 Filed 2–7–84; 8:45 am]

BILLING CODE 3510–12–M

Deep Seabed Mining; Amendments to Applications for Exploration Licenses

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of receipt of amendments to applications for Deep Seabed Mining Exploration Licenses and of intention to prepare an Environmental Impact Statement.

SUMMARY: On June 25, 1982, the National Oceanic and Atmospheric Administration (NOAA) published a notice, at 47 FR 27583, that it had received applications from Ocean Mining Associates (OMA), Box 2, Gloucester Point, Virginia 23062 for licenses to conduct deep seabed mining exploration activities in the Northeastern Equatorial Pacific Ocean within the seabed area generally known as the Clarion-Clipperton Fracture Zone. On October 28, 1982 at 47 FR 47903 and November 1, 1983, at 48 FR 50386 NOAA published a notice of amendments to these applications which were consolidated into one application. On January 20, 1984, OMA filed an amendment to its application withdrawing certain areas of the deep seabed previously included in the application areas.

NOAA announces its intention to prepare an environmental impact statement (EIS), as required by section 109(d) of the Deep Seabed Hard Mineral Resources Act, upon certification of OMA's application for an exploration license, and invites participation of interested agencies and persons. NOAA will use information in its programmatic environmental impact statement on first generation seabed mining, which was filed with the Environmental Protection Agency (EPA) in September, 1981, in preparing the EIS on the license application. NOAA will further make use of public discussion on the general National Pollutant Discharge Elimination System Permit on exploration activities being developed by EPA, as well as any public comments in response to this notice in determining the scope of the EIS. Alternatives to be considered by NOAA are to issue or not issue the license. NOAA expects to act on the EIS and license during 1984.

Subject to 15 CFR 970.902, which excludes confidential information from public disclosure, interested persons will be permitted to examine the materials relevant to the amended application and to provide comments on the contents of the license or on the content or scope of the EIS to NOAA by April 9, 1984. Information concerning the date of certification of this application may be obtained from the officials listed below.

FOR FURTHER INFORMATION CONTACT: John W. Paden or Laurence J. Aurbach, Division of Ocean Minerals and Energy, Office of Ocean and Coastal Resource Management, NOAA, Suite 105, Page 1 Building, 2001 Wisconsin Avenue NW., Washington, D.C. 20235, (202) 653–8257.

Dated: February 3, 1984.

Paul M. Wolff,

Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 84–3466 Filed 2–7–84; 8:45 am]

BILLING CODE 3510–12–M

Deep Seabed Mining; Amendments to Applications for Exploration Licenses

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of receipt of amendments to applications for Deep Seabed Mining Exploration Licenses and of intention to prepare an Environmental Impact Statement.

SUMMARY: On June 25, 1982, the National Oceanic and Atmospheric Administration (NOAA) published a notice, at 47 FR 27583, that it had received two applications from the Kennecott Consortium (KCON), 1515 Mineral Square, Salt Lake City, Uath 84147 for licenses to conduct deep seabed mining exploration activities in the Northeastern Equatorial Pacific Ocean within the seabed area generally known as the Clarion-Clipperton Fracture Zone. On November 1, 1983, at 48 FR 50386, NOAA published notice of an amendment of the applications. On January 11, 1984, KCON filed an amendment to its applications withdrawing certain areas of the deep seabed previously included in the application areas.

NOAA announces its intention to prepare an environmental impact statement (EIS), as required by section 109(d) of the Deep Seabed Hard Mineral Resources Act, upon certification of KCON's applications for an exploration license, and invites participation of interested agencies and persons. NOAA will use information in its programmatic environmental impact statement on first generation seabed mining, which was filed with the Environmental Protection Agency (EPA) in September, 1981, in preparing the EIS on the license applications. NOAA will further make use of public discussion on the general National Pollutant Discharge Elimination System Permit on exploration activities being developed by EPA, as well as any public comments in response to this notice in determining the scope of the EIS. Alternatives to be considered by NOAA are to issue or not issue the licenses. NOAA expects to act on the EIS and licenses during 1984.

Subject to 15 CFR 970.902, which excludes confidential information from public disclosure, intertested persons will be permitted to examine the materials relevant to the amended applications and to provide comments on the contents of the licenses or on the content or scope of the EIS to NOAA by April 9, 1984. Information concerning the date of certification of these applications may be obtained from the officials listed below:

FOR FURTHER INFORMATION CONTACT: John W. Padan or Laurence J. Aurback, Division of Ocean Minerals and Energy, Office of Ocean and Coastal Resource Management, NOAA, Suite 105, Page 1 Building, 2001 Wisconsin Avenue NW., Washington, D.C. 20235, (202) 653–8257.

Dated: February 3, 1984.

Approved:

Paul M. Wolff,

Assistant Administrator for Ocean Service and Coastal Zone Management.

[FR Doc. 84-3467 Filed 2-7-84; 8:45 am]

BILLING CODE 3510-12-M

CONSUMER PRODUCT SAFETY COMMISSION

Policy Regarding Export of Products Which Fail To Comply With Rules Issued Under the Consumer Product Safety Act and Federal Hazardous Substances Act; Notice of Meeting

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of meeting.

SUMMARY: The Consumer Product Safety Commission gives notice that it will discuss the issue of the policy to be applied to export of products which fail to comply with an applicable rule issued under the Consumer Product Safety Act or the Federal Hazardous Substances Act at a public meeting.

DATE: The meeting will begin at 10:00 a.m., February 15, 1984.

Place: The meeting will be in the third floor conference room, 1111 18th Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Alan H. Schoem, Assistant General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207; telephone: (301) 492-6980.

SUPPLEMENTARY INFORMATION: The Consumer Product Safety Commission will discuss matters relevant to the policy it will apply to exportation of products which fail to comply with rules issued under the Consumer Product Safety Act (CPSA, 15 U.S.C. 2051 *et seq.*) or the Federal Hazardous Substances Act (15 U.S.C. 1261 *et seq).*

Last year, the Commission announced that items which fail to comply with an applicable standard of flammability issued under the Flammable Fabrics Act (FFA, 15 U.S.C. 1191 *et seq.*) may be exported, whether or not those items have been in domestic commerce. This statement of export policy under the FFA was made in a Memorandum Order and Decision *In the Matter of Imperial Carpet Mills, Inc.* (Docket No. 80-2), issued on July 6, 1983.[1] Thereafter, the Commission received a request from four public interest groups to reconsider the export policy statement made in the *Imperial Carpet Mills* decision. On January 11, 1984, the Commission voted not to reconsider that policy statement.[2]

At the meeting of February 15, 1984, the Commission will discuss factors relevant to the issue of whether an export policy similar to that for noncomplying items subject to FFA standards should be applied to items which fail to comply with rules issued under the CPSA or FFA.

Provisions of the CPSA applicable to export are in section 18 of that act (15 U.S.C. 2057); provisions of the FHSA applicable to export are in sections 5(b) and 18(d) of that act (15 U.S.C. 1264(b) and 1261, note).

The Commission meeting to discuss the export policy to be applied to products not in compliance with rules issued under the CPSA or FHSA will begin at 10:00 a.m., February 15, 1984, in the Commission conference room, 3rd floor, 1111 18th Street NW., Washington, D.C. The meeting will be open to the public; the number of persons who may attend will be limited only by availability of space.

Dated: February 3, 1984.

Sheldon Butts,

Acting Secretary, Consumer Product Safety Commission.

[FR Doc. 84-3461 Filed 2-7-84; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Defense Advisory Committee on Military Personnel Testing; Meeting

Pursuant to Public Law 92-463, notice is hereby given that a meeting of the Defense Advisory Committee on Military Personnel Testing is scheduled to be held from 9:00 a.m. to 5:00 p.m. on 15 and 16 March 1984 in Room 1E801, The Pentagon, Washington, D.C. Meeting sessions will be open to the public.

The purpose of the meeting is to review the development and calibration of the Armed Services Vocational Aptitude Battery Forms 11, 12, and 13, scheduled for implementation in October 1984. The agenda for the next Committee meeting, scheduled for July 1984, in Washington, D.C., will also be discussed.

Persons desiring to make oral presentations or submit written statements for consideration at the Committee meeting must contact Dr. W. S. Sellman, Executive Secretary, Defense Advisory Committee on Military Personnel Testing, Office of the Assistant Secretary of Defense (Manpower, Installations, and Logistics), Room 2B271, The Pentagon, Washington, D.C. 20301, telephone (202) 695-5525, no later than 29 February 1984.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

February 2, 1984.

[FR Doc. 84-3350 Filed 2-7-84; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

Air Force Institute of Technology, Subcommittee of the Air University Board of Visitors; Meeting

The Air Force Institute of Technology Subcommittee of the Air University Board of Visitors will hold an open meeting at 0900 on 7 March 1984 in room 2004 (ten seats available), bldg 125, Wright-Patterson Air Force Base, Ohio.

The purpose of the meeting is to give the Subcommittee the opportunity to present to the Commandant, Air Force Institute of Technology, a report of findings and recommendations concerning the Institute's educational programs. The findings of the Subcommittee will also be reported to the Commander, Air University, at the next regularly scheduled meeting of the Air University Board of Visitors.

For further information on this meeting, contact Captain Peter Macchia, Jr., Assistant Chief, Instructional Technology, Directorate of Educational Plans and Programs, Air Force Institute of Technology, (513) 255-5760 or 3791.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 84-3423 Filed 2-7-84; 8:45 am]

BILLING CODE 3910-01-M

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[1] Commissioner Edith Barksdale Sloan voted against issuance of the Memorandum Decision and Order, and issued a dissenting opinion in this case. The Memorandum Decision and Order and Commissioner Sloan's dissenting opinion are available for inspection in Commission's public reading room, 8th floor, 1111 18th Street NW., Washington, D.C. or by writing or calling the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492-6800.

[2] Commissioner Sam Zagoria voted to reconsider the export policy statement contained in the Memorandum Order and Decision *In the Matter of Imperial Carpet Mills, Inc.*, and filed a dissenting statement. Chairman Nancy Harvey Steorts and Commissioners Terrence M. Scanlon, Stuart M. Statler, and Saundra Brown Armstrong also filed separate statements explaining their reasons for voting against reconsideration. All of these statements are available in the Commission's public reading room, or by writing or calling the Office of the Secretary.

Department of the Navy

Chief of Naval Operations Executive Panel Advisory Committee, Anti-Submarine Warfare Task Force; Closed Meeting, Correction

Notice was given December 16, 1983, at 48 FR 55897 of a meeting of the Chief of Naval Operations Executive Panel Advisory Committee Anti-Submarine Warfare Task Force on February 14–15, 1984, from 9 a.m. to 5 p.m. each day. The dates and times for that meeting have been changed to February 28–29 and March 1, 1984, from 9 a.m. to 5 p.m. each day. All other information in the previous notice remains effective.

For further information on this meeting contact Lieutenant Thomas E. Arnold, Executive Secretary of the Chief of Naval Operations Executive Panel Advisory Committee, telephone (703) 756–1205.

Dated: February 3, 1984.

William F. Roos, Jr.,

Lieutenant, JAGC, U.S. Naval Reserve, Federal Register Liaison Officer.

[FR Doc. 84–3419 Filed 2–7–84; 8:45 am]

BILLING CODE 3810–AE–M

Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Naval Research Advisory Committee Panel on Hospital Care will meet on March 2 and 3, 1984, at the Office of Naval Research, Room 915, Arlington, Virginia. The first session of the meeting will commence at 9:00 a.m. and terminate at 4:00 p.m. on March 2, 1984. The second session will commence at 9:00 a.m. and terminate at 4:00 p.m. on March 3, 1984. All sessions of the meeting will be closed to the public.

The purpose of the meeting is to identify critical medical issues in support of Marine Corps amphibious operations and sustained operations ashore in a conventional warfare environment. In addition, the Panel members will review the initial preparation of the final report which will include sections on planning, disposition and utilization of Navy and Marine Corps medical assets in wartime scenarios. These matters constitute classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and is in fact properly classified pursuant to such Executive order. The classified and nonclassified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Commander M. B. Kelley, U.S. Navy, Office of Naval Research (Code 100N), 800 North Quincy Street, Arlington, VA 22217, Telephone number (202) 696–4870.

Dated: February 3, 1984.

William F. Roos, Jr.,

Lieutenant, JAGC, U.S. Naval Reserve, Alternate Federal Register Liaison Officer.

[FR Doc. 84–3418 Filed 2–7–84; 8:45 am]

BILLING CODE 3810–AE–M

DEPARTMENT OF EDUCATION

Discretionary Grant Programs Under the Rehabilitation Act of 1973, As Amended; Application Notices Establishing Closing Dates for Transmittal of Fiscal Year 1984 Applications

AGENCY: Department of Education.

ACTION: Application notices establishing closing dates for transmittal of fiscal year 1984 applications.

SUMMARY: The purpose of this application notice is to inform potential applicants of fiscal and programmatic information and closing dates for transmittal of applications for new projects under certain grant programs awarded by the Department of Education under Titles I and III of the Rehabilitation Act of 1973, as amended.

Organization of Notice

This notice covers certain discretionary grant programs administered by the Rehabilitation Services Administration within the Department of Education in which there is expected to be competition for new projects in fiscal year 1984.

This notice contains two parts. Part I includes, in chronological order, the list of all closing dates covered by this notice. Part II consists of the individual application announcements for each program. These announcements are in the same order as the closing dates listed in Part I.

Instructions for Transmittal of Applications

Applicants should note specifically the instructions for the transmittal of applications included below:

Transmittal of Applications:

Applications for all projects must be mailed or hand delivered on or before the closing date given in the individual program announcements included in this document.

Applications Delivered by Mail:

Except where otherwise specified immediately below and in the individual program announcements, applications for new projects must be addressed to the Department of Education Application Control Center, Attention: (Appropriate CFDA No.), Washington, D.C. 20202.

Note.—Applicants for programs under 84.129D (Rehabilitation Continuing Education Programs) and 84.129Z (State Vocational Rehabilitation Unit In-Service Training Program) are required to send applications to the Regional Offices of the U.S. Department of Education. The individual program announcements for these programs specifically direct applicants to transmit applications to the appropriate Regional Office. In these cases applications must be mailed or hand delivered to the appropriate address below:

Region I

RSA Regional Commissioner, Department of Education, OSERS, John F. Kennedy Federal Building, Room E–400, Boston, Massachusetts 02203

Region II

RSA Regional Commissioner, Department of Education, OSERS, 26 Federal Plaza, Room 4106, New York, New York 10278

Region III

RSA Regional Commissioner, Department of Education, OSERS, 3535 Market Street, Room 3550, Philadelphia, Pennsylvania 19101

Region IV

RSA Regional Commissioner, Department of Education, OSERS, 101 Marietta Street, N.W., Suite 821, Atlanta, Georgia 30323

Region V

RSA Regional Commissioner, Department of Education, OSERS, 300 South Wacker Drive, 15th Floor, Chicago, Illinois 60606

Region VI

RSA Regional Commissioner, Department of Education, OSERS, 1200 Main Tower Building, Room 1400, Dallas, Texas 75202

Region VII

RSA Regional Commissioner, Department of Education, OSERS, 324

E. 11th Street, 11 Oak Building, 10th Floor, West, Kansas City, Missouri 64106

Region VIII

RSA Regional Commissioner, Department of Education, OSERS, Federal Office Building, Room 7415, 19th and Stout Streets, Denver, Colorado 80202

Region IX

RSA Regional Commissioner, Department of Education, OSERS, Federal Office Building, Room 480, 50 United Nations Plaza, San Francisco, California 94102

Region X

RSA Regional Commissioner, Department of Education, OSERS, 2901 Third Avenue, Room 120, Seattle, Washington 98121

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.

Applicants are encouraged to use registered or at least first class mail.

Each late applicant for a new award will be notified that its application will not be considered.

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.

or

To the appropriate Regional Office at the address given above.

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.

The Regional Offices will accept hand-delivered applications between 8:30 and 4:30 p.m. (local time) daily, except Saturdays, Sundays, and Federal holidays.

Part I—Programs Listed in Chronological Order

CFDA No. and program	Closing date
84.129, Rehabilitation Long-Term Training Projects (New Projects).	Apr. 2, 1984.
84.128E, Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Severely Handicapped Individuals (Spinal Cord Injury System Projects—New Projects).	Mar. 26, 1984.
84.128H, Handicapped American Indian Vocational Rehabilitation Service Projects (New Projects).	Mar. 26, 1984.
84.128J, Projects for Initiating Special Recreation Programs for Handicapped Individuals (New Projects).	Apr. 2, 1984.
84.129D, Rehabilitation Continuing Education Projects (New Projects—Region V only).	May 1, 1984.
84.129Z, State Vocational Rehabilitation Unit In-Service Training Program (New Projects—Regions I, II, V, IX and X only).	May 15, 1984.

Part II—Application Announcements for Each Program

84.129—Rehabilitation Long-Term Training Projects

Closing date: April 2, 1984—New Projects

Authority for this program is contained in Section 304 of the Rehabilitation Act of 1973, as amended. (29 U.S.C. 774).

Awards are made under this program to State vocational rehabilitation agencies and other public or nonprofit agencies or organizations, including institutions of higher education.

The purpose of the Rehabilitation Long-Term Training Program is to support projects designated for training personnel available for employment in public or private agencies involved in the rehabilitation of physically amd mentally handicapped individuals, especially those who are the most severely handicapped. Historically Black colleges and universities are encouraged to participate in this program.

Available Funds: The total amount of funds available for rehabilitation training in Fiscal Year 1984 is $22,000,000, including $6,268,000 for new rehabilitation long-term training projects. Of this amount, $4,019,000 is planned for the categories listed below. The range of funded projects is expected to be from $15,000 to $175,000. These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

It is estimated that the following funds will be available for new projects in these Long-Term Training categories:

	Dollars (rounded)
Rehabilitation Medicine	$836,000
Rehabilitation Counseling	553,000
Prosthetics and Orthotics	394,000
Rehabilitation Facility Administration	414,000
Rehabilitation Nursing	415,000
Physical Therapy	86,000
Occupational Therapy	172,000
Speech Pathology and Audiology	268,000
Rehabilitation of the Blind	229,000
Rehabilitation of the Deaf	216,000
Job Placement/Job Development	109,000
Undergraduate Education in the Rehabilitation Services	337,000
Total	4,019,000

An announcement for the Long-Term Training categories of Vocational Evaluation and Work Adjustment, Rehabilitation Psychology, Rehabilitation of the Mentally Ill, and Other Fields and Experimental and Innovative Training Projects will be made at a future date.

These long-term training categories are included in the list of training fields set forth in the program regulations in 34 CFR 386.1 and are considered annual funding priorities in accordance with 34 CFR 75.105(b)(2)(ii).

Application forms: Application forms and program information packages for new awards are available and may be obtained by writing to the Office of Development Programs, Rehabilitation Services Administration, Office of Special Education and Rehabilitation Services, U.S. Department of Education, Room 3329, Mary E. Switzer Building, 400 Maryland Ave., SW., Washington, D.C. 20202.

Application forms and program information packages will be mailed to grantees who are completing rehabilitation long-term training projects during the 1983–1984 academic year.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The program information is intended to aid applicants in applying for assistance under this competition. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations governing the competition.

The Secretary urges that the narrative portion of the applications for new awards not exceed 25 pages in length. The Secretary further urges that only the information required be submitted.

All applicants for new projects must submit their applications to the Department of Education Application Control Center.

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Rehabilitation Long-Term Training Program (34 CFR Parts 385 and 386); and

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

Further information: Martin W. Spickler, Ph.D., Director, Division of Resource Development, Rehabilitation Services Administration, U.S. Department of Education, Room 3319, Mary E. Switzer Building, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 245-0087.

84.128E—Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Severely Handicapped Individuals (Spinal Cord Injury System Projects)

Closing date: March 26, 1984—New Projects

Authority for this program is contained in Section 311(a)(1) of the Rehabilitation Act of 1973, as amended. (29 U.S.C. 777a(a)(1)).

Awards are made under this program to States and public and other nonprofit agencies and organizations.

The purpose of this program is to support projects designed to expand or otherwise improve vocational rehabilitation services and other services for severely handicapped individuals including spinal cord injuries. Projects serving exclusively individuals with spinal cord injuries are included in the list of authorized project activities set forth in the program regulations in 34 CFR 373.10. In accordance with 34 CFR 75.105(b)(2)(ii), the Secretary has selected Spinal Cord Injury System projects as an annual funding priority by reserving funds for those projects.

Available funds: The total amount of funds awarded under this grant program in Fiscal Year 1983 for spinal cord injury system projects was $4,598,614. Average project cost of the 17 funded projects was about $271,000. The total amount of funds available for spinal cord injury system projects in Fiscal Year 1984 is $5,240,000. An estimated 19 new projects will be awarded at an average project cost of $276,000. These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless the amount is otherwise specified by statute or regulation.

It is expected that all new projects funded under this program in Fiscal Year 1984 will be limited to one year of support.

Application forms: Application forms and program information packages are available and may be obtained by writing to the Office of Developmental Programs, Rehabilitation Services Administration, Office of Special Education and Rehabilitation Services, U.S. Department of Education, Room 3329, Mary E. Switzer Building, 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. The program information is intended to aid applicants in applying for assistance under this competition. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations governing the competition.

The Secretary 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.

All applicants for new projects must submit their applications to the Department of Education Control Center.

Applicable Regulations: Regulations applicable to this program are as follows:

(a) Regulations governing the Special Projects and Demonstration for Providing Vocational Rehabilitation to Severely Handicapped Individuals (34 CFR Parts 369 and 373); and

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

Further information: J. Paul Thomas, Project Manager, Model Spinal Cord Injury System Program, Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3425, Mary E. Switzer Building, Washington, D.C. 20202. Telephone (202) 447-8477.

84.128H—HANDICAPPED AMERICAN INDIAN VOCATIONAL REHABILITATION SERVICE PROJECTS

Closing date: March 26, 1984—New Projects

Authority for this program is contained in Section 130 of the Rehabilitation Act of 1973, as amended. (29 U.S.C. 750)

Awards are made under this program to the governing bodies of Indian tribes located on Federal and State reservations.

The purpose of the Handicapped American Indian Vocational Rehabilitation Projects Program is to support projects designed to provide vocational rehabilitation services to handicapped American Indians who reside on Federal or State reservations in order to prepare them for suitable employment.

Available funds: The total amount of funds awarded under this grant program for Fiscal Year 1983 was $650,000. As mandated by the Congress, all FY 1983 funds were awarded to the Navajo Nation. The total amount of funds for this program in Fiscal Year 1984 is $715,000. It is expected that three new projects will be awarded. The range of funded projects is expected to be from approximately $25,000 to $650,000. These estimates do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

It is expected that new projects funded under this program in Fiscal Year 1984 will be limited to one year of support.

Application forms: Application forms and program information packages are available and may be obtained by writing to the Office of Developmental Programs, Rehabilitation Services Administration, Office of Special Education and Rehabilitation Services, U.S. Department of Education, Room 3329, Mary E. Switzer Building, 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. The program information is intended to aid applicants in applying for assistance under this competition. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations governing the competitions.

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.

All applicants for new projects must submit their applications to the

Department of Education Application Control Center.

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Handicapped American Indian Vocational Rehabilitation Service Projects Program (34 CFR Parts 369 and 371); and

(b) Education Department General Administration Regulations (EDGAR) (34 CFR Parts 74, 75, 77 and 78).

Further information: Frank S. Caracciolo, Division of Special Projects, Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services, U.S. Department of Education, Room 3327, Mary E. Switzer Building, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 245–0389.

84.128J—Projects for initiating special recreation programs for handicapped individuals

Closing date: April 2, 1984—New Projects

Authority of this program is contained in Section 316 of the Rehabilitation Act of 1973, as amended. (29 U.S.C. 777(f))

Awards are made under this program to States and public and other nonprofit agencies and organizations.

The purpose of this program is to support projects which initiate programs of recreational services for handicapped individuals.

Available funds: The total amount of funds awarded under this grant program for Fiscal Year 1983 was $2,000,000. The total amount of funds available for Projects for Initiating Special Recreation Programs for Handicapped Individuals in Fiscal Year 1984 is $2,000,000. These funds will be available only for new projects. An estimated 27 grants will be awarded with an average grant totalling about $74,000. These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

It is expected that new projects funded under this program in Fiscal year 1984 will be limited to one year of support.

Application forms: Application forms and program information packages are available and may be obtained by writing to the Office of Developmental Programs, Rehabilitative Services Administration, Office of Special Education and Rehabilitation Services, U.S. Department of Education, Room 3329, Mary E. Switzer Building, 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. The program information is intended to aid applicants in applying for assistance under this competition. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations governing the competitions.

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.

All applicants for new projects must submit their applications to the Department of Education Application Control Center.

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing Projects for Initiating Special Recreation Programs for Handicapped Individuals (34 CFR Parts 369 and 378); and

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

Further information: Frank S. Caracciolo, Division of Special Projects, Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services, U.S. Department of Education, Room 3327, Mary E. Switzer Building, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 245–0389.

84.129D—Rehabilitation Continuing Education Projects

Closing date: May 1, 1984—New Projects (Region V only)

Authority for this program is contained in Section 304 of the Rehabilitation Act of 1973, as amended. (29 U.S.C. 774)

Awards are made under this program to State vocational rehabilitation agencies, and other public or nonprofit agencies and organizations, including institutions of higher education.

The purpose of this program is to support training centers that serve either a Federal region or another multi-State geographical area and provide for a broad integrated sequence of training activities that focus on meeting recurrent training needs of rehabilitation personnel employed in public and nonprofit programs providing rehabilitation services to severely physically and mentally disabled individuals.

Available funds: The total amount of funds available for rehabilitation training in Fiscal Year 1984 is $22,000,000. Of this amount approximately $2,200,000 is available for the Rehabilitation Continuing Education Program including $274,001 for the support of new projects in Region V. In order to achieve a geographical distribution of projects as provided for in 34 CFR 385.33, funds are available for the support of new projects under this program in Fiscal Year 1984 in Region V only. Availability of the balance of $1,952,999 for the support of noncompeting continuation projects in the other nine Federal Regions was announced in a separate **Federal Register** notice dated January 10, 1984.

These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application forms: Application forms and program information packages will be mailed to grantees who are completing Rehabilitation Continuing Education Programs during Fiscal Year 1984. Additional forms and instructions may be obtained by writing to the Office of Developmental Programs, Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services, U.S. Department of Education, Room 3329, Mary E. Switzer Building, 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. The program information is intended to aid applicants in applying for assistance under this competition. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations governing the competitions.

The Secretary 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.

All applicants for new projects under this program must submit their applications to the Regional Office in Region V.

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Rehabilitation Continuing Education Program (34 CFR Parts 385 and 389); and

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77 and 78).

Further information: Ralph A. Church, Regional Commissioner, Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services, U.S. Department of Education, 300 South Wacker Drive, 15th Floor, Chicago, Illinois 60606. Telephone: (312) 886–5372.

84. 129Z—State Vocational Rehabilitation Unit In-Service Training Program

Closing Date: May 15, 1984—New Projects (Regions I, II, V, IX and X only)

Authority for this program is contained in Section 304 of the Rehabilitation Act of 1973, as amended. (29 U.S.C. 774).

Awards are made under this program to State vocational rehabilitation agencies, and other public or nonprofit agencies and organizations, including institutions of higher education.

The purpose of this program is to support special projects for training personnel employed by State vocational rehabilitation units in program areas essential to the effective management of the State unit program of vocational rehabilitation services or in skill areas which will enable State unit personnel to improve their ability to provide vocational rehabilitation services to severely handicapped individuals.

Available funds: The total amount of funds available for rehabilitation training in Fiscal Year 1984 is $22,000,000. Of this amount approximately $2,800,000 is available for new and noncompeting continuation projects under the State Vocational Rehabilitation Unit In-Service Training program in Fiscal Year 1984.

In order to achieve a geographical distribution of projects as provided for in (34 CFR 385.33) funds for new projects under this program are expected to be distributed in Fiscal Year 1984 to the following Federal Regions:

Region I	$224,469
Region II	29,103
Region V	267,220
Region IX	199,231
Region X	146,965

Availability of the balance of $1,933,012 under this program for the support of noncompeting continuation projects in Federal Regions II, III, IV, V, VI, VII, VIII and IX was announced in a separate **Federal Register** notice dated January 10, 1984.

These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application forms: Application forms and program information packages will be mailed to grantees who are completing State Vocational Rehabilitation Unit In-Service training projects during Fiscal Year 1984.

Additonal forms and program information packages for new awards are available and may be obtained by writing to the Office of Developmental Programs, Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services, U.S. Department of Education, Room 3329, Mary E. Switzer Building, 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. The program information is intended to aid applicants in applying for assistance under this competition. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations governing the competitions.

The Secretary urges that the narrative portion of the application not exceed 25 pages in length. The Secretary further urges that only the information required be submitted.

All applicants for new projects under this program must submit their applications to the appropriate Regional Office.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing the State Vocational Rehabilitation Unit In-Service Training program (34 CFR Parts 385 and 388); and

(b) Education Department General Administrative Regulations (EDGAR)* (34 CFR Parts 74, 75, 77 and 78).

Further information: Martin W. Spickler, Ph.D., Director, Division of Resource Development, Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services, U.S. Department of Education, Room 3319, Mary E. Switzer Building, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 245–0087.

Dated: February 3, 1984.

T. H. Bell,

Secretary of Education.

[FR Doc. 84-3416 Filed 2-7-84; 8:45 am]

BILLING CODE 4000-01-M

National Diffusion Network Program; Application

AGENCY: Office of Educational Research and Improvement, Department of Education.

ACTION: Application Notice for Fiscal Year 1984.

Applications are invited for new Developer Demonstrator projects under the National Diffusion Network program for fiscal year 1984.

Authority for this program is contained in Section 583 of the Education Consolidation and Improvement Act of 1981 (Pub. L. 97–35). (20 U.S.C. 3851)

The program issues awards to State educational agencies, local educational agencies, institutions of higher education, and other nonprofit institutions or agencies, that have developed exemplary educational programs which have been approved by the Department of Education's Joint Dissemination Review Panel.

The purpose of the program is to promote the widespread installation across the Nation of rigorously evaluated, exemplary educational programs. Developer Demonstrator projects disseminate a specific exemplary educational program nationwide. No funds are available for program development.

Closing Date for Transmittal of Applications: An application for a grant must be mailed or hand delivered by March 30, 1984.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.073 A, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legible 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.

Each late applicant for a new Developer Demonstrator grant will be notified that its application will not be considered.

Applications Delivered by Hand:

An application that is hand delivered 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 the hours of 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application for a new Developer Demonstrator grant that is hand delivered will not be accepted by the Application Control Center after 4:30 p.m. on the closing date.

Program Information: Because of the limited resources available, the Secretary has selected priorities taking into account unmet national needs. Programs will be selected for funding by a separate competition in each priority area. This year, applications will be accepted in the following priorities:

1. *Technology*—Computer science programs that enable students to accomplish one or more of the following—

(i) Understand the computer as an information, computation, and communication device;

(ii) Use the computer to enhance instruction in English, mathematics, science, social studies, or for personal and work-related purposes; or

(iii) Understand the world of computers, electronics, and related technologies.

(2). *Adult literacy*—Programs for functionally illiterate adults or pre-adults.

3. *Preservice-Inservice*—Programs that improve teaching and the quality of instruction through either or both of the following—

(i) The identification and transfer of non-traditional practices;

(ii) The application of current research findings in learning, teaching, and management.

Under this priority, the Secretary particularly invites applications from programs that utilize incentives for improving instructional effectiveness, teacher recognition programs, and career ladder programs. Included in this invitation are programs designed to reduce attrition and improve performance of college students in difficult courses or areas of study.

4. *Gifted and Talented*—Programs for gifted and talented students.

5. *Special Education*—Programs for handicapped students.

6. *Early Childhood*—Programs for preschool and early elementary school children.

7. *Career Education, Vocational Education, and the Arts*—Programs that advance students' personal, educational, and occupational goals, such as courses in the fine and performing arts, vocational education, and industrial arts.

8. *Foreign Languages*—Foreign language programs that accomplish one or more of the following—

(i) Introduce students to non English-speaking cultures;

(ii) Heighten awareness and comprehension of one's native tongue; or

(iii) Serve the Nation's needs in commerce, diplomacy, defense, and education.

9. *Science.*

10. *Reading.*

11. *Written or Oral Communications.*

12. *Mathematics or Higher Mathematics.*

13. *Health.*

14. *Social Studies.*

It is expected that new Developer Demonstrator awards will be for a project period not to exceed four years, contingent on performance and availability of funds.

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;
- Increase Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why not; 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 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:

Arizona	Michigan	South Carolina
Arkansas	Mississippi	South Dakota
California	Minnesota	Tennessee
Colorado	Missouri	Texas
Connecticut	Montana	Utah
Delaware	Nebraska	Vermont
Florida	Nevada	Virginia
Georgia	New Hampshire	Washington
Hawaii	New Jersey	West Virginia
Illinois	New Mexico	Wisconsin
Indiana	New York	Wyoming
Iowa	North Carolina	District of Columbia
Kansas	Ohio	Puerto Rico
Kentucky	Oklahoma	Virgin Islands
Louisiana	Oregon	
Maryland	Pennsylvania	
Massachusetts	Rhode Island	

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. However, for this program, if the specific States in which the applicant may work have not been determined, this requirement need not be accomplished now. 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 29, 1984, to the following address:

The Secretary, U.S. Department of Education, Room 4181, 84.073A, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone Number (202) 245–7913. (Proof of mailing will be determined on the same basis as for 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.*

Available Funds: The estimated amount available for new awards included in this announcement will be $1,390,000. It is estimated that twenty-eight (28) new projects will be funded. This estimate does not bind the Department of Education to a specific number of grants or to the amount of any grant, unless that amount is otherwise specified by statute or regulations.

Application Forms: Application forms will be available on February 10, 1984 and may be obatined by writing to the National Diffusion Network, U.S. Department of Education, 400 Maryland Avenue, SW., Room 613 Brown Building, Washington, D.C. 20202. An application must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information package is only intended to aid applicants in applying for assistance under this program. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those specifically imposed under the statute and regulations governing this program. The Secretary urges that the narrative portion of an application be as brief as possible. The Secretary urges applicants not to submit information that is not requested. (Approved OMB #1850–0086, expiration date 10/86)

Applicable Regulations: Regulations applicable to this program include the following:

(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 78 and 79.

(b) Regulations governing the National Diffusion Network Program, as proposed for codification in 34 CFR Part 796, published in the **Federal Register** at 48 FR 57090 on December 27, 1983, when published as final regulations, will govern awards for fiscal year 1984.

Applications are being accepted based on the proposed rules. If any substantive changes are made in the final regulations, applicants will be given the opportunity to revise their applications.

Further information: For further information, contact Ms. Lois N. Weinberg, Education Program Specialist, National Diffusion Network, U.S. Department of Education, 400 Maryland Avenue, SW., Room 613 Brown Building, Washington, D.C. 20202. Telephone: (202) 653–7006.

(Catalog of Federal Domestic Assistance Number 84.073, National Diffusion Network Program)

Dated: February 1, 1984.

T. H. Bell,

Secretary of Education.

[FR Doc 84–3417 Filed 2–7–84; 8:45 am]

BILLING CODE 4000–01–M

National Advisory Council on Adult Education; Meeting

AGENCY: National Advisory Council on Adult Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Adult Education. This notice also describes the functions of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

DATE: February 27, 1984, 8:30 a.m. to 1:00 p.m., adult basic education volunteer program visitation to Operation Mainstream, YMCA, Lee Circle; 1:00 p.m. to 5:00 p.m., committee meetings. February 28–29, 1984 9:00 a.m. to 5:00 p.m., full Council meeting.

ADDRESS: Monteleone Hotel, 214 Rue Royale, New Orleans, La.

FOR FURTHER INFORMATION CONTACT: Helen Banks, Administrative Assistant, National Advisory Council on Adult Education, 425 13th St., NW., Washington, D.C. 20004 (202/376–8892).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Adult Education is established under section 313 of the Adult Education Act (20 U.S.C. 1201). The Council is established to:

Advise the Secretary in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The meeting of the Council is open to the public. The proposed agenda includes;

- Review and analysis of testimony received by the Council on the Adult Education Act.
- Review and analysis of the Council's Literacy Report.
- Final Review of the Council's 1983 Annual Report.

Records are kept of all Council proceedings, and are available for public inspection at the office of the National Advisory Council on Adult Education, 425 13th St., NW., Suite 323, Washington, D.C. 20004, from the hours of 8:00 a.m. to 4:30 p.m.

Signed at Washington, D.C. on February 2, 1984.

Rick Ventura,

Executive Director, National Avisory Council on Adult Education.

[FR Doc. 84–3399 Filed 2–7–84; 8:45 am]

BILLING CODE 4000–01–M

National Advisory Council on Indian Education; Meeting

AGENCY: National Advisory Council on Indian Education.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Annual Report Committee. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

DATES: February 22, 1984, 9 a.m. until conclusion of business.

ADDRESS: National Advisory Council on Indian Education, 425 13th Street, NW., Suite 326, Washington, D.C. 20004, 202/376–8882.

FOR FURTHER INFORMATION CONTACT: Lincoln C. White, Executive Director, National Advisory Council on Indian Education, Pennsylvania Building, Suite 326, 425 13th Street, NW., Washington, D.C. 20004 (202)/376–8882)

SUPPLEMENTARY INFORMATION: The National Advisory Council on Indian Education is established under section 442 of the Indian Education Act (20 U.S.C. 1221g). The Council is established to assist the Secretary in carrying out

responsibilities under section 441(a) of the Indian Education Act (Title IV of Pub. L. 92–318), through advising Congress, the Secretary of Education, the Under Secretary of Education and the Assistant Secretary of Elementary and Secondary Education with regard to programs benefiting Indian children and adults.

The meeting will be open to the public. This meeting will be held at the Council Office.

The proposed agenda includes:

(1) Development of the 10th Annual Report.

Records shall be kept of all Council proceedings and shall be available for public inspection at the office of the National Advisory Council on Indian Education located at 425 13th Street, NW., Suite 326, Wshington, D.C. 20004.

Date: February 3, 1984. Signed at Washington, D.C.

Lincoln C. White,

Director, National Advisory Council on Indian Education.

[FR Doc. 84–3398 Filed 2–7–84; 8:45 am]

BILLING CODE 4000–01–M

National Advisory Council on Indian Education; Meeting

AGENCY: National Advisory Council on Indian Education.

ACTION: Notice of Partially Closed Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Indian Education. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

DATES: February 29, 1984, 8:30 a.m. until conclusion of business (8:30 a.m. to 9:30 a.m. Closed); March 1, 1984, 9:00 a.m. until conclusion of business.

ADDRESS: Sheraton Hotel and Tower, 225 S. West Temple Street, Salt Lake City, Utah 84110 (801/328–2000).

FOR FURTHER INFORMATION CONTACT: Lincoln C. White, Executive Director, National Advisory Council on Indian Education, Pennsylvania Building, Suite 326, 425 13th Street, NW., Washington, D.C. 20004 (202)/376–8882)

SUPPLEMENTARY INFORMATION: The National Advisory Council on Indian Education is established under section 442 of the Indian Education Act (20 U.S.C. 1221g). The Council is established to assist the Secretary in carrying out responsibilities under section 441(a) of the Indian Education Act (Title IV of Pub. L. 292–318), through advising Congress, the Secretary of Education, the Under Secretary of Education and the Assistant Secretary of Elementary and Secondary Education with regard to programs benefiting Indian children and adults.

On February 29, 1984, from 8:30 a.m. to 9:30 a.m., the Search Committtee will present to the full Council its report reagarding the "Search" for the Director, Indian Education programs. The meeting will be closed, for that time period, as the report will touch upon matters that would disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy if conductd in open session. Such matters are protected by exemption (6) of section 552b(c) of Title 5 U.S.C., and as provided for in section 10(d) of the Federal Advisory Committee Act.

The remainder of the meeting will be open to the public. The proposed agenda includes:

(1) Report from the Search Committee (closed)
(2) Chairman's Report
(3) Executive Director's Report
(4) Review of NACIE FY'84 Budget
(5) Action on Previous Minutes
(6) Election of Officers
(7) Committee Discussions and Reports
(8) Status of Title IV Reauthorization
(9) Public Testimony.

Records shall be kept of all Council proceedings including a summary of the activities of the closed portion of the meeting which would be informative to the public consistent with the policy of section 552b(c) of title and will be available to the public at the Council's Office, 425 13th Street, NW., Suite 326, Washington, D.C. 20004.

Date: February 1, 1984. Signed at Washington, D.C.

Lincoln C. White,

Executive Director, National Advisory Council on Indian Education.

[FR Doc. 84–3400 Filed 2–7–84; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Office of the Secretary

International Atomic Energy Agreements; Proposed Subsequent Arrangement; Japan

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangements" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended, and the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

These subsequent arrangements would give approval, which must be obtained under the above mentioned agreements, for the transfer of special nuclear material of United States origin from Japan to France and to the United Kingdom for the purpose of reprocessing.

The proposed transfers are as follows:

(1) 528 irradiated fuel assemblies containing 237,200 kilograms of uranium, enriched to 1.17 percent in U-235, and 2,196 kilograms of plutonium from the Mihama Units 1, 2, and 3, the Takahama Units 1 and 2, and the Ohi Units 1 and 2 to France;

(2) 112 irradiated fuel assemblies containing 43,200 kilograms of uranium, enriched to 0.98 percent in U-235, and 379 kilograms of plutonium from the Mihama Units 1, 2, and 3, the Takahama Units 1 and 2, and the Ohi Units 1 and 2 to the United Kingdom;

(3) 24 irradiated fuel assemblies containing 9,400 kilograms of uranium, enriched to 1.38 percent in U-235, and 80 kilograms of plutonium from the Ikata Unit No. 1 to France;

(4) 63 irradiated fuel assemblies containing 24,486 kilograms of uranium, enriched to 1.16 percent in U-235, and 230 kilograms of plutonium from the Genkai Units 1 and 2 to the United Kingdom; and

(5) 119 irradiated fuel bundles containing 23,000 kilograms of uranium, enriched to 1.39 percent in U-235, and 180 kilograms of plutonium from the Tokai Unit No. 2 to France.

The foregoing proposed transfers are designated as RTD/EU (JA)—60, 61, 62, 63, and 64, respectively.

The Department of Energy has received a letter of assurance from the Government of Japan that the recovered uranium and plutonium will not be transferred from the reprocessing sites, not put to any use, without the prior approval of the United States Government.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the approval of these subsequent arrangements will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than fifteen days after the date of publication of this notice, and after fifteen days of continuous session of the Congress, beginning the day after the date on

which the reports required by section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) are submitted to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate. The two time periods referred to above shall run concurrently.

For the Department of Energy.

Dated: February 2, 1984.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 84-3356 Filed 2-7-84; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Proposed Subsequent Arrangement; Switzerland

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Switzerland Concerning Civil Uses of Atomic Energy, as amended, and the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

This subsequent arrangement would give approval, which must be obtained under the above mentioned agreements, for the transfer of special nuclear material of United States origin from Switzerland to the United Kingdom for the purpose of reprocessing. The material consists of 49 irradiated fuel elements containing 15,137 kilograms of uranium enriched to 0.99 percent in U-235, and 139 kilograms of plutonium, from the Beznau nuclear power stations. This subsequent arrangement is designated as RTD/EU (SD)-48.

The Department of Energy has received a letter of assurance from the Government of Switzerland that the recovered uranium and plutonium will not be transferred from the reprocessing site, nor put to any use, without the prior approval of the United States Government.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the approval of this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice, and after fifteen days of continuous session of the Congress, beginning the day after the date on which the reports required by Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) are submitted to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate. The two time periods referred to above shall run concurrently.

For the Department of Energy.

Dated: February 2, 1984.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 84-3357 Filed 2-7-84; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER82-481-006]

Arizona Public Service Co.; Refund Report

February 3, 1984.

Take notice that on November 17, 1983, Arizona Public Service Company (Arizona) submitted for filing its refund report, pursuant to a Commission Letter Order of October 4, 1983.

Arizona states that the required refund was forwarded to Colorado River Indiana Irrigation Project (CRIIP).

On December 5, 1983, Arizona submitted for filing a revised refund report. Arizona states and an inadvertent error was in the original refund computations, which omitted appropriate sales tax amounts and applicable interest for the billing months of January 1983 through September 1983.

Arizona further states that a check in the amount of $2,067.60 was forwarded to CRIIP on December 1, 1983. This amount represents Arizona's additional refund obligation for the sales tax, as well as interest on the difference calculated to the day of the supplement refund (December 1, 1983).

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before February 13 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. 84-3433 Filed 2-7-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-21-001 (PGA84-1, IPR84-1, AP84-1)]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

February 3, 1984.

Take notice that Columbia Gas Transmission Corporation (Columbia) on January 30, 1984, tendered for filing the following proposed changes to its FERC Gas Tariff, Original Volume No. 1, to be effective on March 1, 1984:

Ninety-second Revised Sheet No. 16
Third Revised Sheet Nos. 16B through 16D
Thirty-first Revised Sheet No. 64
Tenth Revised Sheet Nos. 64E through 641

Columbia states that the rates set forth in Ninety-second Revised Sheet No. 16 reflect a $1.12 demand decrease and a 11.64¢/dth commodity increase, which results in an approximate increase of $343,500 applicable to sales rate schedules for the subject PGA period. This reduction is composed of the net of (1) a downward adjustment to Columbia's base sales rates, (2) a Purchased Gas Adjustment which reflects a decrease in the current cost of gas, (3) a net increase in the PGA surcharge, (4) a decrease in the Advance Payment Adjustment, (5) twelve-month surcharge associated with retroactive payments to Columbia's pipeline and producer suppliers, and (6) a six-month surcharge relating to take-or-pay reimbursement to Panhandle Eastern Pipe Line Company.

In addition, the Purchased Gas Surcharge amounts set forth on Third Revised Sheet Nos. 16B through 16D provides for the recovery of $704,272 in gas purchase costs over the six-month period ending August 31, 1984, such costs to be recovered from customers receiving service under Columbia's Rate Schedule SGES.

Further, Columbia's filing also contains material related to the affiliated entities test contained in section 601(b)(1)(E) of the NGPA. Copies of the filing were served upon the Company's jurisdictional customers and interested state commissions.

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, Union Center Plaza Building, 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. All such motions or protests should be filed on or before Februrary 13, 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 proceedings. Any person wishing to become a party must file a motion to intervene. Copies of Columbia's filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3435 Filed 2-7-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP79-28-003]

Columbia Gulf Transmission Co.; Proposed Changes in FERC Gas Tariff

February 3, 1984.

Take notice that Columbia Gulf Transmission Company (Columbia Gulf), on January 30, 1984, tendered for filing proposed changes to its FERC Gas Tariff as follows:

Original Volume No. 1

First Revised Sheet No. 58
First Revised Sheet No. 117
First Revised Sheet No. 118

Original Volume No. 2

Tenth Revised Sheet No. 72
Tenth Revised Sheet No. 73
Seventh Revised Sheet No. 92
Seventh Revised Sheet No. 93
Seventh Revised Sheet No. 126
Eighth Revised Sheet No. 145
Eighth Revised Sheet No. 146
Seventh Revised Sheet No. 263
Sixth Revised Sheet No. 320
Sixth Revised Sheet No. 337
Sixth Revised Sheet No. 386
Sixth Revised Sheet No. 387
Sixth Revised Sheet No. 440
Sixth Revised Sheet No. 484
Sixth Revised Sheet No. 493
Sixth Revised Sheet No. 567
Sixth Revised Sheet No. 596
Fifth Revised Sheet No. 628
Fifth Revised Sheet No. 750
Fourth Revised Sheet No. 1097
Third Revised Sheet No. 1194
Third Revised Sheet No. 1195
Second Revised Sheet No. 1268
Second Revised Sheet No. 1302
Second Revised Sheet No. 1303
Second Revised Sheet No. 1338
Second Revised Sheet No. 1339
Second Revised Sheet No. 1370
Second Revised Sheet No. 1371
Second Revised Sheet No. 1438
First Revised Sheet No. 1462
First Revised Sheet No. 1521
First Revised Sheet No. 1555
First Revised Sheet No. 1587
First Revised Sheet No. 1588

The revised tariff sheets proposed to become effective March 1, 1984, reflect a reduction in Columbia Gulf's annual jurisdictional revenues of $586,449 in compliance with the Commission's Order of October 4, 1983, at Docket No. RP79-28-000 approving the uncontested Stipulation and Agreement of Offshore Construction of Natural Gas Pipelines. The annual reduction to Columbia Gulf's revenues consist of $467,717 applicable to Columbia Gas Transmission Corporation (Columbia Gas) and $118,732 to other jurisdictional customers. Columbia Gas will file the annual reduction ($467,717) to its base rates in their PGA filing on January 30, 1984, with the rates to be effective March 1, 1984.

Copies of this filing are being mailed to each of Columbia Gulf's jurisdictional customers, as well as to each of Columbia Gas' jurisdictional customers and interested State commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before February 13, 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 petition to intervene. Copies of Columbia Gulf's filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3434 Filed 2-7-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-22-003]

Consolidated Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

February 3, 1984.

Take notice that Consolidated Gas Supply Corporation (Consolidated) on January 30, 1984, filed revised tariff sheets pursuant to Sections 12 (PGA Clause), 12A (Incremental pricing Surcharges), and 13 (Research, Development and Demonstration Cost Adjustment) of the General Terms and Conditions of its tariff. The revisions, shown on Thirty-Eighth Revised Sheet No. 16 and Tenth Revised Sheet No. 72-C provide for Consolidated's semiannual PGA to be effective March 1, 1984.[1]

Consolidated has included in its filing:

(a) Rate increases from pipeline suppliers in the amount of $27.9 million; and

(b) Rate decreases from producer suppliers in the amount of $12.4 million;

(c) A surcharge of 16.30 cents per dekatherm to recoup amounts accumulated in account 191, Unrecovered Purchased Gas Costs.

Consolidated states that it is continuing to collect the *Mid-Louisiana*[2] special surcharge which was placed into effect September 1, 1983, and that it has reflected purchases from producers at quantities and prices computed on a "saturated" basis.

Copies of the filing were served upon Consolidated's jurisdictional customers as well as interested state commissions.

Any person desiring to be hear or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All such petitions or protests should be filed on or before February 13, 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 proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3436 Filed 2-7-84; 8:45 am]

BILLING CODE 6717-01-M

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[1] By order issued December 20, 1983, in Docket No. CP80-346-000, the Commission authorized a corporate reorganization by which Consolidated Gas Transmission Corporation succeeds to substantially all of the business and properties of Consolidated Gas Supply Corporation, effective as of January 1, 1984.

Consolidated states that the reorganization is scheduled to be consummated in mid-February, after which Consolidated Gas Transmission Corporation will adopt the tariff of Consolidated Gas Supply Corporation. Although the instant filing is being made by Consolidated Gas Supply Corporation, it is anticipated that it will become effective on March 1, 1984, as part of the tariff (by adoption) of Consolidated Gas Transmission Corporation. Accordingly, the filing reflects Hope Gas, Inc., as a jurisdictional customer of Consolidated, and contains supporting materials bearing the name of Consolidated Gas Transmission Corporation.

[2] *Public Service Commission of the State of New York vs. Mid-Louisiana Gas Company, et al.* 103 S. Ct. 3024 (June 28, 1983) affirming *Mid-Louisiana Gas Company v. FERC*, 664 F 2d. 530 (1981).

[Docket No. ER84-225-000]

El Paso Electric Co.; Filing

February 3, 1984.

The filing Company submits the following:

Take notice that on January 25, 1984, El Paso Electric Company (El Paso) tendered for filing as an initial rate filing, an "Interchange Agreement between El Paso and M-S-R Public Power Company," dated December 30, 1983 (Agreement). El Paso states that this Agreement provides a basis for exchange of energy between parties on a returnable basis and on an economy basis. The Agreement also provides for emergency assistance. El Paso has requested that this Agreement be accepted for filing and made effective on April 1, 1984.

El Paso further states that copies of this filing have been served upon the Public Utility Commission of Texas, the Mexico Public Service Commission, and M-S-R Public Power Agency.

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 20, 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. 84-3437 Filed 2-7-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER80-315-000 and ER80-450-001]

Kansas City Power & Light Co.; Compliance Filing

February 3, 1984.

Take notice that by letter dated January 19, 1984, Kansas City Power & Light Company (KCPL) submitted for filing its compliance report in compliance with the Commission's Order of March 3, 1983, and in compliance with a letter from the Commission Staff dated December 23, 1983. The report shows that no refunds are owing to any of the customers by virtue of the Commission's Order of March 3, 1983, as well as the terms of the approved Settlement between KCPL and the customers in Docket No. EL81-11-000 which was previously consolidated with the referenced dockets. KCPL also states that it is seeking Commission or Staff advice as to the proper procedures for recovering from the customers amounts over-refunded to them by KCPL in the referenced dockets and in Docket No. EL81-11-000.

Copies of this filing are being sent to all parties of record.

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 February 13, 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. 84-3438 Filed 2-7-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-60-000]

Locust Ridge Gas Co.; Change in Rates

February 3, 1984.

Take notice that on January 31, 1984, Locust Ridge Gas Company (Locust Ridge) submitted for filing as part of its FERC Gas Tariff, Original Volume No. 3 and Original Volume No. 1 and the following tariff sheets to be effective March 1, 1984:

Sixteenth Revised Sheet No. 1A
Ninth Revised Sheet No. 1A

Locust Ridge states the purpose of the filing is to submit, for approval by the Commission, a revision in Locust Ridge's rate to reflect proposed changes in the Purchase Gas Adjustment (PGA) component of Locust Ridge's rate for the period of March 1, 1984, through September 30, 1984. The overall effect of the filed for adjustments to Locust Ridge's sales rate is a decrease of $0.4924 per MMBTU.

Locust Ridge requests waiver of the Commission's regulations to the extent, if any, required to put the proposed tariff sheets into effect on March 1, 1984.

A copy of this filing has been mailed to Locust Ridge's jurisdictional customers.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before February 14, 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 petition to intervene. Copies of the application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3439 Filed 2-7-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-25-002]

Mississippi River Transmission Corp., Rate Change in Filing

February 3, 1984.

Take notice that on January 30, 1984, Mississippi River Transmission Corporation ("Mississippi") tendered for filing Second Revised sheet No. 4 and First Revised Sheet No. 4A to its FERC Gas Tariff, Second Revised Volume No. 1. An effective date of March 1, 1984, is proposed.

Second Revised Sheet No. 4 is being submitted pursuant to Mississippi's gas tariff to track pipeline and producer rate changes and to recover gas costs which have accumulated in Mississippi's Unrecovered Purchased Gas Cost Account. First Revised Sheet No. 4A indicates that Mississippi projects zero incremental pricing surcharges to its direct market and sale for resale customers.

Mississippi states that the overall effect of the purchased gas cost adjustments contained on Second Revised Sheet No. 4 is to increase Mississippi's Rate Schedule CD-1 and CD-2 demand rates by $1.142 per Mcf and decrease its Rate Schedule CD-1 and CD-2 commodity rates by $.4312 per Mcf. Appropriate adjustments were also made to Mississippi's Rate Schedule SGS-1 and Rate Schedule PI-1 single part rates. Mississippi states that the annualized cost impact of the pipeline and producer cost changes is an approximate increase of $.8 million. The increase in purchased gas costs is coupled with a decrease in the Surcharge Adjustments from those previously in effect. The cost impact of the reduced Surcharge Adjustments over the next six month period is an approximate $15.6 million decrease. It is

claimed that the net effect of the gas cost increases and the Surcharge Adjustment reduction over the next six month period is a cost reduction of $13.6 million.

Mississippi states that copies of its filing have been served on all jurisdictional customers and interested state commissions.

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, N.E., Washington, D.C. 20426, in accordance with §§ 385.211 and 385.214 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 13, 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. 84-3440 Filed 2-7-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-485-000]

Texas Gas Transmission Corp.; Amended Application

February 2, 1984.

Take notice that on January 27, 1984, Texas Gas Transmission Corporation (Texas Gas) filed an amended application in the above-docketed proceeding concerning its application to transport natural gas to the City of Memphis Light, Gas, and Water Division (MLGW) for delivery to the W. R. Grace (Grace) fertilizer plant located north of the city. This filing is more commonly known as the "AMFEED" application.

Texas Gas proposes in its amendment that the Commission authorize its new "Transportation Program" which would implement, with some modification, the AMFEED program on a system-wide basis to retain load in the Texas Gas system.

Texas Gas would file and place into effect new transportation rates designated the TSC rates. It is equal to the fixed costs component of its presently effective commodity rate per zone. The TSC rate applicable to the zone in which MLGW and Grace are located is the same transportation rate proposed in the original AMFEED application.

Texas Gas further states that the TSC rates will be available only to those Texas Gas customers subject to its SG, G, CD, or CDL rate schedules and to the extent and only to the extent that Texas Gas performs transportation services for its customers for the ultimate benefit of industrial or large commercial end-users who at the time they begin participating in the Transportation Program, have requirements of at least 3,000 Mcf of gas each month from the customer, and who either (a) have closed wholly or partially, or will close wholly or partially, their existing facilities due to the economics of gas supplies; (b) have switched or will switch from natural gas to alternate fuels to satisfy the requirements of their facility; or; (c) have commenced purchasing, or intend to commence purchasing their gas requirements directly or indirectly from a supplier serving the customer with supplies other than supplies provided by Texas Gas to such customers. It may also be necessary to place a volumetric limitation on the amount of gas transported under the proposed program.

Texas Gas notes that it will retain the revenues realized in connection with the transportation services to be performed under the Transportation Program. Such rate treatment is appropriate under the Transportation Program, since any transportation revenues received will be off-set to revenues from sales that would otherwise have been made.

The implementation of the Transportation Program does not contemplate the release of any volumes of gas partially committed or dedicated to Texas Gas for use in its general system supply. However, Texas Gas seeks only abandonment authority on behalf of its producer-suppliers with respect to certain volumes presently dedicated to Texas Gas which are classified under section 102(d) of the NGPA and, volumes of gas dedicated to Texas Gas which are classified under sections 102(c), 103(c), and 107 of the NGPA which at the time such volumes are released, are priced at or above Texas Gas' then weighted average cost of gas (WACOG). Texas gas requests that the Transportation Program be authorized for a limited term of one year from the date of the order authorizing the implementation of this program.

Any person desiring to be heard or to make any protests with reference to said amended application should on or before February 23, 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 the proceeding or to participate as a party in any hearing therein must a file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3442 Filed 2-7-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-45-000

Texas Gas Pipe Line Corp.; Proposed Changes in FERC Gas Tariff

February 3, 1984.

Take notice that Texas Pipe Line Corporation (TGPLC), on January 31, 1984 tendered for filing proposed changes in its FERC Gas Tariff Second Revised Volume No. 1. The proposed changes would increase revenues, exclusive of purchased gas cost adjustments, from jurisdictional sales and service by $42,568 based on the 12-month period ending October 31, 1983, as adjusted. TGPLC states that the principal reason for the proposed rate increases are attributable to increased gas costs. Filing for new rates is made pursuant to regulation 154.38 requiring a rate base tariff filing every 36 months maximum.

Copies of the filing were served upon the company's jurisdictional customers.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 385.211 and 385.214 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 14, 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 petition to intervene. Copies of this filing are now on file with the

Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3441 Filed 2-7-84; 8:45 am]

BILLING CODE 6717-01-M

Western Area Power Administration

Central Valley Project Proposed Transmission Rate Adjustment

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of a Proposed Adjustment in the Rate Schedule for Third Party Transmission—Central Valley Project, California.

SUMMARY: The Western Area Power Administration (Western) is proposing a minor rate adjustment to update and supersede the transmission charges contained in the Central Valley Project (CVP) customers' power sales contracts. Charges and losses assessed for delivery of power by the Pacific Gas and Electric Company (PGandE) at 44–kV or above, within the wheeling area boundary designated by Contract 14–06–200–2948A (Contract 2948A) between PGandE and Western, are included in the CVP wholesale firm power rate. PGandE assesses a higher rate and additional losses for below 44–kV deliveries and also assesses different charges and losses for deliveries that are outside the Contract 2948A wheeling area boundary. Western proposes to bill those CVP customers whose power is wheeled by PGandE and delivered at below 44–kV, or delivered outside of the wheeling area boundary, for all costs greater than the charges and losses associated with the 44–kV or above deliveries within the wheeling area boundary.

DATE: All comments are due within 30 days after the publication of this notice in the **Federal Register**. Since this is a minor rate adjustment as defined by the "Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions for the Alaska, Southeastern, Southwestern, and Western Area Power Administrations," 10 CFR 903, there will be no formal public information/comment forums.

ADDRESS: For further information contact: Mr. David G. Coleman, Area Manager, Sacramento Area Office, Western Area Power Administration, 2800 Cottage Way, Sacramento, CA 95825, (916) 484–4251.

SUPPLEMENTARY INFORMATION: Contract 2948A provides that PGandE will wheel CVP power over PGandE's transmission system from Tracy Substation, which is designated as load center to the customers' delivery points. The contract stipulates that higher rates and additional losses will be charged for below 44–kV transmission service, than for service at or above 44–kV. At the time Contract 2948A was executed, the Bureau of Reclamation (and later Western) policy regarding repayment of transmission costs was to include in the wholesale firm power rates the 1 mill per kWh wheeling cost and 5 percent losses associated with at or above 44–kV service. The policy for repayment of below 44–kV service was to bill below 44–kV customers all additional costs and losses associated with below 44–kV service. The transmission charges incorporated in the CVP contracts reflect this policy.

In setting the wholesale firm power rates since 1979, Western has included in those rates the costs charged by PGandE for providing at or above 44–kV transmission service. The proposed transmission rate schedule will establish Western's practice with regard to passing on the transmission costs related to the below 44–kV service to the below 44–kV customers.

In 1967, the transmission rates charged by PGandE for wheeling to customers within the Contract 2948A wheeling area boundary were set at 1 mill per kWh for deliveries at 44–kV or above and 1 mill per kWh plus $.22 per kW-month for below 44–kV deliveries. Under article 32 of Contract 2948A, the rates could be adjusted at 5-year intervals starting on April 1, 1971. Losses of 5 percent for 44-kV or above deliveries and 9 percent for below 44-kV deliveries were set in 1967 and were changed in 1971 to 4.5 percent and 8 percent, respectively. In 1976, PGandE proposed to change the wheeling charges to 1.7 mills per kWh for 44–kV or above deliveries and 3.9 mills per kWh for below 44–kV deliveries. No changes in losses were proposed. These proposed charges were opposed by the Bureau of Reclamation (and later Western) and the CVP customers. Since a settlement of these rates was not approved, the matter was set for hearing (docket No. ER76–532) before the Federal Power Commission, now the Federal Energy Regulatory Commission (FERC). The Federal Power Commission allowed the rates to go into effect on April 1, 1976, subject to refund.

By Opinion No. 143 issued August 16, 1982 (20 FERC ¶ 61,190), as modified by Opinion No. 143–A issued November 22, 1982 (21 FERC ¶ 61,115), the FERC ordered the 1976 to 1981 transmission rates for wheeling CVP power over the PGandE transmission system to be 1.7 mills per kWh for 44–kV or above deliveries and 1.7 mills per kWh plus $.75 per kW-month for below 44–kV deliveries. The costs of the 44–kV or above deliveries and associated losses are included in the current CVP power rates. The $.75 per kW-month charge was billed to the below 44–kV customers effective January 1, 1983. This charge had previously been $.22 per kW-month. Those costs not recovered from the below 44–kV customers are incorporated in the current CVP power rates.

On August 17, 1982, as completed October 15, 1982, PGandE filed with the FERC (docket No. ER82–729–000) new transmission rates for the December 1982 to April 1986 period. PGandE proposed to increase revenues for transmission service for customers receiving CVP power in two steps (Phase I and Phase II). The Phase I rates would increase revenues by about $5.5 million, and the Phase II by an additional $2 million. Western filed a motion to intervene, as did the Northern California Power Agency and its members, the Sacramento Municipal Utility District, certain irrigation districts which are CVP commercial power customers, and the Department of Energy (DOE) laboratories in the CVP service area. In its Order of December 14, 1982 (21 FERC ¶ 61,296), the FERC allowed the Phase I rates to become effective on December 16, 1982, subject to refund. These rates were $1.354 per kW-month for 44–kV or above and $2.470 per kW-month for below 44–kV service. The Phase II rates were $1.551 per kW-month for 44–kV or above and $2.841 per kW-month for below 44–kV service. FERC allowed the Phase II rates to go into effect on May 16, 1983, subject to refund. Because Western intervened to protest these rate increases, the $.75 per kW-month charge billed to the below 44–kV customers was not increased by Western to reflect these new rates.

A Settlement Agreement resolving FERC docket No. ER82–729–000 was signed August 5, 1983, between PGandE and Western, settling the dispute over these Phase I and II rates. FERC approved this settlement on December 21, 1983. The settlement states that the Phase I rates would be effective from December 16, 1982, to July 31, 1983, and that effective August 1, 1983, the new transmission rates would be $1.275 per kW-month for 44–kV or above deliveries and $2.335 per kW-month for below 44–kV deliveries. The settlement rates are lower than the Phase I rates; however, the Phase I rate differential of $1.102 per kW-month for below 44–kV service was

never billed from Western to the CVP customers, and Western will not bill retroactively for the Phase I rate. Effective the first full billing month (January 1984) after the FERC approval of the settlement, Western will bill the below 44–kV customers $1.06 per kW-month for the additional cost incurred from PGandE to deliver to the below 44–kV customers. (The $1.06 is the difference between the at or above 44–kV charge of $1.275 per kW-month and the below 44–kV charge of $2.335 per kW-month.)

Also effective January 1, 1984, the 5-percent charge for transmission system losses previously included in the wholesale firm power rate will be reduced to 4.5 percent to reflect the current amounts assessed by PGandE in the delivery of all capacity and energy at 44–kV or above within the wheeling area boundary. Those losses above 4.5 percent incurred for the below 44–kV deliveries will be billed on the monthly charge to the below 44–kV customers. The loss factor for the below 44–kV deliveries will be changed from the existing 3 percent that is added to the bill to 3.5 percent. This will then reflect the current loss assessment of 4.5 and 8 percent incurred by the CVP from PGandE for wheeling power over its system with the wheeling area boundary.

In January 1980, Western increased the customer load level by 102 MW and certain entities outside the Contract 2948A wheeling area became eligible to receive CVP power. Like the entities within the Contract 2948A wheeling area boundary, PGandE bills Western for wheeling CVP power over its transmission system from the load center at Tracy to the delivery point. The wheeling rates and amounts of losses charged by PGandE depend upon whether the service received is 44–kV or above or below 44–kV. Since the delivery outside the Contract 2948A wheeling area boundary is provided under separate contracts, the wheeling rates and loss amounts are not likely to be the same as for those entities within the boundary and may vary from one entity to another outside the boundary. Effective the first full billing month (January 1984) after the FERC approval of the settlement, Western will pass through all costs greater than the $1.275 per kW-month and 4.5-percent losses to the outside the boundary customers. The out-of-boundary transmission costs that were incurred prior to the approval of this procedure will not be retroactively billed to the out-of-boundary customers. Those costs, along with the below 44–kV charges not retroactively billed to the within-the-boundary customers, will be recovered in the wholesale firm power rate.

The charges and losses contained in the preceding paragraphs for absorbing the $1.275 per–kW-month and 4.5 percent losses in the wholesale firm power rate and passing through to the below 44–kV customers, or outside the Contract 2948A wheeling area customers, the additional costs and losses associated with those deliveries may change periodically. However, before the charges or losses are changed in the customer bill, the FERC, the CVP, and the CVP customers will have an opportunity to review these changes as transmission rates and losses must be filed by PGandE with the FERC before they become effective.

Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980 (5 U.S.C. 601, *et seq.*), each agency, when required by 5 U.S.C. 553 to publish a proposed rule, is further required to prepare and make available for public comment an initial regulatory flexibility analysis to describe the impact of the proposed rule on small entities. In this instance, the rate adjustment for the CVP relates to nonregulatory services provided by Western at a particular rate. Under 5 U.S.C. 601(2), rates or services of particular applicability are not considered "rules" within the meaning of the Act. Since the rate is of limited applicability and is being set in accordance with Contract 2948A and FERC Order, Western believes that no flexibility analysis is required.

Executive Order 12291

The DOE has determined that this is not a major rule within the meaning of the criteria of section 1(b) of that Order. In addition, Western has received an exemption from sections 3, 4, and 7 of Executive Order 12291, and therefore, will not prepare a Regulatory Impact Statement.

Environmental Evaluation

In compliance with the National Environmental Policy Act of 1969 and the DOE guidelines published in the **Federal Register** on February 23, 1982 (47 FR 7975), Western conducts environmental evaluations of certain rate and allocation actions. Under the DOE regulations, Western has made an evaluation of the possible environmental impacts of the proposed change in the CVP transmission rate schedule. A memorandum was signed October 5, 1983, documenting that the proposed action will clearly have no significant environmental effects.

Availability of Information

All brochures, studies, comments, letters, memorandums, and other documents made or kept by Western for the purpose of developing the proposed rate are and will be available for inspection and copying at the Sacramento Area Office, Western Area Power Administration, 2800 Cottage Way, Sacramento, CA 95825, (916) 484–4251.

Issued in Golden, Colorado, January 27, 1984.

Robert L. McPhail,

Administrator.

Schedule of Transmission Rates

Effective: January 1, 1983.

Available: In the area served by the Central Valley Project (CVP).

Applicable: To customers of the CVP who require transmission service to receive power and energy sold by Western.

Character and Conditions of Service: Transmission service for three-phase alternating current at 60 hertz, delivered and metered at the voltages and points specified in the service contract.

Monthly Rate: When the United States utilizes transmission facilities other than its own in providing service under a customer's power sales contract, and costs are incurred by the United States for the use of such facilities.

1. The customer:

(a) shall pay that portion of such costs, including transmission losses, which are in excess of the at or above 44–kV customers' transmission charge and in excess of the at or above 44–kV customers' transmission losses specified by Contract 14–06–200–2948A incurred in the delivery of,

(i) all power up to the number of kilowatts on which the demand or capacity applies; and

(ii) all energy up to the amount equal to the number of kilowatt-hours on which the energy charge applies; and

(b) Shall pay all such costs, including transmission energy losses incurred in the delivery of all energy (including secondary and dump energy) in excess of the amount stated in (a) of this rate schedule.

2. The transmission losses charageable to the customer shall, for billing purposes, be added to the meter readings of the power and energy delivered to the customer under the customer's power sales contract with the United States.

Minimum Bill: None.

Adjustments: None.

[FR Doc. 84-3358 Filed 2-7-84; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-62004A; PH-FRL 2520-6]

Applications to Use Sodium Fluoracetate (Compound 1080) to Control Predators; Final Decision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: On October 31, 1983, a final decision concerning pesticide registration applications to use sodium fluoroacetate (Compound 1080) to control predators was issued by the Agency. The final decision is reprinted in its entirety in this notice.

FOR FURTHER INFORMATION CONTACT: By mail: Walter Waldrop, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 711C, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-7400).

SUPPLEMENTARY INFORMATION: Lee Thomas, Assistant Administrator for Solid Waste and Emergency Response, issued the final decision on the predacide uses of Compound 1080. Mr. Thomas was acting on behalf of the Administrator, William D. Ruckelshaus, who recused himself from consideration in this matter on July 18, 1983. A final decision by the Administrator's designee, Mr. Thomas, was made necessary because several parties to formal adjudicatory hearings on the predacide uses of Compound 1080 appealed the initial findings of Administrative Law Judge Spencer Nissen. Judge Nissen presided over these formal hearings, which were announced in the **Federal Register** of December 7, 1981 (46 FR 59622), and which were concluded in August of 1982. Judge Nissen, who issued his initial findings on October 22, 1982, found that registrants could apply for registration of the toxic collar and the single lethal dose bait delivery mechanisms. He denied applications for the large bait station and the smear post. Administrator Thomas affirmed Judge Nissen's position regarding the denial of registration for the large bait station and the smear post and registration of the toxic collar. He also affirmed, with modification, Judge Nissen's finding on the single lethal dose baits. This modification requires that users of Compound 1080 single lethal dose baits (Federal and State employees) complete a special Federal certification program before they are allowed to use the baits. The decision follows.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Before the Administrator

[FIFRA Docket No. 502]

In the Matter of Notice of Hearing on the Applications to Use Sodium Fluoroacetate (Compound 1080) to Control Predators.

Final Decision

This matter is before me pursuant to exceptions taken by numerous parties to Judge Spencer Nissen's October 22, 1982 Initial Decision, in which he granted applications for registration of sodium fluoroacetate (Compound 1080) for certain anti-predator uses. Judge Nissen granted applications which would allow the use of Compound 1080 in toxic collars and, subject to stringent restrictions, in single lethal dose baits. He dismissed applications to allow use of Compound 1080 in large bait stations and smear posts. Under the authority of 40 CFR Part 164, which establishes the Rules of Practice governing hearings under the Federal Insecticide, Fungicide and Rodenticide Act, this action is before the Administrator on exceptions taken to Judge Nissen's decision. On July 18, 1983, Administrator Ruckelshaus recused himself from consideration of this matter and designated me to rule on the exceptions. I have the authority to make the final Agency decision in this matter, including ruling on any exceptions filed by the parties, and even those matters to which no party has taken issue with Judge Nissen's decision. The Initial Decision is hereby affirmed with respect to the toxic collar, large bait station and smear post, and affirmed as modified herein with respect to the single lethal does bait.

Procedural Background

On March 9, 1972 Administrator Ruckelshaus suspended and cancelled the registration of several poisons, including Compound 1080, as mammalian predacides, finding that the use of Compound 1080 against predators constituted an imminent hazard. After receiving a number of applications to register a variety of antipredator uses involving Compound 1080, including applications for emergency exemptions pursuant to FIFRA section 18 (Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. 152), and after holding information-gathering hearings in July 1981, Administrator Gorsuch announced on December 7, 1981 that substantial new evidence was available to warrant reconsideration of the 1972 suspension/cancellation, and ordered hearings scheduled pursuant to subpart D of EPA's Rules of Practice. 46 FR 59622; 40 CFR 164.130 through 164.133. She specified seven issue areas to aid in determining the ultimate issues—whether substantial new evidence exists, based on the hearing record, to require reversal or modification of the 1972 suspension and cancellation order. Hearings were held in Washington, D.C.; San Angelo, Texas; and Denver, Colorado beginning on March 30, 1982 and ending on August 6, 1982. Well over 20,000 pages in hearing testimony and exhibits were generated with dozens of parties actively participating in the proceeding. Over 90 witnesses testified. Following Judge Nissen's October 22, 1982 decision allowing Compound 1080 use in the toxic collar and the single lethal dose bait, and denying the applications for such use in the large bait station and smear post, exceptions were filed on November 12, 1982 by Defenders of Wildlife, et al.,[1] the State of Wyoming,[2] et al., the State of South Dakota,[3] the United States Department of the Interior, the United States Department of Agriculture and the National Wildlife Federation. The Defenders of Wildlife (Defenders) took exception to Judge Nissen's granting the applications for use of the toxic collar and single lethal dose bait. Wyoming took exception to Judge Nissen's denial of the applications for the large bait station and the smear post, and to a number of the restrictions imposed by Judge Nissen on the single lethal does bait. The United States Department of Interior's Fish Wildlife Service (FWS) took exception to a number of the

[1] The Defenders of Wildlife, et al. are a coalition of opponents to Compound 1080 reregistration. They are: Defenders of Wildlife, National Audubon Society, Humane Society of the United States, American Humane Association, Animal Protection Institute of America, National Parks and Conservation Association, Animal Welfare Institute, Fund for Animals, National Resources Defense Council, Inc., The Sierra Club, Friends of the Earth, and the Environmental Defense Fund.

[2] The State of Wyoming, et al. are a coalition of proponents of Compound 1080 reregistration. They are: State of Wyoming, Colorado Department of Agriculture, Missouri Department of Agriculture, Oregon Department of Agriculture, West Virginia Commissioner of Agriculture, Zuni Tribe, National Cattlemen's Association (and 37 State associations), National Woolgrower's Association (and 13 State associations), Public Land Council and nine individuals.

[3] The State of South Dakota filed its exceptions in an untimely matter. However, since its exceptions only were an adoption of the State of Wyoming, et al. exceptions, I will accept their filing.

restrictions on the single lethal dose bait as did the U.S. Department of Agriculture (USDA), which also briefly excepted to the Judge's denial of large bait station use under limited conditions. South Dakota endorsed Wyoming's exceptions while the National Wildlife Federation generally endorsed those of Defenders. The U.S. Environmental Protection Agency's Office of Pesticides and Toxic Substances filed a brief asking for affirmance of Judge Nissen's decision, with some suggested modifications to further restrict single lethal does bait uses. Exceptions were taken to most of Judge Nissen's findings on the nonultimate issues—such as the extent of predation and feasibility of alternate means of predator control.[4]

Legal Background

No pesticide may be distributed, sold or otherwise placed in commerce unless it has been registered under section 3 of FIFRA. When a pesticide has been suspended or cancelled, as is the case with Compound 1080, any application to allow its use constitutes a petition for reconsideration of the cancellation or suspension order and is governed by 40 CFR 164 Subpart D. Following the requirements of 40 CFR 164.131, Administrator Gorsuch reviewed the applications for registration of Compound 1080 for use in the large bail station, single lethal dose bait, toxic collar and smear post, including supporting data provided by applicants and developed during information-gathering hearings in July 1981, as well as information from other sources, and determined that substantial new evidence existed to justify reconsideration of the Agency's 1972 decision. 46 FR 59622 et seq., December 7, 1981. She also determined that "such evidence could not, through the exercise of due diligence, have been discovered by the parties to the cancellation or suspension proceeding prior to the issuance of the" 1972 order. 40 CFR 164.131(a). She accordingly announced these hearings.

The regulations make it clear that the burden of proof in these hearings was on the applicants for reconsideration of the 1972 order. 40 CFR 164.132(a). The ultimate issue at hearing is whether applicants can meet the burden of proving that, for each proposed use, substantial new evidence exists requiring reversal or modification of the 1972 cancellation/suspension order. As the regulations make clear, "the determination of these issues shall be made taking into account the human and environmental risks found by the Administrator in his cancellation or suspension determination and the cumulative effect of all past and present uses, involving the requested use, and uses which may reasonably be anticipated to occur in the future as a result of granting the requested reversal or modification." 40 CFR 164.132(b).

The meaning of the "substantial new evidence" standard was the subject of much discourse throughout this proceeding. Essentially, Defenders argued that the standard prevents looking at any information which was available prior to the 1972 order, while Wyoming argued for a system where certain pre-1972 information would be examined. Judge Nissen followed the standard adopted by the Administrator in a 1975 proceeding (Applications to Register Sodium Cyanide for Use in the M–44 Device to Control Predators, FIFRA Docket No. 382, September 16, 1975), which held, in essence, that the mere fact that evidence was not new did not render it inadmissible. Judge Nissen pertinently pointed out that while the validity of the 1972 orders is not an issue here (See *Wyoming* v. *Hathaway*, 525 F.2d 66 (10th Cir. 1975) *cert. den.* 426 U.S. 906 (1976)), this proceeding is in fact one of reconsideration and that it would be quite difficult ot evaluate whether an order should be modified or reversed based on substantial new evidence without comparing it with the evidence available to the Administrator in 1972. I agree with Judge Nissen's interpretation.

In the course of Judge Nissen's decision, he made over 250 findings of fact. I find no need to specifically discuss each of his findings in rendering this decision on appeal. These findings not modified, contradicted or reversed are adopted by me.[5]

Discussion of Exceptions

In order to assist in my determination of whether to modify or overturn the 1972 ban on Compound 1080, the Administrative Law Judge was asked to make findings on a number of issues, so that all relevant information concerning the risks and benefits of Compound 1080 use would be in the record. Thus, the Administrative Law Judge was asked to make determinations concerning the impact of predation on the livestock industry, the alternatives to Compound 1080 use, the economic impact of predation and how Compound 1080 might affect the economics of the livestock industry, and the environmental and human safety of Compound 1080, both in an absolute sense and in its proposed uses. The Judge was also asked to make determinations concerning the specific proposed uses of Compound 1080, particularly with regard to efficacy, the potential hazards/benefits created by these uses, and what restrictions, if any, should be imposed on these uses, assuming I should decide to modify or reverse the 1972 ban.

Predation and the Livestock Industry

From the early 1940s to the late 1970s sheep raising, as an industry, sharply declined in the United States. This decline, which continued apparently unaffected by the availability of Compound 1080, appeared to end in 1978 when the sheep population had decreased to approximately 12.2 million, down from its high of over 56.6 million in 1942. This decline is attributable to a number of factors, including a switch in consumer meat preferences; the relatively high cost of lamb; the relatively low cost, in terms of labor, of raising cattle; competition from overseas; competition from synthetic fibers, lack of available help; and predation. Since 1978, sheep numbers have increased, and the general condition of the sheep-raising industry has improved.

Coyotes, along with feral dogs, are the leading cause of predation losses in the

[4] Wyoming, when filing its exceptions and supporting brief, also requested oral argument pursuant to 40 CFR 164.101(c)(1). Given the large size of the record in this proceeding, including extensive briefs and proposed findings on every issue presented for review, I do not feel that oral argument would be helpful and accordingly deny Wyoming's Motion.

Two other motions were made during the course of this appeal. Wyoming moved to strike a portion of Defenders' Brief in Response to Exceptions for implicitly accusing Wyoming of "attempt[ing] to perpetrate a fraud upon the Administrator." I find the motion to be without basis, and it is hereby denied. USDA moved that I "Disregard" a portion of Defenders Brief in Response to Exceptions for not accurately representing the record before Judge Nissen. This motion is essentially an attempt to file a short "rebuttal" brief and is denied.

[5] "There is no authority which precludes an appellate administrative tribunal from affirming the findings of a subordinate board without restatement." *United State v. Orr*, 474 F. 2d 1365, 1369 (2d Cir. 1973). Thus, it has been held that "where the (Interstate Commerce) Commission finds no material error in the statement of facts and conclusions thereon by the hearing examiner, it is not required to prepare a detailed report as its own . . ." *Carolina Freight Carriers Corporation v. United States*, 323 F. Supp. 1290, 1296 (W.D.N.C. 1971). "No more is required [citations omitted]." *NLRB v. Process Corp.* 412 F. 2d 215, 217 (7th Cir. 1969). *Accord: General Motors Corporation v. United States*. 33 Ad.L.2d 278, 280–283 (E.D. Mich. 1973); *Borek Motor Sales, Inc. v. NLRB*, 425 F. 2d 1312 (7th Cir. 1970); *American President Lines, Ltd. v. NLRB*, 340 F. 2d 490, 492 (9th Cir. 1965); *In Re Shell Oil Company, et al.* at 2–3, FIFRA Docket Nos. 401, *et al.* (Denial of Motion for Reconsideration, dated June 6, 1979); Dibromochloropropane (DBCP) proceeding, FIFRA Docket No. 485 (Final Decision, November 9, 1979).

sheep and goat industry. On the other hand, coyotes are very useful to many farmers and ranchers, as well as to the public at large. Coyotes play a very important role in the ecosystem for their ability to prey on crop-destroying jackrabbits and numerous other small nuisance animals. In addition, the hunting of coyotes for pelts, particularly in winter, has become a lucrative industry.

One of the principal issues raised in the course of this proceeding was the extent to which predation is really a problem for the sheep industry. In the 1972 ban order, Administrator Ruckelshaus found that "certain data that are presently available indicate predator losses may in fact be of such a low magnitude as to be a minor part of total losses." The applicants urged that this conclusion in 1972 was incorrect, and that in any event predation had drastically increased since the 1972 Compound 1080 ban. Opponents of reregistration contended that this conclusion concerning predation losses in 1972 was correct and, in any event, predation losses have gone down since 1972. Judge Nissen held that predation was not that serious a problem to the sheep industry as a whole, that lamb losses to predators as a percentage of all losses have not increased since 1972, but that coyote predation certainly is "a very serious problem" for certain individual producers. The Judge further found that predation losses to goats and cattle have increased somewhat since 1972. The State of Wyoming took exception to Judge Nissen's finding that sheep and lamb losses to predators have not increased since 1972.

Many witnesses testified as to a great number of studies, both pre-1972 and post-1972, from general surveys to in-dept multi-year studies at certain ranchers, on the extent of predation. Upon sifting through the mass of statistical data on predation, Judge Nissen concluded that only a minority of sheep and lamb ranchers were suffering high predation losses. He further found that lamb losses to predators as a percent of losses to all causes have not increased since 1972 and, in fact, apparently have declined since 1978.[6] While he also found that perdator losses of calves and goats have increased since 1972, looking at the whole of the evidence, I cannot say that applicants have met their burden of showing any overall increase in livestock predation since the 1972 ban.

This finding does not end the matter, however. While predation may not have significantly increased, if it has increased at all, there is no question that it is a significant problem to many sheep ranchers. The record is replete with references to devastating losses suffered by many individual ranchers as a result of coyote predation. Many ranchers testified firsthand about their experiences, often unsuccessful, in dealing with coyote predation. There is not doubt that coyote predation has driven many ranchers out of the sheep business. I find that many ranchers are suffering "excessive" predation, and that no party seriously disputed that a "killer" coyote should, in fact, be killed. Thus, the real concern to me regarding predation losses is whether Compound 1080 can be safely used to control predation losses of those ranchers who are suffering losses to coyotes, assuming no feasible alternative control measures are available.

Alternatives to 1080

In enacting the 1972 ban, the Administrator relied heavily on the alleged availability of "effective" non-chemical alternatives to Compound 1080, for the maintenance of predator control programs. The 1972 decision further relied on a commitment by the Federal Government to conduct research into methods of controlling predators by means other than the use of poisons. In the December 7, 1981 notice, one of the issues set for hearing was whether certain alternatives to Compound 1080 were generally effective in reducing predation. Applicants for Compound 1080 usage recognized that Compound 1080 is but one of a great variety of means available for predation control and that it should be used, when needed, in conjunction with one or more other alternative means. Defenders excepted to that portion of Judge Nissen's findings concerning the effectiveness of these alternatives and argued that the evidence indicated that the alternatives, in combination, were effective. While a number of the alternatives are useful and effective, they are not all consistently effective and economically feasible for many livestock raising situations. Briefly, the principal lethal means of controlling coyote predation are trapping, snaring, aerial hunting, calling and shooting, denning, and the use of legal poisons (the M–44 device). Trapping and snaring, two of the traditional tools of hunters, are not very selective in that they often catch other than the desired prey. In addition, they require a good deal of labor to set and check, they are often rendered inoperative by weather and other conditions, and there is evidence that coyotes become "trap-wise" with the passage of time. Calling and shooting is the means by which coyotes are often hunted by rifle from the ground. It is very selective in that there is little danger in catching an animal other than the coyote, but it is somewhat labor intensive. Aerial hunting, either by helicopter or fixed-wing aircraft is very selective towards coyotes, but is useful only for certain topographical and climatic conditions—being more effective in open country with heavy snow cover. Aerial hunting is also extremely expensive and presents significant human hazard, with a number of deaths and serious injuries resulting from plane crashes. The M–44, a device which uses sodium cyanide, is quite selective but is very unreliable mechanically. Denning involves finding the den or a litter of coyote pups and/or the mating pair. It is a very difficult and time consuming process. While these techniques do much to prevent predation, they are by no means sufficient to prevent all predation, or even excessive predation in particular locations.

The anticipated studies referred to in the 1972 ban concerning the development of methods of controlling predators other than the use of poisons, dealt with a variety of non-lethal means to prevent predation. Substantial resources were devoted to the study of taste aversion, principally with the chemical lithium chloride as the aversive agent. The theory is that coyotes eating meat containing lithium chloride would become violently ill and no longer kill or eat sheep or lambs. I am not convinced that the effectiveness of aversive conditioning has been established. Similarly, the use of other chemicals, including diethylstilbesterol as an anti-fertility agent, or various chemical repellants, in addition to mechanical repellants such as the use of sound and light, have not been shown to be an effective method of deterring or controlling predation.

Perhaps the most successful non-lethal means of preventing predation are more aptly characterized as animal husbandry techniques. I believe the single most effective technique is shed lambing, whereby sheep drop their lambs in enclosed facilities rather than outdoors or on the open range. This is extremely successful in preventing predation on newborn lambs and is used generally in the farm flock situation. Unfortunately, it does not lend itself to

[6] The Gee Study, Sheep and Lamb Losses to Predators and Other Causes in the Western United States, which Judge Nissen found overestimated sheep and lamb losses, showed that 45% of survey respondents suffered no lamb predation, that 67% had no sheep predation, and that only a small percentage suffered high rates of predation.

the range lambing situation, since the ewes give birth many miles from the home ranch. Corralling livestock at night is also somewhat successful in reducing coyote predation, but is costly in terms of time and is also not appropriate to the range flock situation.

Another husbandry alternative involved the use of fencing. The evidence showed that electric fencing is very effective, under proper terrain conditions, in preventing or reducing coyote predation. However, it is costly to build and maintain, is not very useful in heavy shrubbery or hilly situations, and would be prohibitively expensive on range land.

Another closely examined alternative was the use of guard dogs. The evidence showed that certain breeds of dogs are very useful in guarding livestock against predation. However, guard dogs are quite expensive and are not very useful until they are about 18–24 months of age, and have been trained extensively. On numerous occasions, guard dogs have attacked the very livestock they were supposed to guard. It is very questionable whether guard dogs have much utility in the open range, since the guard dogs' sense of territoriality is one of the characteristics that make them useful.

The shortage of good farm labor is also a major contributing factor to the difficulty of controlling predation. In particular, good herders are extremely important in preventing predation, but are very difficult to find due to the general availability of higher paying jobs in other areas, and the very lonely lifestyle of a herder.

While there are thus many alternative measures available to control coyote predation on livestock, the evidence establishes that for some ranching conditions, particularly in the open range, these alternatives are not feasible. Thus, there are certain situations where there are no currently available satisfactory alternatives to Compound 1080 for the control of coyote predation.

Economics of Predation

Judge Nissen's examination of the effects of predation on the livestock industry and the general economy, and the potential impact of Compound 1080 on profits of individual ranchers in the livestock industry, produced a wide range of testimony. While not everyone agreed that predation losses resulted in an overall adverse economic impact, the evidence is clear that those ranchers who suffered heavily from predation were affected severely.

Hazards of Compound 1080

A major motivation prompting issuance of the 1972 ban was the perceived hazards created by the use of Compound 1080. Of particular concern were the possible Compound 1080 poisonings of numerous non-target animals, as well as potential human hazard. A vast amount of expert testimony was received on these issues.

Compound 1080 is extremely poisonous and toxic to all animals. It is a white power soluble in water, and is very stable. However the amount of Compound 1080 needed to cause various non-lethal and lethal effects varies greatly from species to species. While there was some dispute as to the validity of the evidence concerning the various LD_{50} and LD_{100} values for various species (LD_{50} is a dose of Compound 1080 which is lethal to 50% of those receiving that dose; LD_{100} is a dose lethal to 100% of those receiving that dose), the evidence very clearly indicates that canines are far more sensitive to Compound 1080 than virtually any other species, including most wildlife and humans. The problem is in assuring that the target animal—here the coyote and/or the feral dog—is the only animal harmed by Compound 1080, and that no other environmental or human hazards are created.

Compound 1080 kills by disrupting the Krebs cycle. Very briefly, the Compound 1080 is metabolized into sodium flurocitrate which inhibits the activity of the enyme aconitase, causing the blocking of the Krebs cycle, which is essentially the energy producing process for cells. The cells die, causing over a few hours loss of cardiac or respiratory function, and death. Some experiments with sub-lethal doses of fluorocitrate have indicated kidney damage and growth problems from which the animals, principally rats, were able to totally or substantially recover. In some tests, sub-lethal doses accumulated to lethal levels, while in others animals developed an increased tolerance over time. Compound 1080 can be absorbed through open wounds, but ingestion throught the gastrointestinal tract is by far the most likely means of exposure.

Whether, and to what extent, primary or secondary poisoning of non-target animals will occur from the various proposed uses of Compound 1080, was one of the principal concerns in 1972, and remains so today. By "primary" non-target poisoning, I refer to the potential hazard to a non-target animal from directly eating any bait containing Compound 1080. By "secondary" non-target poisoning, I refer to the potential hazard to an animal scavenging the corpse of a target aninal that has been poisoned by Compound 1080. One of the difficulties throughout this proceeding relates to the delay between ingestion of Compound 1080, the eventual onset of symptoms of Compound 1080 poisoning, and death. The evidence showed that two-and-a-half to five hours was a normal period between ingestion of a lethal dose by a coyote and its death, and that for all animals this time period is measured in hours. Since the poisoned animal can travel a long way in the period of several hours, whether by land or, in the case of a scavenging bird, by air, an extremely small number of animals estimated to have been killed by Compound 1080—both target and non-target—are ever found. This problem is compounded by the tendency of wildlife to hide when they become aware that death is approaching. The fact is, whenever we talk about target or non-target Compound 1080 losses, we are to a large extent indulging in a guessing game where we can never know for sure the right answer. I do find that with the large bait station, the risk to non-target animals is greater than the possible benefits from its use warrants. (For more detailed discussion of the large bait station and other delivery systems, see below.) Indeed, the death of several eagles and a California condor brought the Coumpound 1080 issue to a head in 1972. When the large bait station—100 pounds of horse or sheep carcasss injected with a solution of 1.6 grams of Compound 1080—is properly used, it is frozen solid. There are few animals—the coyote among them—which can feed on a bait in this frozen condition, reducing potential non-target exposure. However, with occasional winter thaws and the onset of warm weather in general, the large bait station may be scavenged by a great variety of creatures. Even though, due to the difference in doses necessary to cause death, it takes four to sixteen ounces of properly dosed bait to kill an eagle, while only an ounce or two will kill a coyote, an eagle eats two pounds of food per day. Thus, a hungry eagle or other non-target bird, coming upon a 1080 large bait station that is not frozen solid, can easily consume a fatal dose. Since the effects of Compound 1080 poisoning will not manifest themselves for a considerable period of time, the chances of ever actually finding an eagle or other bird that has consumed a fatal dose are remote. Similar logic applies to other animals. On the other hand, it is clear that a single lethal dose bait will not kill an eagle, or for that matter, most non-canine species. (Single lethal dose baits are discussed in more detail

below.) Unless Compound 1080 can be used in a way to avoid non-target exposure, there will be a very real primary non-target poisoning hazard.

It now appears that the potential hazard from secondary poisoning from Compound 1080 was overestimated in 1972. A great variety of experiments that were described at the hearing indicated that it is very difficult even to induce such poisoning, under test conditions, in a variety of species. The Judge's finding that secondary poisoning was "unlikely" to cause a hazard to a scavenging bird or other animal was amply supported.

Compound 1080 is unquestionably poisonous to humans. However, with proper precautions, the chance of human injury or death from exposure to the use of Compound 1080 as a predacide is remote. Of the approximately two dozen human deaths reasonably known to have been caused by Compound 1080, half were suicides, and the remainder were accidents caused by the grossest negligence. With the restrictions imposed on the uses authorized by this decision, I find that Compound 1080 will present little or no hazard to human life.

There is, at present, no known antidote and/or medical treatment which effectively counteracts the effects of Compound 1080 poisoning. However, the use restrictions imposed by this decision should prevent any human Compound 1080 poisoning.

The Large Bait Station

The Compound 1080 large bait station consists of a 50–100 pound piece of fresh meat that has been injected with a solution containing Compound 1080, at a concentration of 1.6 grams of 1080 per 100 pounds of meat. Usually, bait is prepared by slaughtering a horse or sheep, quartering it, and injecting a Compound 1080/water solution at frequent intervals into the carcass. The bait is usually prepared in the field, and is left over-night to freeze before final placement. It was designed to reduce predation by substantially reducing coyote population during the winter months. When Compound 1080 was banned in 1972, the large bait station had been the basic delivery mechanism for Compound 1080. That decision was largely based on the Report of the Cain Committee, which found that Compound 1080 as used really did not reduce predation in that its benefits were "only ill-defined and speculative." The Administrator found that there was "no reliable data as to the amount of predator control achieved by" the use of Compound 1080. The Cain Committee further found that various non-target poisonings were occurring and that instructions concerning proper preparation and placement of the large bait stations were not being followed.

I believe that there is still no reliable data as to the amount of predator control achieved by the Compound 1080 large bait station. The evidence showed that the large bait station, which was principally designed to achieve substantial coyote population reduction and thereby reduce predation, has never worked very well. Its effects are transitory at best, since only a massive killing of coyotes will achieve a significant population reduction. This is due in large part to the tendency of the coyote to increase litter size and mate at an earlier age than normal in response to conditions which reduce their numbers. Even when the Compound 1080 large bait station was legal, the number and use was steadily decreasing, presumably because they were not very effective either in relation to their costs or in terms of preventing predation. The number of coyotes killed by the large bait station is utterly speculative, since coyotes killed by Compound 1080 are very infrequently found, due to the time lapse between ingestion and onset of symptoms.

The principal sources of evidence on large bait station use since the 1972 ban are the Canadian provinces of Alberta and British Columbia. Under their programs, the Compound 1080 large bait station was used very infrequently, was generally placed in the field for short periods of time, and was closely monitored. The results of these programs were mixed, and provide insufficient evidence to overturn the 1972 decision. Similarly, while a Compound 1080 large bait station program was alluded to as being successfully used for dingo control in Australia, no substantial evidence was introduced on the workings of that program. Finally, from 1975 to 1977 the State of Wyoming implemented a Compound 1080 large bait station program, after deciding the 1972 ban was somehow inapplicable to them. Without commenting on the legality of the program, which was the subject of litigation until discontinued, it is clear that many of the 1972 concerns of both the Cain Committee and the Administrator are still amply justified. Baits which were supposed to be picked up in April were often out until July, ranchers often moved baits on their own, ranchers were often asked to dispose of baits, and recordkeeping was poor.

Given the unconvincing evidence concerning the efficacy of the Compound 1080 large bait station, and the potential hazards created by the use of the large bait station, I am convinced that the Judge's decision—that proponents did not show that "substantial new evidence" supports a reversal of the 1972 ban in this area—should be sustained. As I stated previously, the evidence indicates that some non-target species will be poisoned by the large bait station. In addition, the evidence amply supports the validity of the Administrator's 1972 finding, reflecting the findings of the Cain Committee, that the use restrictions imposed on large bait station users before the 1972 ban were often violated or ignored. The restrictions suggested by the applicants for the large bait station, based on the standard of the American Society for Testing and Materials, were virtually identical in all significant respects to the standards imposed by the Fish and Wildlife Service on pre-1972 use. The history of 1080 large bait station use indicates that improper placement of baits, improper monitoring of baits, over injection of Compound 1080 into the baits, illegal movement and disposal of baits, and unaccounted for overuse of Compound 1080, were common problems. Given the hazards created by the Compound 1080 large bait station, and the lack of evidence as to its efficacy, I affirm Judge Nissen's decision not to overturn the 1972 ban on Compound 1080 use in the large bait station.

Single Lethal Dose Baits

The Compound 1080 single lethal dose bait is a small ball or cube of meat, tallow or similar material containing a lethal dose of Compound 1080. It can be placed in locations so as to greatly increase the probability of it being taken by a coyote, and there is evidence that, with the proper scenting and visual lures, it can be made even further attractive to a coyote and less likely to be taken by other species. Generally they are placed near "draw stations," which are usually simply animal carcasses.

The Compound 1080 single lethal dose bait was not generally used before 1972. Prior to the 1972 ban small drop baits, generally containing strychnine, were used in great volume—nearly a million in 1964—as a coyote population suppression measure. More recent studies have indicated that the Compound 1080 single lethal dose bait has great potential usefulness towards eliminating specific coyote predation problems. While single lethal dose bait placement is not an exact science, one of the benefits of the single lethal dose bait is that one will not kill most wildlife species, but will kill a coyote or feral

dog. Thus, even occasional accidental exposure to nontarget wildlife has a greatly reduced potential hazardous effect.

While only Defenders excepted to Judge Nissen's allowing the use of Compound 1080 single lethal dose baits, exceptions were taken by both applicants and opponents, as well as the EPA Trial Staff, to the use restrictions imposed in the initial decision. The applicants contended the use restrictions were too strict, objecting to the dosage, the dye requirement, verification of coyote kills, bait placement restrictions concerning location and number of baits, the requirement that baits be covered, and monitoring. Defenders and the EPA Trial Staff urged me to restrict use even further than did Judge Nissen. While I will now discuss some of the considerations regarding the imposition of use restrictions, there are certain questions concerning this delivery mechanism where further information must be developed for the subsequent registration proceeding to be successful.

I find that substantial new evidence supports the use of Compound 1080 in single lethal dose baits under certain very limited, tightly controlled circumstances. While it appears that some further testing must be done before actual registration for this use will be approved, there is sufficient evidence to rescind the 1972 ban at this point. This testing, which should be conducted under an Experimental Use Permit, should develop information regarding the use restrictions discussed in the following paragraphs. In imposing these use restrictions, I wish to make it clear that single lethal dose baits containing Compound 1080 are to be used in a most limited fashion, so as to eliminate specific predating coyotes under carefully controlled circumstances.

Proper Dose

There was considerable dispute over the proper dose of Compound 1080 in a single lethal dose bait. Judge Nissen set the maximum dose at 3.6 milligrams of Compound 1080 solution. The State of Wyoming urges that I adopt the 5.0 milligram standards approved by the American Society of Testing and Materials. Since Judge Nissen found that the LD_{100} for a coyote is approximately 0.16 mg/kg, the concern that a bait containing the lower dose of Compound 1080 might not be fatal for larger coyotes appears to be well-founded. Accordingly, a dose of up to 5.0 mg 1080 per single lethal dose bait is authorized if otherwise justified during registration proceedings.

Verification

The verification requirements imposed by Judge Nissen are particularly crucial to any 1080 single lethal dose program to be approved by EPA. While verification admittedly increases the cost of such a program, I want to assure that Compound 1080 is not utilize unless there is confirmed evidence of coyote predation. The details of the verification process can be decided at the registration proceeding.

Monitoring

Similarly, monitoring of the baits is also essential. Most proponents of single lethal dose baits recognized the need for proper monitoring, and the seven-day requirement imposed by Judge Nissen was not seriously objected to. Two of the proponents' most knowledgeable witnesses (Boddicker and Tompa) indicated that monitoring at more frequent intervals was an essential aspect of an effective single lethal dose bait program. While a final decision on this requirement should be left for registration, the frequency of monitoring should be at least every seven days, unless some exceptional circumstances arise.

The Certification Process

The overwhelming evidence supports the finding of Judge Nissen that applicators of Compound 1080 single lethal dose be certified. I want to assure that certain specific factors be incorporated into any certification program. Given the potential hazards of Compound 1080, I find that a Federal certification process is essential to assure proper application of the baits. I do not intend to restrict application to Federal employees, but the process of certification must be a Federal one, and I specifically affirm Judge Nissen's decision that applicators be Federal or State employees. Prior to registration, EPA should assure itself that the mechanism of the certification process is established, that a proper training curriculum has been developed and that any appropriate certification guidelines have been published.

Bait Manufacture and Distribution

In order to carefully control the introduction of Compound 1080 into the environment, it was generally agreed that some sort of centralized bait manufacturing and distribution process was necessary. While the details of bait manufacture and distribution are appropriate for the registration proceeding, a mechanism for a centralized system, preferably operated through the U.S. Department of Agriculture or the Fish and Wildlife Service, must be in place in order for registration to be approved.

Number of Bait Stations/Number of Baits

Judge Nissen proposed that no more than one bait station be in place in any given section (square mile) and that no more than two Compound 1080 single lethal dose baits be placed at any station. Proponents of the single lethal dose bait have urged that anywhere from five to thirty baits be allowed per station, but that stations should be limited to one per township (six miles square). Thus, under Judge Nissen's system as many as 72 baits can be placed in a single township. Though there is strong evidence suggesting the utility of the single lethal dose bait, there is little specific evidence favoring one set of bait numbers over another. While I affirm Judge Nissen's approach, which attempts to minimize the amount of 1080 baits used, it is apparent to me that more information must be developed concerning these numbers prior to registration. Carefully crafted studies under a well-designed Experimental Use Permit program should provide enough information to decide this difficult issue at registration.

Dyes and Scents

Proponents of the baits also generally excepted to the requirements imposed by Judge Nissen concerning dyes and scents. I specifically affirm these requirements. The evidence indicates that inactive dyes which would not make baits attractive to scavenging birds are readily available. Since birds primarily detect food using vision, while coyotes rely more on a sense of smell, this dye could substantially reduce the chances of non-target poisoning with no detriment to the chances of poisoning the target coyote.

Posting and Recordkeeping

I also affirm Judge Nissen's use restrictions concerning posting and recordkeeping. The need for careful recordkeeping at all stages of Compound 1080 use is well-justified by the toxicity of Compound 1080. At registration, the Office of Pesticides and Toxic Substances should assure that recordkeeping and appropriate reporting provisions be in place at the manufacture, distribution and application stages.

All other restrictions imposed by Judge Nissen governing the use of Compound 1080 single lethal dose baits are affirmed.

In sum, I am holding that substantial new evidence exists to warrant the use of Compound 1080 in single lethal dose baits to remove predating coyotes and feral dogs.[7] While further evidence needs to be developed concerning appropriate use restrictions, these restrictions, subject to the above-described boundaries, will best be handled at the subsequent registration proceeding.

Toxic Collars

Judge Nissen's approval of the applications to allow the use of the Compound 1080 toxic collar, including use restrictions, is hereby affirmed with some modification. The toxic collar, basically a rubber reservoir containing a solution of Compound 1090, attached to the neck of a "sacrificial" lamb or goat, has been extensively tested under several Experimental Use Permits. It has been developed since the 1972 ban. It is excellent in terms of targeting predating coyotes since, if a coyote attacks the lamb or goat by the throat—which it normally does—it will break the reservoir and sustain a fatal dose of Compound 1080. While there is some spillage of the Compound 1080 solution, most of the spillage is on the lamb or goat and the coyote, both of which are going to die. There is virtually no exposure of non-target wildlife.

While there was some evidence of potential human hazard, particularly from broken collars, the overwhelming evidence indicated that, with proper handling by or under the direction of certified applicators, including the wearing of protective gloves and prompt disposal of broken collars, the chance of human injury is remote. While at least one witness contended it was "inevitable" that a small child will go into a pasture and break or come across a broken toxic collar, and then suffer Compound 1080's toxic effects, I find this highly unlikely, and hold that with proper precautions, as provided by the Initial Decision's use restrictions, hazards to humans should not be presented.

The toxic collar may not be useful for the open range situation, due to the difficulty of isolating a target flock, but is clearly useful in both the farm flock and the large fenced-ranch situation. Though it is fairly expensive, considering the cost of the collar itself and the labor involved in placing the collars and isolating the target flock, not to mention the cost of sacrificing animals, it can be a safe and useful tool under proper use restrictions.

Two futher use restrictions should be imposed before toxic collar registration is completed. First, dose limitations should be set for the collar. A variety of 1080 solutions were tested during the course of the toxic collar experiments, and any final use restriction developed in the subsequent registration proceeding (like the single lethal dose bait, the toxic collar must go through a registration proceeding when the 1972 ban is lifted) should set appropriate limitations. In addition, proper labelling is necessary to prevent accidental mishandling of the collars. The label should warn of the hazardous nature of Compound 1080, the need for appropriate personal protective equipment, etc. The label should also particularly warn that intentional misuse of Compound 1080 will result in presecution under section 12 of FIFRA, 7 U.S.C. 146.[8]

Smear Posts

Only one witness testified in favor of the State of Wyoming's application to use Compound 1080 on smear posts. The smear post was described as a wooden 4 x 4 post coated with a Compound 1080 solution. Smear posts would be placed near draw stations, consisting of dead livestock, and were also coated with an unidentified scent to attract coyotes. The coyotes would lick the coated posts and thereby receive a lethal dose of Compound 1080. From my reading of the record, the entire testimony on smear posts use is based on one witness' experiment with three smear posts used during the winter of 1956–1957. The minimal, stale evidence on smear posts gives me no ground whatever for reversing Judge Nissen. I affirm his denial of the smear post application.

Conclusion

For the reasons described above, Judge Nissen's decision is affirmed as modified.

Dated October 31, 1983.

Lee M. Thomas,

Assistant Administrator for Solid Waste and Emergency Response

Following the issuance of the final Agency decision by Assistant Administrator Thomas, two parties to the hearing appealed the decision. Pacific Legal Foundation filed an appeal in the U.S. Court of Appeals for the 10th Circuit, in Denver, Colorado. Defenders of Wildlife filed an appeal in the U.S. Court of Appeals for the District of Columbia Circuit.

Dated: January 30, 1984.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 84–3239 Filed 2–7–84; 8:45 am]

BILLING CODE 6560–50–M

[7] While fox predation was a subject of this proceeding, very little evidence as to the need for Compound 1080 to prevent such predation was presented.

[8] On October 21, 1983 Defeners of Wildlife filed a Motion to Reopen Hearing pursuant to 40 CFR 164.110. Citing EPA Efficacy Reviews of the New Mexico Department of Agriculture Experimental Use Permit Study of the Toxic Collar, Defenders argued that new evidence of the toxic collar's degree of hazard and lack of effectiveness warranted reopening of the hearing. Aside from the questionable timeliness of this motion (the most recent document attached to the motion was dated February 3, 1983), there was no new evidence submitted which contradicted Judge Nissen's findings, affirmed in this Final Decision, that with proper targeting and proper use restrictions, the Compound 1080 toxic collar can be a useful predation control technique. The Motion to Reopen Hearing is accordingly denied.

[OPP–30237; PH–FRL 2519–1]

Certain Companies; Applications To Register Pesticide Products Containing New Active Ingredients

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing active ingredients not included in any previously registered pesticide products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATE: Comment by March 7, 1984.

ADDRESS: Written comments, identified by the document control number [OPP–30237] and the file symbol, should be submitted by mail, attention of the Product Manager named in each application at the following address: Program Management and Support Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bring comments to: Rm. 236, CM#2, Registration Division (TS–767C), Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: The product manager at the telephone and room number cited.

SUPPLEMENTARY INFORMATION: EPA received applications as follows to register pesticide products containing active ingredients not included in any previously registered pesticide products pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a

decision by the Agency on the applications.

Applications Received

1. File Symbol: 40810–T. Applicant: Ciba-Geigy Corp., Three Skyline Dr., Hawthorne, NY 10532. Product name: Belclene 350. Algicide, Fungicide, Bactericide. Active ingredient: Tri-*n*-butyletradecylphosphonium chloride 50%. Proposed classification/Use: General. For formulating use. Type registration: Conditional. (Product Manager PM–23, Richard Mountfort, Rm. 237, CM#2, 703–557–1830).

2. File Symbol: 34147–E. Applicant: American Hoechst Corp., Rte 202–204 North Somerville, NJ 08876. Product name: Scout Insecticide. Insecticide. Active ingredient: [1R,[1(S*)]]-2,2-dimethyl-3-(1,2,2,2-tetrabromoethyl) cyclopropanecarboxylic acid alpha-cyano-(3-phenoxyphenyl)methyl ester 3.75%. Proposed classification/Use: Restricted. For use on cotton to control various insects. Type registration: Conditional. (PM–17, Timothy Gardner, Rm. 207, CM#2, (703–557–2690)).

3. File Symbol: 34147–R. Applicant: American Hoechst Corp. Product name: Scout Manufacturing Use Product. Insecticide. Active ingredient: [1R,[1(S*)]]-2,2-dimethyl-3-(1,2,2,2-tetrabromoethyl) cyclopropanecarboxylic acid alpha-cyano-(3-phenoxyphenyl)methyl ester 23.75%. Proposed classification/Use: Restricted. For formulating use only. Type registration: Conditional. (PM–17, Timothy Gardner, Rm. 207, CM#2, (703–557–2690)).

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice, will be available in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the product manager's office to ensure that the file is available on the date of intended visit.

(Sec. 3(c)(4) of FIFRA, as amended)

Dated: January 23, 1984.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 84–3125 Filed 2–7–84; 8:45 am]

BILLING CODE 6560–50–M

[OPP–31066, PH–FRL 2518–8]

Certain Companies; Applications To Register Pesticide Products Involving Changed Use Pattern

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register, or amend registration of, pesticide products involving a changed pattern pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATE: Comment by March 7, 1984.

ADDRESS: Written comments, identified by the document control number [OPP–31066] and the file symbol or registration number, should be submitted by mail, attention of the Product Manager named in each application at the following address: Program Management and Support Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, D.C 20460.

In person, bring comments to: Rm. 236, CM#2, Registration Division (TS–767C), Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: The product manager at the telephone and room number cited.

SUPPLEMENTARY INFORMATION: EPA received applications as follows to register, or amend registration of, pesticide products involving a changed use pattern pursuant to the provisions of section 3(c) (4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications

Applications Received

1. EPA Registration No.: 100–617. Applicant: Ciba-Geigy Corp., PO Box 18300, Greensboro, NC 27419. Product name: Tilt® Fungicide. Fungicide. Active ingredient: 1-[[2-(2,4-dichlorophenyl)-4-propyl-1,3-dioxolan-2-yl] methyl]-1-*H*-1,2,4-triazole 41.8%. Proposed classification/Use: General. To include in its presently registered use on turf grasses and for production of grass seeds, new use on pecans for control of pecan scab, downy spot, brown leaf spot, liver spot, vein spot, zonate leaf spot, and fungal leaf scorch. (Product Manager (PM–21, Henry Jacoby, CM#2, Rm. 229, 703–557–1900).)

2. File Symbol: 10182–IL. Applicant: ICI Americas, Inc., Wilmington, DE 19897. Product name: Cosmocil FB. Preservative. Active ingredient: Poly (iminoimidocarbonyliminoimido-carbonyliminohexamethylene hydrochloride 20%. Proposed classification/Use: General. To include in its presently registered use for manufacturing use and swimming pool disinfection, the new use as a textile preservative to provide protection against bacterial degradation. Type registration: Conditional. (PM–32, Arturo Castillo, CM#2, Rm. 244, 703–557–7170.)

3. EPA Registration No: 47159–1. Applicant: Ralph R. Grams, M.D., 2025 NW 24th St., Gainesville, FL 32605. Product name: Compound X. Anti-foulant. Active ingredient: Oxytetracycline 50%. Proposed classification/Use: General. To include in its presently registered terrestial use, new use aquatic non-food use. Type registration: Conditional. (PM–23, Richard Mountfort, CM#2, Rm. 237, 703–557–1830.)

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice, will be available in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the product manager's office to ensure that the file is available on the date of intended visit.

(Sec. 3(c)(4) of FIFRA, as amended)

Dated: January 23, 1984.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 84–3124 Filed 2–7–84; 8:45 am]

BILLING CODE 6560–50–M

[OPP-30225A; PH-FRL 2519-2]

Sevana Co.; Approval of Application To Conditionally Register a Pesticide Product Containing a New Active Ingredient

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has approved the application by Sevana Co. to conditionally register the pesticide product Sevana Bird Repellent containing an active ingredient not included in any previously registered pesticide product pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: By mail: William Miller, Product Manager PM16, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. Office location and telephone number: Rm. 211, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-2600).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of March 9, 1983 (48 FR 9931), which announced that Sevana Co., 5336 E. Easterby Dr., N. Fresno, CA 93727, had submitted an application to register the pesticide product Sevana Bird Repellent containing 4 percent of the active ingredient allium sativum (garlic), an ingredient not included in any previously registered product.

The application was approved on December 29, 1983 for general use in pesticide formulation. The product was assigned EPA Registration No. 47319-1.

A copy of the approved label and the list of data references used to support registration are available for public inspection in the office of the product manager. The data and other scientific information used to support registration will be available for public inspection in accordance with section 3(c)(2) of FIFRA within 30 days after the registration date. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), EPA, 401 M St., SW., Washington, D.C. 20460. Such requests should: (1) Identify the product name and registration number and (2) specify the data or information desired.

(Sec. 3(c)(2), FIFRA, as amended)

Dated: January 19, 1984.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 84-3126 Filed 2-7-84; 8:45 am]

BILLING CODE 6560-50-M

[PF-362; PH-FRL 2519-4]

Dow Chemical Co.; Pesticide, Feed, and Food Additive Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide, feed, and food additive petitions relating to the establishment and/or amendment of tolerances for residues of the insecticide chlorpyrifos in or on certain commodities.

ADDRESS: By mail submit written comments to: Program Management and Support Division (TS-757C), Attn: Product Manager (PM) 12, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, deliver comments to: Rm. 236, CM#2, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Written comments must be identified by the document control number [PF-362]. All written comments filed in response to this notice will be available for public inspection in the Program Management and Support Division office at the address above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Jay Ellenberger, PM-12, (703-557-1900).

SUPPLEMENTARY INFORMATION: EPA gives notice that the Agency has received the following pesticide, feed, and food additive petitions relating to the establishment and/or amendment of tolerances for the combined residues of the insecticide chlorpyrifos[*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate] and its metabolite 3,5,6-trichloro-2-pyridinol in or on certain commodities in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues, where required, is given in each petition.

I. Initial Filings

1. *PP 4F3008.* Dow Chemical Co., P.O. Box 1706, Midland MI 48640. Proposes amending 40 CFR 180.342 by increasing the established tolerances and/or amending the tolerance expression in or the combined residues of the insecticide chlorpyrifos, and its metabolite in or on the commodities as follows:

Commodities	Parts per million
Cattle, meat, fat, and meat byproducts (mbyp) (of which no more than 2.0 ppm is chlorpyrifos)	2.5
Goats, fat, meat, and mbyp (of which no more than 1.0 ppm is chlorpyrifos)	2.0
Hogs, fat, meat, and mbyp (of which no more than 0.3 ppm is chlorpyrifos)	0.5
Horses, fat, meat, and mbyp (of which no more than 0.8 ppm is chlorpyrifos)	1.5
Milk, fat (of which no more than 0.25 ppm is chlorpyrifos)	0.5
Milk, whole (of which no more than 0.02 ppm is chlorpyrifos)	0.03
Sheep, fat, meat, and mbyp (of which no more than 1.0 ppm is chlorpyrifos)	2.0
Tomatoes, (of which no more than 1 ppm is chlorpyrifos)	1.5

The proposed analytical method for determining residues is gas chromatography using a flame photometric detector.

II. Amended Petitions

1. *FAP 1H5295.* Dow Chemical Co. EPA issued a notice published in the **Federal Register** of June 10, 1981 (46 FR 30692) which announced that Dow Chemical Co., had submitted feed additive petition (FAP) 1H5295 to the Agency proposing to amend 21 CFR 561.98 by establishing a regulation permitting the combined residues of the insecticide chlorpyrifos and its metabolite in or on the commodity tomato pomace at 35.0 ppm.

Dow has amended the petition by increasing the tolerance proposal for residues in tomato pomace from 35.0 ppm to 100.0 ppm (of which no more than 65.0 ppm is chlorpyrifos).

2. *PP 3F2884.* Dow Chemical Co. EPA issued a notice published in the **Federal Register** of June 22, 1983 (48 FR 28545) which announced that Dow Chemical Co. had submitted pesticide petition (PP) 3F2884 to the Agency proposing to amend 40 CFR 180.342 by establishing tolerances for the insecticide chlorpyrifos and its metabolite in or on the certain commodities.

Dow Chemical Co. has amended the petition as follows:

a. Increasing and/or decreasing the proposed tolerances for residues in or on the following commodities:

Commodities	Parts per million
Alfalfa, hay (of which no more than 13.0 ppm is chlorpyrifos)	15.0
Cattle, fat, meat, and meat byproducts (mbyp) (of which no more than 2.0 ppm is chlorpyrifos)	2.5
Goats, fat, meat, and meat mbyp (of which no more than 1.0 ppm is chlorpyrifos)	2.0
Hogs, fat, meat, and mbyp (of which no more than 0.3 ppm is chlorpyrifos)	0.5
Horses, fat, meat, and mbyp (of which no more than 0.8 ppm is chlorpyrifos)	1.5
Milk, whole (of which no more than 0.02 ppm is chlorpyrifos)	0.03
Poultry (including turkeys), fat, meat, and mbyp (of which no more than 0.1 ppm is chlorpyrifos)	0.5

Commodities	Parts per million
Sheep, fat, meat, and mbyp (of which no more than 1.0 ppm is chlorpyrifos)	2.0
Sorghum, fodder (of which no more than 4.0 ppm is chlorpyrifos)	6.0
Sorghum, forage (of which no more than 1.0 ppm is chlorpyrifos)	1.5

b. Withdrawing the proposed tolerances on alfalfa, grain forage; apples; citrus fruit; peppers; and soybean forage.

3. *FAP 3H5396.* Dow Chemical Co. EPA issued a notice published in the Federal Register of June 22, 1983 (48 FR 28545) which announced that Dow Chemical Co. had submitted feed additive petition (FAP) 3H5396 to the Agency proposing amending 21 CFR 561.98 by establishing a regulation permitting the combined residues of the insecticide chlorpyrifos and its metabolite in or on certain commodities. Dow has amended the petition by:

a. Increasing the tolerance proposal for residues in or on sorghum, grain, milling fractions to 1.5 ppm (of which no more than 0.8 ppm is chlorpyrifos).

b. Withdrawing the proposed tolerances on apples, dried pomace; dried citrus pulp; and tomato pomace.

4. *FAP 3H5396.* Dow Chemical Co. EPA issued a notice published in the Federal Register of June 22, 1983 (48 FR 28545) which announced that Dow Chemical Co. had submitted food additive petition (FAP) 3H5396 to the Agency proposing amending 21 CFR 193.325 by establishing a regulation permitting the combined residues of the insecticide chlorpyrifos and its metabolite in or on the commodities citrus oil, corn oil, mint oil, and peanut oil.

Dow Chemical Co. has amended the petition by withdrawing the commodity citrus oil.

(Sec. 408(d)(2) 68 Stat. 512, (21 U.S.C. 43a(d)(2); (Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 3489(c)(1)))

Dated: January 26, 1984.

Douglas D. Campt,

Director Registration Division, Office of Pesticide Programs.

[FR Doc. 84-3123 Filed 2-7-84; 8:45 am]

BILLING CODE 6560-50-M

[PF-365; PH-FRL 2519-3]

Union Carbide Corp.; Pesticide and Food Additive Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide and food additive petitions relating to the establishment of tolerances for residues of the insecticide thiodicarb in or on certain commodities.

ADDRESS: By mail submit written comments to: Program Management and Support Division (TS-767C), Attn: Product Manager (PM-12), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, deliver comments to: Rm. 236, CM#2, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Written comments must be identified by the document control number [PF-365]. All written comments filed in response to the notice will be available for public inspection in the Program Management and Support Division office at the address above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Jay Ellenberger (PM-12), CM#2, Rm. 205 (703-557-2386).

SUPPLEMENTARY INFORMATION: EPA gives notice that the Agency has received the following pesticide and food additive petitions relating to the establishment of tolerances for residues of the insecticde thiodicarb (dimethyl *N, N'*-(thiobis ((methylimino)carbonyloxy)) bis(ethanimidothioate)) and its metabolite methomyl, *S*-methyl *N*-((methylcarbamoyl)oxy) thioacetimidate in or on certain commodities in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues, where required, is given in each petition.

Initial Filings

1. *PP 4F3013.* Union Carbide Corp., T.W. Alexander Drive, Research Triangle Park, NC 27709. Proposes amending 40 CFR Part 180 by establishing tolerances for the combined residues of the insecticide thiodicarb in or on the commodity tomatoes at 3.0 parts per million (ppm). The proposed analytical method for determining residues is liquid chromatography.

2. *FAP 4H5421.* Union Carbide Corp. Proposes amending 21 CFR Part 193 by establishing a regulation permitting residues of the insecticide thiodicarb in or on the commodity tomato paste at 5.0 ppm.

(Secs. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)) and 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)))

Dated: January 26, 1984.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 84-3127 Filed 2-7-84; 8:45 am]

BILLING CODE 6560-50-M

[PF-361; PH-FRL 2523-1]

Certain Companies; Pesticide, Feed, and Food Additive Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide, food/feed additive petitions relating to the establishment of tolerances for residues of certain pesticide chemicals in or on certain commodities.

ADDRESS: By mail, written comments may be sent to the following address, attention Product Manager (PM) named in each petition: Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, deliver comments to: Rm. 236, CM#2, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Written comments must be identified by the document control number [PF-361]. All written comments filed in response to this notice will be available for public inspection in the Program Management and Support Division office at the address above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: The Product Manager at the telephone and room number given in each petition.

SUPPLEMENTARY INFORMATION: EPA gives notice that the Agency has received the following pesticide (PP) and food/feed additive (FAP) petitions relating to the establishment of tolerances for residues of certain pesticide chemicals in or on certain commodities in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues, where required, is given in each petition.

Initial filings

1. *PP 4F2989.* Mobay Chemical Corp., P.O. Box 4913, Kansas City, MO 64120. Proposes amending 40 CFR 180.387 by establishing tolerances for the combined residues of the insecticide 1-methylethyl 2-[[ethoxy][(1-methylethyl)amino] phosphinothioyl]oxy]benzoate and its chlolinesterase-inhibiting metabolites 1-

methylethyl 2-((ethoxy((1-methylethyl)amino)phosphinoyl)oxy) benzoate, 1-methylethyl 2-((ethoxy(1-amino)phosphinoyl)oxy)benzoate, and 1-methylethyl 2-((ethoxy(1-amino)phosphinothioyl)oxy)benzoate in or on the commodity potatoes at 1.5 parts per million (ppm). The proposed analytical method for determining residues is gas liquid chromatographic procedure using a thermionic detector. (William Miller, PM–16, CM#2, Rm. 211, (703–557–2600).)

2. *PP 3F2917.* Mobay Chemical Corp. Proposes amending 40 CFR 180.387 by establishing tolerances for the combined residues of the above insecticide (PP 4F2989) and its metabolites in or on the commodities broccoli, brussels sprouts, cabbage, and cauliflower at 0.3 ppm. The proposed analytical method for determining residues is gas liquid chromatography procedure using a thermionic detector. (William Miller, PM–16, CM#2, Rm. 211, (703–557–2600).)

3. *FAP 4H5417.* Mobay Chemical Corp. Proposes amending 21 CFR Part 193 by establishing a regulation permitting residues of the above insecticide (PP 4F2989) and its metabolites in or on the commodities dried potatoes, potato chips, and potato granules at 5.0 ppm. (William Miller, PM–16, CM#2, Rm. 211, (703–557–2600).)

4. *PP 4F2993.* American Hoechst Corp., Rte 202–206 North Somerville, NJ 08876. Proposes amending 40 CFR Part 180 by establishing tolerances for residues of the insecticide [1*R*,[1(*S**)3(*RS**)]]-2,2-dimethyl-3-(1,2,2,2-tetrabromethyl)cyclopropanecarboxylic acid alpha-cyano-(3-phenoxyphenyl)methylester in or on the commodity cottonseed at 0.02 ppm (negligible). The proposed analytical method for determining residues is gas chromatography. (Timothy A. Gardner, PM–17 CM#2, Rm. 207, (703–557–2690).)

5. *FAP 4H5416.* Mobay Chemical Corp., P.O. Box 4913, Hawthorne Rd., Kansas City, MO 64120. Proposes amending 21 CFR Part 193 by establishing a regulation permitting residues of the inseciticide cyano (4-fluoro-3-phenoxyphenyl)methyl 3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate in or on the commodities cottonseed oil at 2.0 ppm and soybean oil at 0.09 ppm and 21 CFR Part 561 in or on the animal feed commodities cottonseed hulls at 2.50 ppm and soybean hulls at 0.30 ppm. (Timothy A. Gardner, PM–17, CM#2, Rm. 207, (703–557–2690).)

6. *PP 7F1983.* Ciba Geigy Corp. Proposes amending 40 CFR 180.298 by:

a. Establishing tolerances for residues of the insecticide methidathion (*O,O*-dimethyl phosphorodithioate, *S*-ester with 4-(mercaptomethyl)-2-methoxy-delta ²-1,3,4-thiadiazolin-5-one in or on the commodities clover, clover hay, grass, and grass hay at 12.0 ppm.

b. Establishing tolerances for the combined residues of the insecticide methidathion, its oxygen analog (*s*-[(5-methoxy-2-oxo-1,3,4-thiadiazol-3(2*H*)-yl) methyl] (*O,O*-dimethyl phosphorodithioate), the sulfoxide (2-methyl-4-(methylsulfonylmethyl)-delta²-1,3,4-thiadiazolin-5-one) and the sulfone (2-methoxy-4-(methylsulfonylmethyl)-delta²-1,3,4-thiladiazolin-5-one) metabolites in or on the following commodities:

Commodities	Parts per million (ppm)
Milk and dairy products	0.03
Eggs	0.05
Fat, meat and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep	0.05

The proposed analytical method for determining residues is gas chromatography. (Jay Ellenberger, PM–12, CM#2, Rm. 205, (703–557–2386).)

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 436a(d)(2); (Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C 348(c)(1)))

Dated: January 31, 1984.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 84–3386 Filed 2–7–84; 8:45 am]

BILLING CODE 6560–50–M

[PF–363; PH–FRL 2523–2]

FMC Corp.; Pesticide Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide petitions relating to the establishment of tolerances for residues of the insecticide (±+) cyano (3-phenoxyphenyl)methyl (±) *cis/trans* 3-(2,2-dichloroethenyl)-2,2 dimethylcyclopropanecarboxylate [cypermethrin] in or on certain commodities.

ADDRESS: By mail submit written comments to: Program Management and Support Division (TS–757C), Attn: Product Manager (PM) 17, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, deliver comments to: Rm. 236, CM #2, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Written comments must be identified by the document control number [PF–363]. All written comments filed in response to the notice will be available for public inspection in the Program Management and Support Division office at the address above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Timothy A. Gardner, (PM–17), CM #2. Rm. 207, (703–557–2690).

SUPPLEMENTARY INFORMATION: EPA gives notice that the Agency has received the following pesticide petitions relating to the establishment of tolerances for residues in the insecticide (±) cyano (3-phenoxyphenyl)methyl (±) *cis/trans* 3-(2,2-dichloroethenyl)-2,2 dimethylcyclopropanecarboxylate [cypermethrin] in or on certain commodities in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues, where required, is given in each petition.

Initial Filings

1. *PP 4F3010.* FMC Corp., 2000 Market St., Philadelphia, PA 19103. Proposes amending 40 CFR Part 180 by establishing tolerances for residues of the above insecticide in or on the commodities corn fodder and forage at 8.0 parts per million (ppm); and corn grain at 0.05 ppm. The analytical method for determining residues is gas chromatography.

2. *PP 4F3011.* FMC Corp. Proposes amending 40 CFR Part 180 by establishing tolerances for residues of the above insecticide in or on the commodity cabbage at 1.5 ppm. The proposed analytical method for determining residues is gas chromatography.

3. *PP 4F3012.* FMC Corp. Proposes amending 40 CFR Part 180 by establishing tolerances for residues of the above insecticide in or on the commodities sweet corn, fodder and forage at 40.0 ppm; and sweet corn, kernel and corn with husk removed (K+CWHR) at 0.1 ppm. The proposed analytical method for determining residues is gas chromatography.

(Sec. 408(d)(2) 68 Stat. 512, (21 U.S.C. 346a(d)(2)))

Dated: January 31, 1984.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 84–3384 Filed 2–7–84; 8:45 am]

BILLING CODE 6560–50–M

[OPTS-140043; TSH-FRL 2522-8]

Research Triangle Institute; Transfer of Data to Contractor

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA will transfer to its contractor, Research Triangle Institute (RTI) of Research Triangle Park, North Carolina, information submitted to EPA by manufacturers, processors, and importers of asbestos or asbestos products under section 8(a) of the Toxic Substances Control Act (TSCA). RTI will review this information and use it to perform analyses for regulatory actions in conjunction with review or revision of the asbestos national emission standards for hazardous air pollutants (NESHAP) under 40 CFR Part 61, Subpart B, that have been proposed or promulgated under the authority of the Clean Air Act (CAA), 42 U.S.C. 7414. Some of the section 8(a) information to be reviewed by RTI may be claimed to be confidential.

DATE: The transfer of confidential data submitted to EPA will occur no sooner than 10 working days after publication of this notice in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS-779), 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: Under the authority of section 112 of the CAA and Executive Order 12291, EPA is reviewing the asbestos NESHAP (40 CFR Part 61, Subpart B) that currently regulates selected manufacturers and processors of asbestos. In reviewing the NESHAP, EPA needs to consider various courses of action that would expand or decrease the coverage or increase or decrease the stringency of the NESHAP. EPA needs to evaluate the economic and environmental impact of each course of action or regulatory alternative. Section 114 of the CAA provides EPA the authority to gather information to support this decisionmaking. However, under the TSCA section 8(a) Asbestos Reporting Requirements Rule, which was published in the **Federal Register** of July 30, 1982 (47 FR 33198), EPA collected sufficient information to perform these analyses. EPA has determined that it would be overly burdensome and inefficient to ask industry to furnish similar information a second time. Therefore, EPA plans to use the section 8(a) information to support CAA regulatory actions that would revise the asbestos NESHAP. Under EPA Contract Nos. 68-02-3056 and 68-02-3812, Research Triangle Institute of Research Triangle Park, N.C. will perform analyses to support the Agency's consideration of modifications to the asbestos NESHAP.

Pursuant to 40 CFR 2.306(j), EPA has determined that it will need to disclose confidential business information to RTI since much of the asbestos industry data submitted to the Agency under section 8(a) of TSCA were claimed as confidential.

Under contract No. 68-02-3056, TSCA section 8(a) data will be used primarily for developing representative-sized air pollution control system equipped model plants for the various types of asbestos milling, manufacturing, and fabrication facilities. Under Contract No. 68-02-3812, the TSCA data will be used primarily to evaluate the economic impact of the various courses of regulatory action being considered by the Agency.

RTI is already authorized access to TSCA confidential business data under separate contracts or subcontracts with EPA, including Contract No. 68-02-6287 which was announced in the **Federal Register** of February 24, 1983 (48 FR 7806).

RTI has been authorized to have access to TSCA confidential business information under the EPA "Contractor Requirements for the Control and Security of TSCA Confidential Business Information" security manual. EPA has approved the RTI security plan and has conducted the required inspections of the RTI facilities and found them to be in compliance with the provisions of the manual.

Since RTI will review information claimed to be confidential, EPA is issuing this notice to inform all submitters of data on asbestos under section 8(a) of TSCA that RTI will receive confidential business information from EPA. After completing the asbestos regulatory project, RTI will return all confidential business information to EPA.

The RTI personnel will be required to sign a nondisclosure agreement before they are permitted access to confidential information. RTI is required to treat all confidential business information in accordance with the requirements of the TSCA Confidential Business Information Security Manual and the Contractor Requirements manual.

Dated: February 1, 1984.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 84-3385 Filed 2-7-84; 8:45 am]

BILLING CODE 6560-50-M

[[PF-364] PH-FRL 2523-4]

Shell Oil Co.; Pesticide and Feed Additive Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide and feed additive petitions relating to the establishment of tolerances for residues of the insecticide cyano (3-phenoxyphenyl) methyl-4-chloro-alpha-(1-methylethyl) benzeneacetate in or on certain commodities.

ADDRESS: By mail submit written comments to: Program Management and Support Division (TS-767C), Attn: Product Manager (PM-17), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, deliver comments to: Rm. 236, CM#2, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Written comments must be identified by the document control number [PF-364]. All written comments filed in response to the notice will be available for public inspection in the Program Management and Support Division office at the address above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Timothy A. Gardner, (PM-17), CM#2, Rm. 207, (703-557-2690).

SUPPLEMENTARY INFORMATION: EPA gives notice that the Agency has received the following pesticide and feed additive petitions relating to the establishment of tolerances for residues of the insecticide cyano (3-phenoxyphenyl) methyl-4-chloro-alpha-(1-methylethyl) benzeneacetate in or on certain commodities in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues, where required, is given in each petition.

Initial Filings

1. *PP 2F2657.* Shell Oil Co., Suite 200, 1025 Connecticut Ave., Washington, D.C. 20036. Proposes amending 40 CFR 180.379 by establishing tolerances for residues of the above insecticide in or on the commodities as follows:

Commodities	Parts per million (ppm)
Eggs	0.3
Fat of cattle, goats, hogs, horses, and sheep	2.5
Grapes	10.0
Meat of cattle, goats, hogs, horses, and sheep	0.5
Meat byproducts of cattle, goats, hogs, horses, and sheep	1.5
Milk, fat	12.0
Milk, whole	0.6
Poultry fat and meat byproducts	0.2
Poultry meat	0.05

The proposed analytical method for determining residues is gas chromatography.

2. *FAP 2H5340.* Shell Oil Co. Proposes amending 21 CFR Part 561 by establishing a regulation permitting residues of the above insecticide in or on the commodities grape pomace (dry) at 75.0 ppm and raisin waste at 25.0 ppm.

(Secs. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)) and 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)))

Dated: January 31, 1984.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 84-3388 Filed 2-7-84; 8:45 am]

BILLING CODE 6560-50-M

[OPP-240041; PH-FRL 2523-3]

State Registration of Pesticides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received notices of registration of pesticides to meet special local needs under section 24(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) from 15 States. A registration issued under this section of FIFRA shall not be effective for more than 90 days if the Administrator disapproves the registration or finds it to be invalid within that period. If the Administrator disapproves a registration or finds it to be invalid after 90 days, a notice giving that information will be published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Sandra English, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C.

Office location and telephone number: Rm. 718, CM#2, 1921 jefferson Davis Highway, Arlington, VA, (703-557-2126).

SUPPLEMENTARY INFORMATION: Most of the registrations listed below were received by the EPA in November 1983. Receipts of State registrations will be published periodically. Except as indicated by (CUP) in seven registrations listed below, there is no change in use pattern in any of these registrations.

Arizona

EPA SLN No. AZ 83 0014. E. I. du Pont de Nemours and Co. Registration is for Du Pont Vydate L Insecticide/ Nematicide to be used on citrus to control nematodes. November 21, 1983.

California

EPA SLN No. CA 83 0070. California Department of Food and Agriculture Control and Eradication Unit. Registration is for Ground Squirrel Bait Strychnine-Treated Grain to be used to control ground squirrels. November 7, 1983.

EPA SLN No. CA 83 0071. California Department of Food and Agriculture Control and Eradication Unit. Registration is for Jackrabbit Bait Strychnine-Treated Grain to be used to control jackrabbits. November 7, 1983.

EPA SLN No. CA 83 0073. California Department of Food and Agriculture. Registration is for Blackbird and Cowbird Bait Strychnine-Treated Grain to be used on strychnine-treated grain (paddy rice, milo, whole oats, or rolled barley) to control blackbirds and cowbirds. November 7, 1983.

EPA SLN No. CA 83 0074. California Department of Food and Agriculture. Registration is for House Finch (Linnet) Bait Strychnine-Treated Grain to be used on strychnine-treated grain (rape seed and canary seed) to control house finches (linnet). November 7, 1983.

EPA SLN No. CA 83 0075. California Department of Food and Agriculture. Registration is for Sparrow Bait Strychnine-Treated Grain to be used on strychnine-treated grain-cracked grain bait (chick scratch or canary grass seed) to control sparrows. Novembr 7, 1983.

EPA SLN No. CA 83 0076. California Department of Food and Agriculture. Registration is for Marmot and Squirrel Bait-Strychnine Greens to be used on strychnine greens (dandelion greens, cabbage, or green alfafa tips) to control marmots and squirrels. November 7, 1983.

EPA SLN No. CA 83 0077. California Department of Food and Agriculture. Registration is for Horned Lark Bait Strychnine-Treated Grain to be used on strychnine-treated grain (chick scratch, lettuce seed, cracked mile, canary grass seed, and whole or cracked groats) to control horned larks. November 7, 1983.

EPA SLN No. CA 83 0078. California Department of Food and Agriculture. Registration is for Kangaroo Rat Bait Strychnine-Treated Grain to be used on strychnine-treated grain (barley, crimped oats, or squirrel oat groats) to control kangaroo rats. November 7, 1983.

EPA SLN No. CA 83 0079. California Department of Food and Agriculture. Registration is for Methyl Bromide 100 to be used on almond meats and almonds in-shell to control navel orangeworms. November 7, 1983.

EPA SLN No. CA 83 0080. Placer County Department of Agriculture. Registration is for Rodent Bait Chlorophacinone-Treated Grain (0.005%) to be used on wood rat runways or dens to control Norway rats, house mice, ground squirrels, golden-mantled ground squirrels, muskrats, jackrabbits, meadow mice, and wood rats. November 28, 1983.

EPA SLN No. CA 83 0081. Placer County Department of Agriculture. Registration is for Rodent Bait Chlorophacinone-Treated Grain (0.01%) to be used on active burrows or runways to control ground squirrels, deer mice, and house mice. November 28, 1983.

EPA SLN No. CA 83 0082. Placer County Department of Agriculture. Registration is for Rodent Bait Block Chlorophacinone-Treated Grain/ Paraffin (0.005%) to be used on treated grain to control Norway rats, muskrats, and wood rats. November 28, 1983.

EPA SLN No. CA 83 0083. Placer County Department of Agriculture. Registration is for Rodent Bait Diphacinone-Treated Grain (0.005%) to be used on treated grain to control Norway rats, roof rats, house mice, ground squirrels, golden-mantled ground squirrels, muskrats, jackrabbits, meadow mice, and wood rats. November 28, 1983.

EPA SLN No. CA 83 0084. Placer County Department of Agriculture. Registration is for Rodent Bait Diphacinone-Treated Grain (0.01%) to be used on treated grain to control deer mice, ground squirrels, and house mice. November 28, 1983.

EPA SLN No. CA 83 0085. Placer County Department of Agriculture. Registration is for Rodent Bait Block Diphacinone-Treated Grain/Paraffin (0.005%) to be used on treated grain to control Norway rats, muskrats, and wood rats. November 28, 1983.

Florida

EPA SLN No. FL 83 0028. The Land, EPCOT Center. Registration is for Mavrik Aquaflow to be used on crops grown in The Land, EPCOT Center, Lake Buena Vista, to control insects. November 16, 1983.

EPA SLN No. FL 83 0029. Chevron Chemical Co. Registration is for Orthene 75S Soluble Powder to be used on

residential and commerical turf and golf courses to control sod webworm and leafhoppers. November 28, 1983.

Hawaii

EPA SLN No. HI 83 0012. Western Farm Service, Inc. Registration is for Thiram 65% Wettable Powder Fungicide to be used on ornamental plants, orchids, and foilages to control damping off, black spot, and root rot. (CUP) November 28, 1983.

Illinois

EPA SLN No. IL 83 0026. FMC Corp. Registration is for Furadan 4F to be used on strawberries to control root weevil. November 29, 1983.

Maryland

EPA SLN No. MD 83 0008. The Dow Chemical Co. Registration is for Dursban TC Insecticide Concentrate to be used on plenum-type structures to control subterranean termites. November 22, 1983.

EPA SLN No. MD 83 0012. American Hoechst Corp. Registration is for Hoelon 3EC herbicide to be used on wheat to control annual ryegrass. November 15, 1983.

Michigan

EPA SLN No. MI 83 0021. Chevron Chemical Co. Registration is for Ortho Paraquat + Plus to be used on alfalfa to control weeds between cuttings. November 1, 1983.

EPA SLN No. MI 83 0022. SDS Biotech Corp. Registration is for Daconil 2782 Fungicide to be used on turfgrasses to control gray snow mold. (CUP) November 30, 1983.

Nevada

EPA SLN No. NV 83 0009. Nevada Department of Agriculture. Registration is for 5.1% Strychnine Alkaloid Paste to be used on rangeland, pasture, cropland, and nonagricultural sites to control ground squrriels, black-tailed jack rabbits, yellow-bellied marmots, and pocket gophers. November 22, 1983.

EPA SLN No. NV 83 0010. Nevada Department of Agriculture. Registration is for 0.29% Strychnine Sparrow Bait to be used on the ground to control house sparrows. November 22, 1983.

EPA SLN No. NV 0011. Nevada Department of Agriculture. Registration is for Strychnine Cabbage Bait to be used on rangeland, pasture, cropland, and nonagricultural sites to control ground squirrels, black-tailed jack rabbits, and yellow-bellied marmots. November 22, 1983.

EPA SLN No. NV 83 0012. Nevada Department of Agriculture. Registration is for 0.29% Strychnine Grain Bait to be used on rangeland, pasture, cropland and nonagricultural sites to control ground squirrels, black-tailed jack rabbits, cotton rats, kangaroo rats, and pocket gophers. November 22, 1983.

New Mexico

EPA SLN No. NM 83 0016. Abbott Laboratories. Registration is for Dipel 4L to be used on alfalfa to control alfalfa caterpillars. November 2, 1983.

Oklahoma

EPA SLN No. OK 83 0031. E. I. du Pont de Nemours and Co. Registration is for Du Pont Karmex Weed Killer to be used on highway rights-of-way to control barnyardgrass, crabgrass, kochia, lambsquarters, pigweed, ragweed, and Bermuda grass. (CUP) November 8, 1983.

Oregon

EPA SLN No. OR 83 0062. Basf Wyandotte Corp. Registration is for Poast Herbicide to be used on fescue grass fields grown for seed to control troublesome perennial grass seed weeds. November 22, 1983.

EPA SLN No. OR 83 0063. SDS Biotech Corp. Registration is for Daconil 2787 Flowable Fungicide to be used on turfgrass to control fusarium (gerlachia) patch. (CUP) November 30, 1983.

EPA SLN No. OR 83 0064. SDS Biotech Corp. Registration is for Daconil 2787 Fungicide to be used on turfgrass to control fusarium (gerlachia) patch. (CUP) November 30, 1983.

Pennsylvania

EPA SLN No. PA 83 0019. Tri Bio Laboratories, Inc. Registration is for Paraformaldehyde Flakes to be used on poultry houses and equipment to control viruses, parasites, bacteria, and molds. (CUP) November 10, 1983.

Utah

EPA SLN No. UT 83 0014. Wilbur-Ellis Co. Registration is for Malathion 5 Pyrethrum 0.1 P.B. to be used on mushrooms to control mites and phorid and sciarid flies. November 29, 1983.

West Virginia

EPA SLN No. WV 83 0007. The Archem Corp. Registration is for Parapel Paraffinized Pellets to be used on orchards to control pine voles and meadow voles. November 2, 1983

EPA SLN No. WV 83 0008. Velsicol Chemical Corp. Registration is for Banvel Herbicide to be used on pasture, rangeland, drainage ditch banks, general farmstead, fence rows, and roadways to control multiflora rose. (CUP) November 3, 1983.

Wyoming

EPA SLN No. 83 0007. Degesch America, Inc. Registration is for Degesch Phostoxin New Coated Tablets-R to be used for outdoor use only to control black-tailed prairie dogs. November 21, 1983.

Dated: January 31, 1984.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 84-3387 Filed 2-7-84; 8:45 am]

BILLING CODE 6560-50-M

[A-6-FRL 2521-7]

Issuance of Prevention of Significant Deterioration Permit; Valero Gathering Company, DeWitt County, Texas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of PSD Permit Issuance.

SUMMARY: On April 22, 1983, the Environmental Protection Agency, Region 6, issued a Prevention of Significant Deterioration (PSD) permit to Valero Gathering Company allowing the modification of the their Gohlke natural gas treating facility located near Terryville, DeWitt county, Texas. On June 13, 1983, a petition was filed with the Administrator for review of this PSD permit. Because such a review was requested the permit, PSD–TX–449, was no longer a final agency action and was not effecive. On December 13, 1983, the Administrator denied the petition for review. Therefore, EPA issued a final permit to Valero dated December 22, 1983.

DATE: Under Section 307(b)(1) of the Clean Air Act, judicial review of this determination is available only by the filing of a petition for review in the United States Court of Appeals in the appropriate circuit within sixty (60) days of today's notice. Under Section 307(b)(2) of the Clean Air Act, any requirements associated with the above action may not be challenged later in civil or criminal proceedings that may be brought by the EPA to enforce the requirements.

In the above case, the appropriate court is the U.S. Court of Appeals, for the 5th Circuit for sources in Texas. A petition for review must be filed with the appropriate court on or before (60 days from date of notice).

ADDRESSES: Documents relevant to the above action and related information are available for public inspection during normal business hours at the following location: Environmental

Protection Agency, Region 6, Air Branch, InterFirst II, 1201 Elm Street, Dallas, Texas 75270, (214) 767–1594.

FOR FURTHER INFORMATION CONTACT:
Jack S. Divita, (214) 767–2746.

Dated: January 27, 1984.

Frances E. Phillips,

Acting Regional Administrator.

[FR Doc. 84–3383 Filed 2–7–84; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMNTAL PROTECTION AGENCY

[OPP–30217A; PH–FRL 2520–3]

Rhone-Poulenc, Inc.; Approval of Applications To Register Pesticide Products Containing a New Active Ingredient

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has approved the applications by Rhone-Poulenc, Inc. to register the pesticide products Aliette Fungicide and Fosetyl-Al Technical, containing an active ingredient not included in any previously registered pesticide product pursuant to the provisions of section 3(c)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT:

By mail: Henry Jacoby, Product Manager PM 21, Registration Division (TS–767C), Office of Pesiticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460

Office location and telephone number: Rm. 229, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703–557–1900).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of May 12, 1982 (47 FR 20377), which announced that Rhone-Poulenc, Inc., P.O. Box 125, Monmouth Junction, NJ 08852, had submitted applications to register the pesticide products Aliette Fungicide (359–TNA) and Fosetyl-Al Technical (359–TNL), containing 80 and 95 percent respectively of the active ingredient aluminum tris (*O*-ethyl phosphonate), and ingredient not included in any previously registered products.

The applications were approved on August 2, 1983 for Fosetyl-Al Technical (359–705) for general use in pesticide formulations and for Aliette Fungicide (359–706) for general use to control phytophthora root rot on ornamentals.

On October 21, 1983, the registration for Aliette Fungicide was expanded to include the use on pineapple seed pieces for control of phytophthora rot.

The use of Aliette on pineapple seed pieces was conditionally issued. The condition of registration requires Rhone-Poulenc, Inc. to carry out a residue monitoring study for pineapple seed pieces handlers. The protocol for the study must have Agency approval before initiation.

A copy of the approved label and the list of data references used to support registration are available for public inspection in the office of the product manager. The data and other scientific information used to support registration will be available for public inspection in accordance with section 3(c)(2) of FIFRA within 30 days after registration date. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A–101), EPA, 401 M St., SW., Washington, D.C. 20460. Such requests should: (1) Identify the product name and registration number and (2) specify the data or information desired.

(Sec. 3(c)(2) FIFRA, as amended)

Dated: January 30, 1984.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 84–3237 Filed 2–7–84; 8:45 am]

BILLING CODE 6560–50–M

[OPP–240040; PH–FLR 2520–5;]

State Registration of Pesticides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received notices of registration of pesticides to meet special local needs under section 24(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) from 15 States. A registration issued under this section of FIFRA shall not be effective for more than 90 days if the Administrator disapproves the registration or finds it to be invalid within that period. If the Administrator disapproves a registration or finds it to be invalid after 90 days, a notice giving that information will be published in the **Federal Register.**

DATE: The last entry for each item is the date the State registration of the product became effective.

FOR FURTHER INFORMATION CONTACT:
By mail: Sandra English, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C.

Office location and telephone number: Rm. 718, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703–557–2126).

SUPPLEMENTARY INFORMATION: Most of the registrations listed below were received by EPA in October 1983. Receipts of State registrations will be published periodically. Except as indicated by (CUP) in 15 registrations listed below, there is no change in use patterns in any of these registrations.

Arizona

EPA SLN No. AZ 83 0012. Rohm and Haas Co. Registration is for Goal 2E Herbicide to be used on jojoba plantings to control broadleaf weeds. October 6, 1983.

EPA SLN No. AZ 83 0013. Rohm and Haas Co. Registration is for Goal 1.6E Herbicide to be used on jojoba plantings to control broadleaf weeds. October 6, 1983.

California

EPA SLN No. CA 83 0031. Solano County Agriculture Dept. Registration is for Devrinol 50 WP Devrinol 2E to be used on basil, marjoram, rosemary, and summer and winter savory to control annual grasses and broadleaf weeds. October 20, 1983.

EPA SLN No. CA 83 0066. Department of Health Services. Registration is for SBP–1382/Piperonyl Butoxide Insecticide Concentrate 18%+54% to be used on noncrop land to control mosquitoes. October 11, 1983.

EPA SLN No. CA 83 0067. Santa Barbara County Agriculture Dept. Registration is for Degesch Phostoxin New Coated Tablets-R Fumitoxin New Coated Tablets-R to be used on rodent burrows in artichoke fields to control meadow mice. October 7, 1983.

EPA SLN No. CA 83 0068. Monterey County Agriculture Dept. Registration is for Kerb 50–W in Water Soluble Pouches to be used on artichokes to control annual bluegrass, foxtail, ryegrass, volunteer grains, wild oats, nettle, cheeseweed, chickweed, henbit, knotweed, wild mustard, nettleleaf, goosefoot, and hairy nightshade. (CUP) October 11, 1983.

EPA SLN No. EPA No. CA 83 0069. Madera County Agriculture Dept. Registration is for Hivol–44 to be used on tangelos and temple oranges (royal mandarins) to control preharvest fruit drop. October 18, 1983.

Florida

EPA SLN No. FL 83 0024. Rhone-Poulenc, Inc. Registration is for Mocap 10G to be used on leatherleaf fern (*rumohra adiatiformis*) to control nematodes. October 4, 1983.

EPA SLN No. FL 83 0025. Florida Celery Exchange. Registration is for Monitor 4 to be used on celery to control dipterous leafminers, aphids, lepidopterous, and insects. October 7, 1983

EPA SLN No. FL 83 0026 Shell Chemical Co. Registration is for Vendex 50WP Miticide to be used on pecans to control pecan mites and hickory mites. October 23, 1983.

EPA SLN No. FL 83 0027. Shell Chemical Co. Registration is for Vendex 4L Miticide to be used on pecans to control pecan mites and hickory mites. October 23, 1983.

Maryland

EPA SLN No. MD 83 0011. E.I. du Pont de Nemours and Co. Registration is for Du Pont Sinbar Weed Killer to be used on alfalfa to control barnyardgrass, cheatgrass, chickweed, crabgrass, fall panicum foxtail, henbit, lambsquarters, and marestail. (CUP) October 17, 1983.

Michigan

EPA SLN No. MI 83 0020. Velsicol Chemical Corp. Registration is for Banvel Herbicide to be used on field corn and sorghum to control hemp dogbane. September 27, 1983.

Montana

EPA SLN No. MT 83 0007. Velsicol Chemical Corp. Registration is for Banvel Herbicide to be used on wheat and barley to control kochia, wild buckwheat, and Russian-thistle weeds. (CUP) October 12, 1983.

Nevada

EPA SLN No. NV 83 0008. Nevada Department of Agriculture. Registration is for D.Z.N. Diazinon AG to be used on garlic to control onion maggots and seed corn maggots. (CUP) October 28, 1983.

North Carolina

EPA SLN No. NC 83 0023. Rohm and Haas Co. Registration is for Goal 1.6E Herbicide to be used on clary sage to control henbit. October 17, 1983.

EPA SLN No. NC 83 0024. Union Carbide Agricultural Products Co. Registration is for Carbaryl Insecticide 20% Bait to be used on poultry houses to control darkling beetles. October 27, 1983.

Oklahoma

EPA SLN No. OK 83 0027. E.I. du Pont de Nemours and Co. Registration is for Du Pont Glean Weed Killer to be used on winter wheat to control preemergence weeds. (CUP) October 7, 1983.

EPA SLN No. OK 83 0028. Ciba-Geigy Corp. Registration is for AAtrex 80W Herbicide to be used on wheat harvests in a wheat-fallow-wheat rotation to control broadleaf and grass weeds. (CUP) October 31, 1983.

EPA SLN No. OK 83 0029. Ciba-Geigy Corp. Registration is for AAtrex 4L Herbicide to be used on wheat harvests in a wheat-fallow-wheat rotation to control broadleaf and grass weeds. (CUP) October 31, 1983.

EPA SLN No. OK 83 0030. Ciba-Geigy Corp. Registration is for AAtrex Nine-O Herbicide to be used on wheat harvests in a wheat-fallow-wheat rotation to control broadleaf and grass weeds. (CUP) October 31, 1983.

Oregon

EPA SLN No. OR 83 0040. Chevron Chemical Co. Registration is for 75S Soluble Powder to be used on radishes (for seed crops only) to control cabbage aphids, green peach aphids, diamond-backed moths, cabbage loopers, imported cabbage worms, and variegated and red-backed cutworms. October 7, 1983.

EPA SLN No. OR 83 0061. Elanco Products Co. Registration is for Surflan AS to be used in commercial plantings of bulbous iris, narcissus, and tulip plantings to control annual weeds. (CUP) October 3, 1983.

Pennsylvania

EPA SLN No. PA 83 0017. Agway, Inc. Registration is for Agway Greenlawn Plus Fertilizer with Oftanol Insect Killer to be used on turf grasses to control white grub larvae, Japanese beetle, and black turf grass. October 25, 1983.

EPA SLN No. PA 83 0018. Agway, Inc. Registration is for Agway Professional Fairway and Athletic Turf 19–4–9 Fertilizer with Oftanol Insect Killer to be used on turf grasses to control white grub larvae, Japanese beetles, and black turf grass. October 25, 1983.

South Dakota

EPA SLN No. SD 83 0008. Hopkins Agricultural Chemical Co. Registration is for Hopkins Malathion 57% Emulsifiable Liquid Insecticide-B to be used on stored sunflower seeds to control cereal leaf beetles, granary weevils, indian meal moths, lesser grain borers, red flour beetles, and rice weevils. October 6, 1983.

Tennessee

EPA SLN No. TN 83 0020. Red Panther Chemical Co. Registration is for Red Panther Super Juce to be used on cotton to control johnsongrass, nutsedge, dallisgrass, cocklebur, barnyardgrass, ragweed, sandbur, and puncture vines. (CUP) October 3, 1983.

EPA SLN No. TN 83 0021. Red Panther Chemical Co. Registration is for Red Panther DSMA Liquid to be used on cotton to control johnsongrass, nutsedge, dallisgrass, cocklebur, barnyardgrass, radweed, sandbur, and puncture vines. (CUP) October 3, 1983.

EPA SLN No. TN 83 0022. Union Carbide Agricultural Products Co., Inc. Registration is for Emulsamine E–3 to be used along drainage ditchbanks to control weeds and brush. October 3, 1983.

EPA SLN No. TN 83 0023. Union Carbide Agricultural Products Co., Inc. Registration is for Weedone 2,4-DP Woody Plant Herbicide to be used on forest site preparation (aerial or ground spray) to control oaks, elms, cherry, willow, and other species before planting pine seedlings. October 3, 1983.

EPA SLN No. TN 83 0024. E.I. du Pont de Nemours and Co. Registration is for Du Pont Lexone DF Weed Killer to be used on soybeans to control beggarweed, redroot, pigweed (careless weed) carpetweed, common cocklebur, dayflower, mexicanweed, common purslane, sicklepod (coffee weed), velvetleaf, and crabgrass. (CUP) October 19, 1983.

EPA SLN No. TN 83 0025. E.I. du Pont de Nemours and Co. Registration is for Du Pont Lexone Weed Killer to be used on soybeans to control beggarweed, redroot, pigweed, carpetweed, common cocklebur, dayflower, mexicanweed, common purslane, sicklepod (coffee weed), velvetleaf, and crabgrass. (CUP) October 19, 1983.

EPA SLN No. TN 83 0026. E.I. du Pont de Nemours and Co. Registration is for Du Pont Lexone 4L Weed Killer. Registration is for Du Pont Lexone 4L Weed Killer to be used on soybeans to control beggarweed, redroot, pigweed, carpetweed, common cocklebur, dayflower, mexicanweed, common purslane, sicklepod (coffee weed), velvetleaf, and crabgrass. (CUP) October 19, 1983.

Texas

EPA SLN No. TX 83 0036. Gustafson, Inc. Registration is for Gustafson Apron-F1 Fungicide to be used on sorghum to control systemic downy mildew. (CUP) October 14, 1983.

Washington

EPA SLN No. WA 83 0041. Orco, Inc. Registration is for Gopher Grain Bait-Milo to be used on forestry, forage crops, orchards, grass seeds, and noncrop areas to control burrowing pocket gophers. October 27, 1983.

EPA SLN No. WA 83 0042. Orco, Inc. Registration is for Gopher Grain Bait-

Wheat to be used on forestry, forage crops, orchards, grass seeds, and noncrop areas to control burrowing pocket gophers. October 27, 1983.

EPA SLN No. WA 83 0043. Orco, Inc. Registration is for Field Mouse Plus to be used on forestry areas to control mice and voles. October 27, 1983.

EPA SLN No. WA 83 0044. Platte Chemical Co. Registration is for Clean Crop Low Vol B-4 2,4-D Herbicide to be used as a conifer release to control alder. October 27, 1983.

Dated: January 26, 1984.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 84-3238 Filed 2-7-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Meeting of Interested Parties to CC Docket No. 81-343, Policy for Overseas Common Carrier Facilities, Pacific Region, 1981-1995

February 1, 1984.

Members of the Common Carrier Buerau staff will convene a meeting of all interested parties to the Pacific Planning Process (CC Docket No. 81-343) in Room 330, Brown Building, 1200 19th Street, NW., Washington, D.C, at 10:00 a.m. on Tuesday, February 21, 1984.

The agenda of the meeting will include: (1) Submission of data and/or discussion of U.S. carriers' forecasted circuit demands and circuit requests for the 1987-1995 time frame; (2) discussion of alternative facilities plans proposed for construction during the 1987-1995 period; (3) disucssion of the proposed introduction and configuration of a fiber optic TPC-3 cable in 1988; (4) discussion of any citical dates by which facilities decisions must be made; (5) the scheduling of Public Meetings; and (6) any other matters related to this proceeding.

This meeting will be open to the public and anyone who wishes to attend and express views is invited. For additional information, contact Stuart Chiron or Laura Stein (202) 632-4047.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84-3348 Filed 2-7-84; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 84-25, File No. BPCT-830801KO; and MM Docket No. 84-26, File No. BPCT-831017KE]

Way of the Cross of Selma[1] and John R. Powley; Hearing Designation Order

Adopted: January 10, 1984.
Released: January 30, 1984.
By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above captioned mutually exclusive applications for a new commercial television station to operate on Channel 29, Selma, Alabama.

2. Section V-C, item 10, FCC Form 301, requires that an applicant submit figures for the area and population within its predicted grade B contour. Neither applicant has specified the population within its Grade B contour. Consequently we are unable to determine whether there would be a significant difference in the size of the area and population that each proposes to serve. Each applicant will be required to submit an amendment showing the required information, within 20 days after this Order is released, to the presiding Administrative Law Judge. If it is determined that there is a significant disparity between the areas and populations, the presiding Administrative Law Judge will consider it under the standard comparative issue.

3. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since these applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

4. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, better serve the public interest.

2. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

5. It is further ordered, That, Way of the Cross of Selma and John R. Powley shall each submit an amendment indicating population within its predicted Grade B contour, to the presiding Administrative Law Judge, within 20 days after this Order is released.

6. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

7. It is further ordered, That, the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Steward, ,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 84-3347 Filed 2-7-84; 8:45 am]

BILLING CODE 6712-01-M

[1] On August 19, 1983, an amendment was filed to change the applicant's name to ACB, Inc., but the amendment was not signed by an officer of the corporate applicant as required by § 73.3513(a) of the Commission's Rules. On December 15, 1983, another amendment was filed, reporting a change in prinicipals, but the amendment was signed by someone with no apparent connection with the applicant. Both amendments were returned as unacceptable for filing.

FEDERAL ELECTION COMMISSION

Presidential Election Campaign Fund; Denial of Rulemaking Petition

AGENCY: Federal Election Commission.

ACTION: Notice of Denial of Rulemaking Petition.

SUMMARY: The Commission announces denial of a Petition for Rulemaking filed on July 26, 1983, by the National Taxpayers Legal Fund (48 FR 39295, August 30, 1983). The petition sought revision of the definition of "political party" at 11 CFR 9002.15 for the purposes of the Presidential Election Campaign Fund Act (26 U.S.C. 9001 *et seq.*).

DATE: February 2, 1984.

FOR FURTHER INFORMATION CONTACT: Susan E. Propper, Assistant General Counsel, 1325 K Street, N.W.,

Washington D.C. 20463 (202) 523–4143 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: On July 26, 1983, the National Taxpayers Legal Fund (NRLF) filed a petition for rulemaking with the Federal Election Commission. The petition sought amendment of section 9002.15 of the Commission's regulations, which defines the term "political party" for purposes of the Presidential Election Campaign Fund Act (26 U.S.C. 9001 et seq.). NTLF's proposal would provide additional requirements to be met by any organization in order to qualify as a political party under the Fund Act.

The Commission invited public comment on the Petition and received comments from 16 interested persons. The Commission also sought comments from the Internal Revenue Service pursuant to 2 U.S.C. 438(f). The IRS has taken no position on the petition to date.

At its open meeting of February 2, 1984, the Commission voted to deny the Petition. Copies of the General Counsel's recommendation on which the Commission's decision was based are available for public inspection and copying in the Commission's Public Records Office, 1325 K Street, N.W., Washington, D.C. 20463, (202) 523–4181 or toll-free (800) 424–9530.

Dated: February 2, 1984.

Lee Ann Elliott,

Chairman, Federal Election Commission.

[FR Doc. 84-3375 Filed 2-7-84; 8:45 am]

BILLING CODE 6715-01-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and may request a copy of each agreement and the supporting statement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in § 522.7 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: T–4161.

Title: San Francisco Port Commission and Marine Terminals Corporation Non-exclusive Management Agreement.

Parties: San Francisco Port Commission (Port) and Marine Terminals Corporation (MTC).

Synopsis: Agreement No. T–4161 provides for the Non-exclusive management by MTC of the Port's operations at Piers 27/29 in the Port of San Francisco. MTC shall also engage in cargo solicitation for the facility. The agreement provides for revenue sharing between the Port and MTC under a formula set forth therein. Charges, collected pursuant to the Port's tariff, for demurrage and wharfage shall accrue to MTC. The agreement is for five-years with a five-year renewal option.

Filing Party: Samuel B. Nemirow, Hill, Betts & Nash, 1220 Nineteenth Street, N.W., Suite 302, Washington, D.C. 20036.

Agreement No.: T–4162.

Title: The Port of Portland and Sammi Line Preferential Berth Use Agreement.

Parties: The Port of Portland (Port) and Sammi Line (Sammi).

Synopsis: Agreement No. T–4162 provides that Sammi will have preferential use of certain berths at the Port's Terminal No. 1, at Portland. The term will be for one-year with an option for an additional one-year period. The Port will assess Sammi charges at the Port's tariff rates, except the service and facilities charge rate, which will be assessed on quantities up to 45,000 metric tons, less 10 percent.

Filing Party: Milton A. Mowat, Manager, Traffic and Regulatory Affairs, Port of Portland, Post Office Box 3529, Portland, Oregon 97208.

Agreement No.: 8900–24.

Title: The 8900 Lines Agreement.

Parties: Barber Blue Sea Line, Maersk Line, Nedlloyd Lijnen, B.V., Sea-Land Service, Inc., The National Shipping Company of Saudi Arabia, United Arab Shipping Company (S.A.G.), Waterman Steamship Corp.

Synopsis: Agreement No. 8900–24 would authorize the Agreement to share office space, personnel, and related facilities with other rate agreements or conferences.

Filing Party: Jeffery F. Lawrence, Esquire, Billig, Sher & Jones, P.C., Suite 300, 2033 K Street, NW., Washington, D.C. 20006.

Agreement No.: 10301–2.

Title: Trans-Atlantic Associated Freight Conferences (London).

Parties: Continental/North Atlantic Westbound Freight Conference, North Atlantic Westbound Freight Association, Scandanavia-Baltic/U.S. North Atlantic Westbound Freight Conference.

Synopsis: The proposed amendment would allow the agreement to locate its offices in a location in the United Kingdom other than London.

Filing Party: Howard A. Levy, Esquire, 17 Battery Place, Suite 727, New York, New York 10004.

By Order of the Federal Maritime Commission.

Dated: February 2, 1984.

Francis C. Hurney,

Secretary

[FR Doc. 84-3340 Filed 2-7-84; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

CNB Bancshares, 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 March 1, 1984.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *CNB Bancshares, Inc.*, Sevierville, Tennessee; to become a bank holding company by acquiring 80 percent of the voting shares of citizens National Bank of Sevierville, Sevierville, Tennessee.

2. *Professional Bancorp*, Coral Gables, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of Dixie National Bank of Dade County, Miami, Florida.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *General Bancshares Corporation of Indiana*, Fort Wayne, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of Anthony Wayne Bank, Fort Wayne, Indiana.

2. *Salem Capital Corp.*, Elkhart, Indiana; to become a bank holding company by acquiring 44.0 percent of the voting shares of Salem Financial Corporation, Goshen, Indiana and thereby indirectly acquire Salem Bank and Trust Company, Goshen, Indiana.

3. *Whitney Corporation of Iowa*, Atlantic, Iowa; to acquire 100 percent of the voting shares or assets of Schroeder-Goodenow Management Co., Exira, Iowa, and thereby indirectly acquire Exchange State Bank, Exira, Iowa.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Kimball Bancorp, Inc.*, Kimball, Nebraska; to become a bank holding company by acquiring 98.7 percent of the voting shares of American National Bank of Kimball, Kimball, Nebraska.

2. *Town & Country Bancshares, Inc.*, Bixby, Oklahoma; to become a bank holding company by acquiring 80 percent of the voting shares of Town & Country Bank, Bixby, Oklahoma.

Board of Governors of the Federal Reserve System, February 2, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-3364 Filed 2-7-84; 8:45 am]

BILLING CODE 6210-01-M

Eagle Financial Services, Inc.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies and Acquisitions of Nonbanking Companies

The organization listed in this notice has applied under § 225.14 of the Board's Regulation Y (49 FR 794) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied to under § 225.23(a)(2) of Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794) to acquire or control voting securities or assets a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. 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 the application, interested persons may express their views in writing 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 a 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.

Comments regarding this application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 1, 1984.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Eagle Financial Services, Inc.*, Northfield, Illinois, to become a bank holding company by acquiring 80 percent or more of the voting shares of State Bank of Richmond, Richmond, Illinois. E. F. Wonderlic Companies, Inc., Northfield, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Eagle Financial Services, Inc., Northfield, Illinois, the proposed parent of State Bank of Richmond, and 100 percent of E. F. Wonderlic and Associates, Inc., Northfield, Illinois and thereby engage in consumer finance activities.

Board of Governors of the Federal Reserve System, February 2, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-3365 Filed 2-7-84; 8:45 am]

BILLING CODE 6210-01-M

Eldon Bankshares, Inc., et al.; Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Chicago** (Frankling D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Eldon Bankshares, Inc.*, Eldon, Iowa; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of Eldon, Eldon, Iowa. Comments on this application must be received not later than March 2, 1984.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Financial Holdings, Inc.*, Boulder, Colorado, to become a bank holding company by acquiring 100 percent of the voting shares of Omnibank Louisville, Louisville, Colorado. Comments on this application must be received not later than March 2, 1984.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Provident Bancorp, Inc.* Dallas, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Celina Bancorp, Inc., Dallas, Texas (parent of First State Bank, Celina, Texas), and at least 96

percent of the voting shares of First State Bank, Wylie, Texas; and at least 95 percent of the voting shares of the The Security State Bank, Commerce, Texas; and 100 percent of the voting shares of Provident Bank—Dallas, Dallas, Texas; and 100 percent of the voting shares of DeSoto State Bank, DeSota, Texas. Comments on this application must be received not later than March 2, 1984.

Board of Governors of the Federal Reserve System, February 2, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-3369 Filed 2-7-84; 8:45 am]

BILLING CODE 6210-01-M

First Jersey National Corp., 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 section 225.14 of the Board's Regulation Y (49 FR 794) to become a bank holding company or to acquire a 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 Govenors. 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 March 2, 1984.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *First Jersey National Corporation,* Jersey City, New Jersey; to acquire 10.06 percent of the voting shares or assets of The Peoples National Bank of Central Jersey, Piscataway, New Jersey.

B. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Commercial Grayson Bancshares,* Inc., Grayson, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of The Commercial Bank of Grayson, Grayson, Kentucky.

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Acorn Bankshares, Inc.,* Bloomingdale, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Bloomingdale State Bank, Bloomingdale, Illinois.

2. *Ball-1, Co.,* Early, Iowa; to become a bank holding company by acquiring 99.0 percent of the voting shares of Early Savings Bank, Early, Iowa.

3. *Financial National Bancshares, Co.,* Elgin, Illinois; to acquire 100 percent of the voting shares or assets of The Larking Bank, Elgin, Illinois.

D. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Security Financial Services, Inc.,* Hibbing, Minnesota; to become a bank holding company by acquiring 97.5 percent of the voting shares of Security State Bank of Hibbing, Hibbing, Minnesota.

E. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Burke Bankshares Corporation,* Hutchinson, Kansas; to become a bank holding company by acquiring 85.956 percent of the voting shares of The Maize State Bank, Maize, Kansas.

F. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Mid-Cities Bancshares, Inc.,* Hurst, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of Mid-Cities National Bank, Hurst, Texas. Comments on this application must be received not later than February 28, 1984.

2. *Texas Regional Bancshares, Inc.,* McAllen, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Texas State Bank, McAllen, Texas and Harlingen State Park, Harlingen, Texas. Comments on this application must be received no later than February 29, 1984.

G. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Pioneer Bancorp,* Fullerton, California; to become a bank holding company by acquiring 100 percent of the voting shares of Pioneer Bank, Fullerton, California.

Board of Governors of the Federal Reserve System, February 2, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-3370 Filed 2-7-84; 8:45 am]

BILLING CODE 6210-01-M

First Place Financial Corp.; Formation of a Bank Holding Company

The company listed in this notice has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the 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 Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *First Place Financial Corporation,* Farmington, New Mexico; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of Farmington, Farmington, New Mexico. Comments on this application must be received not later than March 2, 1984.

Board of Governors of the Federal Reserve System, February 2, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-3366 Filed 2-7-84; 8:45 am]

BILLING CODE 6210-01-M

First Railroad & Banking Company of Georgia, et al.; Engaging de Novo in Permissible Nonbanking Activities

The bank holding companies listed in this notice have filed a notice under § 225.23(a)(1) of the Board's Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.21(a) of

Regulation Y (49 FR 794) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

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 notice, interested persons may express their views in writing 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.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than February 28, 1984.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *First Railroad & Banking Company of Georgia*, Augusta, Georgia; to engage indirectly in certain nonbanking activities through its subsidiary, First Financial Management Corporation, Atlanta, Georgia, in providing data processing and transmission services in Mississippi in addition to the states in which it currently provides these services.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Allied Oklahoma Bancorp, Inc.*, Oklahoma City, Oklahoma; to engage through its subsidiary, Mortgage Services Corp., in making and acquiring residential and commercial mortgage loans and other extensions of credits such as would be made by a mortgage company, including the servicing and selling of those loans, and such other activities as are directly related to a mortgage banking operation. These activities would be performed in the State of Oklahoma.

2. *Las Vegas Bancorporation*, Albuquerque, New Mexico; to generate loans and other extensions of credit for its own account and the account of its subsidiary, The Bank of Las Vegas, Las Vegas, New Mexico, and to service such loans and other extensions of credit. These activities will be conducted in New Mexico.

C. **Federal Resere Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *BankAmerica Corporation*, San Francisco; to engage *de novo* through its subsidiary Charles Schwab & Co., Inc., San Francisco, California, in securities brokerage activities consisting principally of buying and selling securities solely upon the order and for the account of customers, and of extending margin credit in conformity with Regulation T, pursuant to § 225.25(b)(15) of Regulation Y. These activities would be conducted worldwide from an office located in London, England.

Board of Governors of the Federal Reserve System, February 2, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-3372 Filed 2-7-84; 8:45 am]

BILLING CODE 6210-01-M

Hawarden Banshares, Inc.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under section 225.23 (a)(2) or (f) of the Board's Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. 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 the application, interested persons may express their views in writing 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.

Comments regarding this application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 1, 1984.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Hawarden Banshares, Inc.*, Hawarden, Iowa; to acquire Gearhart Insurance Agency, Hawarden, Iowa and Williams Insurance Agency, Hawarden, Iowa and thereby engage in the sale of general insurance in a town with population not exceeding 5,000, by merging the two agencies and forming a newly created subsidiary, Farmers State Agency, Ltd., Hawarden, Iowa.

Board of Governors of the Federal Reserve System, February 2, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-3362 Filed 2-7-84; 8:45 am]

BILLING CODE 6210-01-M

The Merchants Holding Co.; Formation of a Bank Holding Company

The Merchants Holding Company, Winona, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of The Merchants National Bank of Winona, Winona, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The Merchants Holding Company, Winona, Minnesota, 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 engage in the activity of

equipment leasing. This activity would be performed from Applicant's offices in Winona, Minnesota and the geographic areas to be served are the City of Winona, Winona County, and adjacent communities in Minnesota and Wisconsin. 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 Minneapolis.

Any views or requests for hearing should be submitted in writing and revceived by the Reserve Bank not later than March 1, 1984.

Board of Governors of the Federal Reserve System, February 2, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-3371 Filed 2-7-84; 8:45 am]

BILLING CODE 6210-01-M

NCB Financial Corp.; Engaging de Novo in Permissible Nonbanking Activities

The organization listed in this notice has filed a notice under § 225.23(a)(1) of the Board's Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. 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 the notice, interested persons may express their views in writing 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.

Comments regarding this application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 27, 1984.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *NCB Financial Corporation*, Williamsport, Pennsylvania; to engage through its subsidiary Northern Central Life Insurance Company, Phoenix, Arizona in underwriting, as reinsurer, credit life, accident and health insurance directly related to extensions of credit by Northern Central Bank, from offices in Williamsport, Pennsylvania, serving the State of Pennsylvania.

Board of Governors of the Federal Reserve System, February 2, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-3363 Filed 2-7-84; 8:45 am]

BILLING CODE 6210-01-M

Preferred Equity Investors of Florida, Inc.; Merger of Bank Holding Companies

Preferred Equity Investors of Florida, Inc., Knoxille, Tennessee, has applied for the Board's approval under 3(a)(3) and 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842 (a)(3) and (a)(5)) to acquire the successor by merger of its subsidiary Landmark Banking Corporation of Florida, Fort Lauderdale, Florida, with Southwest Florida Banks, Inc., Fort Myers, Florida. Applicant will indirectly acquire First National Bank & Trust Company, Naples; Gulf Coast National Bank, Sarasota; Gulf Coast First National Bank, Fort Myers; North First Bank, Fort Myers; Charlotte County National Bank, Port Charlotte; Gulf Coast Bank of Pinellas, Medeira Beach; First Commercial of Fort Myers, Fort Myers; South County Bank, Southvenice; Peoples Bank of Hillsborough County, Tampa; First Bank of Marco Island, N.A., Marco Island; The National Trust Company, Fort Myers; East First National Bank, Fort Myers; First National Bank in Fort Myers, Fort Myers; Peoples Bank of Pasco County, Elfers; Palm State Bank, Palm Harbor; National Bank of Sarasota, Sarasota; The Palmetto Bank and Trust Company, Palmetto; First County Bank, Riverview, all located in Florida. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Preferred Equity Investors of Florida, Inc., Knoxille, Tennessee and Landmark Banking Corporation of Florida, Fort Lauderdale, Florida, have also applied to engage in the following nonbank activities: Mortgage banking, data processing, credit-related insurance, real estate appraisal and electronic funds transfer. In addition to the factors considered under section 3 of the Act (banking factors), the Board will consider the nonbanking aspects of the proposal under the provisions and prohibitions of section 4 of the Act (12 U.S.C. 1843).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta.

Any person wishing to comment on the application should submit views in writing to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than March 1, 1984. 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.

Board of Governors of the Federal Reserve System, February 1, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-3368 Filed 2-7-84; 8:45 am]

BILLING CODE 6210-01-M

Tascosa Financial Corp.; Acquisition of Bank Shares by a Bank Holding Company

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the 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 Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Tascosa Financial Corporation*, Amarillo, Texas; to acquire 100 percent of the voting shares or assets of Tascosa National Bank South, Amarillo, Texas. Comments on this application must be received not later than March 2, 1984.

Board of Governors of the Federal Reserve System, February 2, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-3367 Filed 2-7-84; 8:45 am]

BILLING CODE 6210-01-M

Marine Midland Banks, Inc., et al.; Acquisition of a Bank and Formation of a Bank Holding Company.

Marine Midland Banks, Inc., Buffalo, New York and its parent bank holding companies The Hong Kong and Shanghai Banking Corporation, Hong Kong, B.C.C., Kellett N.V., Curacao, Netherlands Antilles and HSBC Holdings B.V., Amsterdam, the Netherlands ("The Applicants"), 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 100 percent of the voting shares of Marine Midland Bank (Delaware), Wilmington, Delaware, a proposed new bank. The Applicants propose to acquire the shares of Marine Midland Bank (Delaware) through Marine Midland Bank, Inc.'s wholly owned subsidiary Marine Midland National Corporation, Buffalo, New York, which by reason of this proposed acquisition has applied to become a bank holding company pursuant to section 3(a)(1) of the Act (12 U.S.C. 1842(a)(1)). The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Marine Midland National Corporation, 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 continue to engage in the underwriting of credit-related insurance through its existing subsidiary Marmid Life Insurance Company, Phoenix, Arizona. These activities would be performed from offices of Applicant's subsidiary in Phoenix, Arizona and the geographic areas to be served are the States of New York and Pennsylvania. 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 outweight 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 New York.

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 March 2, 1984.

Board of Governors of the Federal Reserve System, February 3, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-3363 Filed 2-7-84; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Agency Information Collection Under Review by the Office of Management and Budget (OMB); Schedules for Construction Contracts

AGENCY: Office of Policy and Management Systems, GSA.

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the General Services Administration (GSA) plans to request the Office of Management and Budget (OMB) to review and approve an existing information collection in use without an OMB control number.

COMMENT: Submit comments on this information collection before February 27, 1984.

ADDRESSES: Send comments to Franklin S. Reeder, GSA Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and to John F. Gilmore, GSA Clearance Officer, General Services Administration (ATRAI), Washington, D.C. 20405.

FOR FURTHER INFORMATION CONTACT: Victoria Moss, Office of Acquisition Policy (202-523-4799).

SUPPLEMENTARY INFORMATION: a. *Purpose of collection.* The requirement helps to monitor work of Federal contractors. Contractors may be required to submit proposed progress schedules that show the work will be performed.

b. *Annual reporting burden.* This is estimated as follows: Respondents 390, responses 780, hours 780.

c. *Obtaining copies of proposal.* Requestors may obtain copies of the proposal by contracting the Directives and Reports Management Branch (ATRAI), Room 3004, GS Building, Washington, D.C. 20405, telephone (202-566-0666).

Dated: January 23, 1984.

William W. Hiebert,

Acting Director, Information Management Division.

[FR Doc. 84-3412 Filed 2-7-84; 8:45 am]

BILLING CODE 6820-34-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Burroughs Wellcome Co., Dequalinium Chloride, Methylene Blue and Urea Powder; Withdrawal of Approval of NADA

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of a new animal drug application (NADA) sponsored by Burroughs Wellcome Co. for dequalinium chloride, methylene blue and urea powder. The firm requested withdrawal of approval.

EFFECTIVE DATE: February 21, 1984.

FOR FURTHER INFORMATION CONTACT: Howard Meyers, Bureau of Veterinary Medicine (HFV–216), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4093.

SUPPLEMENTARY INFORMATION: Wellcome Animal Health Division, Burroughs Wellcome Co., Kansas City, MO 64108, is the sponsor of NADA 12–202 for Decton® Blue Powder (dequalinium chloride, methylene blue and urea powder). The drug is labled for use as an antiseptic, proteolytic surface wound dressing for dogs, cats, cattle, and horses, and for early treatment of keratoconjunctivitis (pinkeye) in cattle.

Burroughs Wellcome Co. stated by letter dated December 16, 1983, that Decton® Blue Powder is no longer being manufactured and that all marketable stocks have been depleted.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345–347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.84) and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 12–202 and all supplements thereto is hereby withdrawn, effective February 21, 1984.

Dated: February 1, 1984.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 84–3339 Filed 2–7–84; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Bakersfield District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Bakersfield District Grazing Advisory Board Meeting.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463) and the Federal Land Policy and Management Act (Pub. L. 94–579) that the Bakersfield District Grazing Advisory Board will meet formally on Friday, March 9, 1984 in Room 224 of the Federal Building, 800 Truxtun Avenue, Bakersfield, California. The meeting will be held from 8 a.m. to 4 p.m.

SUPPLEMENTARY INFORMATION: The agenda for the meeting will include:

(1) Orientation of newly elected Board members to the district range program.

(2) Status of 1984 range improvement projects.

(3) Discussion of the nomination results for Cooperative Management Agreements.

(4) Review of allotment ranking to determine range program priorities for each Resource Area.

The meeting is open to the public. Interested persons may make oral statements to the Board, or file written statements for the Board's consideration. Anyone wishing to make an oral statement must notify, in writing, the Bakersfield District Manager (Bureau of Land Management, 800 Truxtun Avenue, Room 311, Bakersfield, California 93301) by March 2, 1984.

Summary minutes of the meeting will be maintained in the Bakersfield District Office and will be available for reproduction, during regular business hours, within 30 days following the meeting.

FOR FURTHER INFORMATION CONTACT: Marta Witt, Public Affairs Officer, Bureau of Land Management, Bakersfield District, 800 Truxtun Avenue, Room 311, Bakersfield, California 93301, (805) 861–4191.

Dated: January 31, 1984.

Robert D. Rheiner, Jr.,

District Manager.

[FR Doc. 84–3409 Filed 2–7–84; 8:45 am]

BILLING CODE 4310–40–M

[M–12496]

Montana; Termination of Classification of Public Lands for Multiple Use Management

1. Pursuant to authority delegated to me, the Bureau of Land Management Multiple Use Classification published in 35 FR 244 dated December 17, 1970, which segregated the lands described below from public land laws generally and from location and entry under the mining laws, is hereby terminated.

Principal Meridian, Montana

T. 9 S., R. 28 E.,
- Sec. 4, W½E½, SE¼, SE¼, lying west of the Big Horn Canyon National Recreation Area;
- Sec. 9, E½E½, lying west of the Big Horn Canyon National Recreation Area;
- Sec. 10, SW¼SW¼, lying west of the Big Horn Canyon National Recreation Area;
- Sec. 15, W½NW¼, SW¼, lying west of the Big Horn Canyon National Recreation Area;
- Sec. 22, E½NW¼, lying west of the Big Horn Canyon National Recreation Area.

The lands described aggregate approximately 280 acres in Carbon County, Montana.

2. At 8 a.m. on February 29, 1984, the lands above described shall be open to operation of the public land laws generally, subject to valid existing rights the provisons of existing withdrawals and the requirements of applicable law. All valid applications received prior to 8 a.m. on February 29, 1984, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered on order of filing.

3. All lands in paragraph 1 will be open to location and entry under the general mining laws at 8 a.m. on February 29, 1984. Appropriation of lands under the general mining laws prior to date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Sec. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by state law where not in conflict with federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possession rights since Congress has provided for such determinations in local courts. These lands have been, and continue to be, open to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the Chief, Branch of Land Resources, Bureau of Land Management, P.O. Box 36800, Billings, Montana 59107.

Dated: January 30, 1984.

Kannon Richards,

Acting State Director.

[FR Doc. 84-3407 Filed 2-7-84; 8:45 am]

BILLING CODE 4310-DN-M

New Mexico; Filing of Plat of Survey

January 31, 1984.

The plat of survey described below was officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, effective at 10 a.m. on January 31, 1984.

New Mexico Principal Meridian

A retracement of a portion of the Arizona and New Mexico State line and a dependent resurvey of a portion of the east boundary, a portion of the subdivisional lines in T. 11 N., R. 21 W., NMPM, under Group 729, and was accepted January 26, 1984.

This survey was requested by the Bureau of Indian Affairs, Albuquerque, New Mexico.

The plat will be placed in the open files of the New Mexico State Office, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501. Copies of the plat may be obtained from that office upon payment of $2.50 per sheet.

Gary S. Speight,

Chief, Branch of Cadastral Survey.

[FR Doc. 84-3408 Filed 2-7-84; 8:45 am]

BILLING CODE 4310-FB-M

Reschedule the Federal-State Coal Advisory Board Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice to reschedule a meeting.

SUMMARY: In the Federal Register of January 31, 1984 (49 FR 3937–3938), it was announced that the Federal-State Coal Advisory Board would meet in Denver, Colorado, on February 15 and 16, 1984, to review the final report of the Commission on Fair Market Value Policy for Federal Coal Leasing. Because the Commission will not issue its report until at least February 10, 1984, the advisory board's meeting to review the report has been rescheduled to February 28 and, if necessary 29, 1984. All other information in the notice of January 31, 1984, remains unchanged.

DATE: The board will meet at 8:30 a.m. on February 28, 1984, and, if necessary, will continue at 8:30 a.m. on February 29, 1984.

ADDRESS: The meeting will be held at the Holiday Inn—Downtown, 1450 Glenarm Place, Denver, Colorado 80202, telephone (303) 573–1450.

FOR FURTHER INFORMATION CONTACT: Myra Musialkiewicz (202/FTS 343–6821).

Dated: February 6, 1984.

James M. Parker,

Acting Director, Bureau of Land Management.

[FR Doc. 84-3487 Filed 2-7-84; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Outer Continental Shelf; Proposed Lease Sale of Polymetallic Sulfide Minerals in the Gorda Ridge Area; Extension of Comment Period on Draft Environmental Impact Statement

AGENCY: Minerals Management Service, Interior.

ACTION: Extension of comment period.

SUMMARY: On January 5, 1984, the Minerals Management Service (MMS) published a Notice of Availability of a draft environmental impact statement (EIS) for a proposed lease sale of polymetallic sulfide minerals in the Gorda Ridge area on the Outer Continental Shelf, offshore Oregon and northern California (49 FR 667, January 5, 1984). The Notice requested that comments on the draft EIS be submitted to the MMS on or before February 29, 1984.

Several recipients of the draft EIS have asked that the comment period be extended to allow additional time for the preparation of comments. The MMS is hereby extending the comment period by 15 days.

DATE: Written comments on the draft EIS must be postmarked or received on or before March 15, 1984.

ADDRESS: Written comments should be submitted to: Jeffrey P. Zippin, Minerals Management Service, Mail Stop 644, 12203 Sunrise Valley Drive, Reston, Virginia 22091.

FOR FURTHER INFORMATION CONTACT: Jeffrey P. Zippin, Minerals Management Service, Mail Stop 644, 12203 Sunrise Valley Drive, Reston, Virgina 22091, telephone (703) 860–6461; or Buford Holt, Minerals Management Service, 1340 West Sixth Street, Los Angeles, California 90017, telephone (213) 688–2033.

SUPPLEMENTARY INFORMATION: The January 5, 1984, Notice of Availability announced that public hearings on the draft EIS would be held on February 14, 1984, at the Pony Village Lodge, North Bend, Oregon, and on February 16, 1984, at the Eureka Inn, Eureka, California, beginning at 9:00 a.m., PST, with an evening session if necessary. No change has been made on these public hearing dates, times, and places.

Dated: January 30, 1984.

John B. Rigg,

Associate Director for Offshore Minerals Management.

[FR Doc. 84-3354 Filed 2-7-84; 8:45 am]

BILLING CODE 4310-MR-M

Outer Continental Shelf; Oil Gas and Sulphur Operations; Texoma Production Co.; Plan of Development/ Production

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Texoma Production Company has submitted a DOCD describing the activities it proposes to conduct on Leases OCS–G 5395, 3389, and 2566, Blocks 341, 340, and 347, East Cameron Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Cameron, Louisiana.

DATE: The subject DOCD was deemed submitted on January 18, 1984. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management System receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Manager, Gulf of Mexico Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management System Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, *Attention OCS Plans*, Post Office Box 44396, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Mr. Hossein Hekmatdoost, Minerals Management Service, Gulf of Mexico Region; Rules and Production; Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Phone (504) 838–0873.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to section 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCD available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised section 250.34 of Title 30 of the CFR.

Dated: February 1, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico Region.

[FR Doc. 84-3420 Filed 2-7-84; 8:45 am]

BILLING CODE 4310-MR-M

INTERNATIONAL TRADE COMMISSION

[332-178]

U.S. Imports of Goods Manufactured by Convict, Forced, or Indentured Labor

AGENCY: International Trade Commission.

ACTION: The notice of investigation No. 332-178, issued February 1, 1984, published elsewhere in this issue, is hereby amended to indicate a change in the hearing date from July 6, 1984, to July 10, 1984.

By order of the Commission.

Issued: February 3, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-3458 Filed 2-7-84; 8:45 am]

BILLING CODE 7020-02-M

[332-178]

Goods Manufactured by Convict, Forced, or Indentured Labor

AGENCY: United States International Trade Commission.

ACTION: Institution of an investigation under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) concerning U.S. imports of goods manufactured by convict, forced, or indentured labor, at the request of the Senate Committee on Finance, and the scheduling of a hearing in connection therewith.

EFFECTIVE DATE: January 30, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Reuben Schwartz of Mr. Joseph Williams, Textiles, Leather Products, and Apparel Division, Office of Industries, U.S. International Trade Commission, Washington, D.C. 20436, telephone 202-523-0114 or 202-523-5702, respectively.

Background and Scope of Investigation

The Commission instituted the investigation, No. 332-178, following receipt on December 29, 1983, of a request therefor from the Senate Committee on Finance. In accordance with the Committee's request, the Commission will examine the nature and extent of imports into the United States of goods that are wholly or partially manufactured by convict, forced, or indentured labor. In addition, as requested by the Committee, the Commission will review the application of domestic and international law to international trade in such items, particularly section 307 of the Tariff Act of 1930 (19 U.S.C. 1307).

In conducting its investigation, the Commission, at the Committee's direction, will seek to obtain information on the type of products, the countries or origin, and the extent of importation of such goods into the United States. The Commission also will seek to provide information on the conditions under which the products are produced, the number of workers involved, and similar pertinent background material.

The Commission's scheduled completion date for the report is November 12, 1984.

Public hearing.—A public hearing in connection with the investigation will be held in the Commission Hearing Room, 701 E Street, NW., Washington, D.C. 20436, beginning at 10:00 a.m., on July 6, 1984. All persons shall have the right to appear by council or in person, to present information, and to be heard. Requests to appear at the public hearing should be filed with the Secretary, United States International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, not later than noon, June 6, 1984.

Written submissions.—In lieu of or in addition to appearances at the public hearing, interested persons are invited to submit written statements concerning the investigation. Written statements should be received by the close of business June 28, 1984. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of §201.6 of the Commission's Rules of Practice and Procedure (19 CFC 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. All submissions should be addressed to the Secretary at the Commission's office in Washington, D.C.

Issued: February 1, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-3448 Filed 2-7-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-162]

Certain Cardiac Pacemakers and Components Thereof; Commission Decision Not To Review Initial Determination Joining Cordis Corp. as a Respondent

AGENCY: U.S. International Trade Commission.

ACTION: The Commission has determined not to review an initial determination (ID) (Order No. 16) to join Cordis Corp. (Cordis) as a respondent in the above-captioned investigation.

Authority: 19 U.S.C. 1337; 19 CFR 210.53(c), 210.53(h), and 210.54(b).

SUPPLEMENTARY INFORMATION: On November 14, 1983, the respondents moved (Motion No. 162-13) to amend the complaint and notice of investigation to join Cordis as a respondent in the above-captioned investigation. On December 14, 1984, the presiding officer issued an ID joining Cordis as a respondent. A petition for review was filed by Cordis on January 6, 1984. The petition was supported by complainant and by the Commission investigative attorney. On January 26, 1984, the Commission determined not to review the ID.

FOR FURTHER INFORMATION CONTACT: Jack Simmons, Esq., Office of the General Counsel, telephone 202-523-0493.

Issued: January 31, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-3453 Filed 2-7-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 104-TAA-20]

Certain Castor Oil Products From Brazil; Determination

Based on the record [1] developed in investigation No. 104-TAA-20, the Commission determines, pursuant to section 104(b) of the Trade Agreements Act of 1979 (19 U.S.C. 1671 note), that an industry in the United States would be materially injured by reason of imports of hydrogenated castor oil (HCO), as provided for in item 178.20 of the Tariff Schedules of the United States (TSUS), from Brazil if the countervailing duty order were to be revoked.[2] The Commission further determines that an industry in the United States would be materially injured by reason of imports of 12-hydroxystearic acid (HSA), as provided for in item 490.26 of the TSUS, from Brazil if the countervailing duty order were to be revoked.[2]

Background

The outstanding countervailing duty order was issued, on March 16, 1976, as a result of an investigation that was conducted by the U.S. Department of the Treasury after Union Camp Corp. filed a countervailing duty petition on April 30, 1975.

On July 17, 1981, the Brazilian Government requested the U.S. International Trade Commission to review the outstanding countervailing duty order under section 104(b)(1) of the act to determine whether an industry in the United States would be materially injured, or threatened with material injury, or the establishment of an industry would be materially retarded by reason of imports of certain castor oil products from Brazil if the outstanding countervailing duty order applicable to such castor oil products were to be revoked. Accordingly, on September 21, 1983, the Commission instituted investigation No. 104-TAA-20, *Certain Castor Oil Products from Brazil.*

Notice of the institution of the Commission's investigation was given by posting copies of the notice in the office of the Secretary, United States International Trade Commission, Washington, D.C., and by publishing the notice in the **Federal Register** on October 5, 1983 (48 FR 45479). A public hearing in connection with the investigation was held on December 8, 1983, and the Commission voted on the investigation in public session on January 18, 1984.

The Commission transmitted its report on the investigation to the U.S. Department of Commerce on January 27, 1984. A public version of the report, *Certain Castor Oil Products from Brazil* (investigation No. 104-TAA-20, USITC Publication 1483, 1984), contains the views of the Commissioners and information developed during the investigation. Copies may be obtained after February 3, 1984, by calling 202-523-5178 or from the Office of the Secretary, 701 E Street, NW., Washington, D.C. 20436.

Issued: January 27, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-3455 Filed 2-7-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-160]

Certain Composite Diamond Coated Textile Machinery Components; Grant of Application for Interlocutory Review and Denial of Motion for Termination of Respondent

AGENCY: U.S. International Trade Commission.

ACTION: Granting of application for interlocutory review and affirmance of presiding officer's denial of motion for termination of respondent.

Authority: Section 210.60(b) of the Commission's Rules of Practice and Procedure, 19 CFR 210.60(b).

SUPPLEMENTARY INFORMATION: Pursuant to section 337 of the Tariff Act of 1930, (19 U.S.C. 1337) and 19 U.S.C. 1337a, the Commission is currently conducting an investigation of alleged unfair acts and unfair methods of competition in connection with the importation or sale of certain composite diamond coated textile machinery components.

On September 26, 1983, respondent Electroschmelzwerk Kempten GmbH (ESK) moved (Motion No. 160-2) that it be terminated as a respondent to this investigation for lack of personal jurisdiction. The presiding officer denied the motion on November 30, 1983 (Order No. 5) and granted ESK leave to file an application for interlocutory review of Order No. 5 on December 20, 1983 (Order No. 16). ESK filed an application for interlocutory review of Order No. 5 on December 29, 1983. The Commission has granted ESK's application for interlocutory review and affirmed the presiding officer's denial of ESK's motion for termination.

Notice of the institution of this investigation was published in the **Federal Register** of August 26, 1983 (48 FR 38907).

Copies of Order No. 5 the Commission's Action and Order, and the Commission Memorandum Opinion issued in support thereof are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, Docket Section, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0471.

FOR FURTHER INFORMATION CONTACT: N. Tim Yaworski, Esq., Office of General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436; telephone 202-523-0311.

Issued: February 1, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-3452 Filed 2-7-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-153]

Certain Microprocessors, Related Parts and Systems; Commission Determination Not to Review Initial Determination Terminating Investigation on the Basis of a Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: The Commission has determined not to review an initial determination (I.D.) to terminate this investigation on the basis of a settlement agreement.

Authority: 19 U.S.C. 1337, 47 FR 25134, June 10, 1982, and 48 FR 20225, May 5, 1983 (to be codified at 19 CFR 210.53(c) and (h)).

SUPPLEMENTARY INFORMATION: Notice of the I.D. was published in the **Federal Register** of January 11, 1984. (49 FR 1433.) The Commission has received neither a petition for review of the I.D. nor comments from the public or other Government agencies.

Copies of the initial determination and all other nonconfidential documents filed in connection with this

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[1] The "record" is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure.

[2] Commissioner Stern determines that industries in the United States would not be materially injured or threatened with material injury, nor would the establishment of industries in the United States be materially retarded, by reason of imports of certain castor oil products (HCO and HSA) from Brazil, if the countervailing duty order covering such imports were to be revoked.

investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0350.

FOR FURTHER INFORMATION CONTACT: Wayne W. Herrington, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0480.

Issued: January 31, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–3454 Filed 2–7–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–157]

Certain Office Desk Accessories and Related Products; Notice to All Parties

Notice is hereby given that the prehearing conference will commence at 9:00 a.m. on February 27, 1984, at the Waterfront Center, Room 201, 1010 Wisconsin Avenue NW., Washington, D.C. 20007, and the hearing will commence immediately thereafter.

The Secretary shall publish this notice in the **Federal Register.**

Issued: January 31, 1984.

Janet D. Saxon,

Administrative Law Judge.

[FR Doc. 84–3451 Filed 2–7–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–160]

Composite Diamond Coated Textile Machinery Components; Commission Decision Not To Review Initial Determination Amending Complaint

AGENCY: U.S. International Trade Commission.

ACTION: The Commission has determined not to review an initial determination (ID) to amend the notice of investigation to add prevention of establishment of an industry in the United States to the scope of the investigation.

Authority: 19 U.S.C. 1337, 47 FR 25134, June 10, 1982, and 48 FR 20225, May 5, 1983 (codified at 19 CFR 210.53 (c) and (h)).

SUPPLEMENTARY INFORMATION: On January 4, 1984, the presiding officer issued an initial determination (Order No. 17) granting complainant Surface Technology, Inc.'s motion to amend the complaint and notice of investigation to add prevention of the establishment of a domestic industry as a ground for relief. The Commission did not receive any petitions for review or comments from other Government agencies.

FOR FURTHER INFORMATION CONTACT: N. Tim Yaworski, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0311.

Issued: February 3, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–3449 Filed 2–7–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–180]

Certain X-Ray Image Intensifier Tubes; Order

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge James P. Timony as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register.**

Issued: February 1, 1984.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 84–3446 Filed 2–7–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. TA–406–10]

Ferrosilicon From the Union of Soviet Socialist Republics; Determination

On the basis of information developed in the course of investigation No. TA–406–10, the Commission (Chairman Eckes dissenting) has determined, with respect to imports of ferrosilicon which are the product of the Union of Soviet Socialist Republics and are provided for in items 606.35, 606.36, 606.37, 606.39, and 606.40 of the Tariff Schedules of the United States, that market disruption does not exist.

Background

This report is being furnished pursuant to section 406(a)(3) of the Trade Act of 1974 (19 U.S.C. 2436(a)(3)) and is based on an investigation conducted under section 406(a)(1) of the Trade Act. The Commission instituted the investigation on November 16, 1983, following receipt of a request received on November 2, 1983, from the United States Trade Representative.

Notice of the institution of the Commission's investigation and of a public hearing was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the **Federal Register** of November 25, 1983 (48 FR 53187).

A public hearing in this proceeding was held in the Hearing Room of the U.S. International Trade Commission Building in Washington, D.C. on January 6, 1984. All interested parties were given an opportunity to be present, to present evidence, and to be heard.

The information in this report was obtained from field work, questionnaires sent to domestic producers and importers, the Commission's files, other Government agencies, testimony presented at the hearing, briefs filed by interested parties, and other sources.

The Commission transmitted its report on the investigation to the President on February 2, 1984. A public version of the Commission's report, *Ferrosilicon from the U.S.S.R.* (investigation No. 406–TA–10, USITC Publication 1484, 1984), contains the views of the Commission and information developed during the investigation.

Issued: February 2, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–3450 Filed 2–7–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. TA–201–50]

Nonrubber Footwear

AGENCY: United States International Trade Commission.

ACTION: Institution of an investigation under section 201 of the Trade Act of 1974 (19 U.S.C. 2251) and scheduling of hearings to be held in connection with the investigation.

EFFECTIVE DATE: January 23, 1984.

SUMMARY: Following receipt of a petition filed on January 23, 1984, on behalf of the Footwear Industries of America, Inc., Amalgamated Clothing and Textile Workers Union, AFL–CIO, and United Food & Commercial Workers International Union, AFL–CIO, the Commission instituted investigation No. TA–201–50 under section 201 of the Trade Act of 1974 to determine whether footwear, provided for in items 700.05 through 700.45, inclusive, 700.56, 700.72 through 700.83, inclusive, and 700.95 of the Tariff Schedules of the United States, is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or

directly competitive with the imported articles. The Commission must report its determination to the President by July 23, 1984.

FOR FURTHER INFORMATION CONTACT: Miriam A. Bishop, Investigator (202/523–0291), or Vera A. Libeau, Supervisory Investigator (202/523–0368), U.S. International Trade Commission, Washington, D.C. 20436.

SUPPLEMENTARY INFORMATION:

Participation in the investigation.—Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than 21 days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after that date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation (19 CFR 201.11(d)). Each document filed by a party to this investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR 201.16(c)).

Public hearing.—The Commission will hold a public hearing in connection with the injury phase of this investigation beginning at 10:00 a.m., on May 2, 1984, in the Hearing Room, U.S. International Trade Commission Building, 701 E Street, NW, in Washington, D.C. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission no later than the close of business (5:15 p.m.) on April 16, 1984.

Prehearing procedures.—To facilitate the hearing process, it is requested that persons wishing to appear at the injury hearing on May 2, 1984, submit prehearing briefs enumerating and discussing the issues which they wish to raise at the hearing. An original and 22 copies of such prehearing briefs should be submitted to the Secretary no later than the close of business on April 25, 1984. Confidential submissions should be in accordance with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6). Copies of any prehearing briefs submitted will be made available for public inspection in the Office of the Secretary. Any prepared statements submitted will be made a part of the transcript. Oral presentations at the hearing should, to the extent possible, be limited to issues raised in the prehearing briefs.

A prehearing conference will be held on April 23, 1984, at 10:00 a.m., in Room 117 of the U.S. International Trade Commission Building.

Persons not represented by counsel or public officials who have relevant matters to present may give testimony without regard to the suggested prehearing procedures outlined above.

Written submissions.—As mentioned, parties to this investigation may file prehearing briefs by the date shown above. Posthearing briefs must be submitted no later than the close of business on May 9, 1984. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before May 9, 1984. A signed original and 22 copies of each submission must be filed with the Secretary to the Commission. All written submissions, except for confidential business information, will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Commercial or financial data and any information for which confidential treatment is desired should be submitted separately. The envelope and all pages of such submissions must be clearly marked "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's Rules (19 CFR 201.6).

Remedy.—In the event that the Commission makes an affirmative injury determination in this investigation, a public hearing on the subject of remedy recommendations will be held beginning at 10:00 a.m., on June 14, 1984, at the U.S. International Trade Commission Building. A prehearing conference will be held on June 11, 1984, beginning at 10:00 a.m., in Room 117 of the U.S. International Trade Commission Building. Prehearing briefs will be due to the Secretary no later than the close of business on June 11, 1984, and must conform with the requirements of §201.6 of the Commission's rules. Posthearing briefs will be due to the Secretary no later than the close of business on June 22, 1984.

Inspection of petition.—The petition filed in this case is available for public inspection at the Office of the Secretary, U.S. International Trade Commission.

For further information concerning the conduct of the investigation, hearing process, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201 and part 206, subparts A and B (19 CFR Parts 201 and 206, subparts A and B.

Issued: February 3, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary

[FR Doc. 84-3445 Filed 2-7-84; 8:45 am]

BILLING CODE 7020-02-M

[332-179]

Tariff and Nontariff Barriers; Import on U.S. Sheet Vinyl Flooring Industry

AGENCY: United States International Trade Commission.

ACTION: Institution of an investigation under section 332(b) of the Tariff Act of 1930 (19 U.S.C. 1322(b)) for the purpose of assessing the impact of tariff and nontariff barriers on the competitive position of the United States in the world trade of sheet vinyl flooring.

EFFECTIVE DATE: January 31, 1984.

FOR FURTHER INFORMATION CONTACT: Mark D. Estes, General Manufactures Division, Office of Industries, U.S. International Trade Commission, Washington, D.C. 20436, telephone 202–724–0977.

Background and Scope of Investigation

The Commission instituted the investigation on its own motion following receipt of a request therefor dated December 20, 1983, from the Subcommittee on Trade of the House Committee on Ways and Means. In accordance with the Subcommittee's request, the Commission will investigate the impact of tariffs on the competitive position of the United States in world trade in vinyl floor coverings of the kind described in item 728.2440 of the Tariff Schedules of the United States Annotated (TSUSA).

In its report the Commission will analyze the comparative tariff levels, the base on which tariffs are computed, customs valuation systems, and non-tariff barriers to U.S. exports. The Commission will also examine the factors that are influencing domestic and foreign markets for vinyl floor coverings.

TSUSA item 728.2440 covers sheet vinyl flooring, and the Commission's investigation will focus on this product. The investigation will not cover vinyl

tile, vinyl asbestos tile, and other vinyl floor coverings.

At the Subcommittee's request the Commission's investigation will be restricted to the use of nonproprietary company data due to the small number of U.S. manufacturers of sheet vinyl flooring and the possibility of linking data to a particular manufacturer.

The Commission expects to complete its study by August 20, 1984.

Written Submissions

While there is no public hearing scheduled for this study, written submissions from interested parties are invited. Although the Commission is not actively seeking proprietary company data, commercial or financial information which a party desires the commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested parties. To be ensured of consideration by the Commission, written statements should be received by the close of business on May 18, 1984. all submissions should be addressed to the Secretary at the Commission's office in Washington, D.C.

Issued: February 2, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-3447 Filed 2-7-84; 8:45 am]

BILLING CODE 7020-02-M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Agency Information Collection Activities Under OMB Review

DATE: February 3, 1984.

AGENCY: National Endowment for the Humanities.

ACTION: Notice.

SUMMARY: The National Endowment for the Humanities (NEH) has sent to the Office of Management and Budget (OMB) the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Charter 35).

DATES: Comments on this information collection must be submitted by March 9, 1984.

ADDRESSES: Send comments to Ms. Ingrid Foreman, Management Assistant, National Endowment for the Humanities, Administrative Services Office, Room 202, 1100 Pennsylvania Avenue NW., Washington, D.C. 20506, (202) 786-0233 or Mr. Joseph Lackey, Office of Management and Budget, New Executive Office Building, 726 Jackson Place NW., Room 3208, Washington, D.C. 20503, (202) 395-6880.

FOR FURTHER INFORMATION CONTACT: Ms. Ingrid Foreman, National Endowment for the Humanities, Administrative Services Office, Room 202, 1100 Pennsylvania Avenue NW., Washington, D.C. 20506, (202) 786-0233 from whom copies of forms and supporting documents are available.

Category: New Forms
Title: Planning and Assessment Studies Program Review Process
Form Nos. OP-R 3/83; OP-P 3/83; OP-A 12/83
Frequency of Collection: Once
Respondents: Reviewers, panelists, applicants
Use: Decision-making concerning grant applications
Estimated Number of Respondents: 260
Estimated Hours For Respondents to Provide Information: 2675.

Dated: February 3, 1984.

Victor Loughnan,

Director of Administration.

[FR Doc. 84-3462 Filed 2-7-84; 8:45 am]

BILLING CODE 7635-01-M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice CM-8/710]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea, Working Group on Radio Communications; Meeting

The Working Group on Radio Communications of the Subcommittee on Safety of Life at Sea will conduct an open meeting at 0930 on February 28, 1984, in Room 8334-8336 of the Department of Transportation, 400 Seventh Street, SW., Washington, D.C.

The purpose of the meeting is to prepare position documents for the Twenty-seventh Session of the Subcommittee on Radiocommunications of the International Maritime Organization to be held in London during March 1984. In particular the working group will discuss the following topics:

Maritime Distress System
Digital Selective Calling
Satellite EPIRBs
Preparation for the ITU WARC for Mobile Telecommunications
Preparations for CCIR Study Group 8

Members of the public may attend up to the seating capacity of the room.

For further information contact Mr. Richard Swanson, U.S. Coast Guard Headquarters (G-TPP-3/63), 2100 Second Street, SW., Washington, D.C. 20593. Telephone: (202) 426-1231.

Dated: January 27, 1984.

Samuel V. Smith,

Executive Secretary, Shipping Coordinating Committee.

[FR Doc. 84-3405 Filed 2-7-84; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/709]

Study Group B of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Study Group B of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on February 23, 1984, at 10:00 a.m. in Room 1207, Department of State, 2201 C Street NW., Washington, D.C. This Study Group deals with international telegraph operations.

The purpose of this meeting is to prepare for the upcoming CCITT Study Group VIII meeting in Geneva, March 1-9, 1984. The February 23 meeting will deal primarily with videotex issues.

Members of the general public may attend the meeting and join in the discussion subject to instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. It is requested that prior to the meeting, persons who plan to attend, so advise Mr. Earl Barbely, Department of State, Washington, D.C.; telephone (202) 632-3405. All attendees must use the C Street entrance to the building.

Dated: January 26, 1984.

Earl S. Barbely,

Chairman, U.S. CCITT National Committee.

[FR Doc. 84-3404 Filed 2-7-84; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF THE TREASURY

[Department Circ. Public Debt Series—No. 3-84]

11¾ percent Treasury Notes of November 15, 1993; Series D-1993

I. Invitation for Tenders

1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $5,250,000,000 of United States securities, designated 11-¾ percent Treasury Notes of November 15, 1993, Series D-1993 (CUSIP No. 912827 QD 7). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securites may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The securities will be issued February 15, 1984, and are offered as an additional amount of 11-¾ percent Treasury Notes of November 15, 1993, Series D-1993 (CUSIP No. 912827 QD 7) dated November 15, 1983. Payment for the securities will be based on the price equivalent to the bid yield determined in accordance with this circular, plus accured interest from Novembr 15, 1983, to February 15, 1984. Interest on the securities offered as an additional issue is payable on a semiannual basis on May 15, 1984, and each subsequent 6 months on November 15 and May 15 until the principal becomes payable. They will mature November 15, 1993, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2 The securities are subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Securities registered as to principal and interest will be issued in denominations of $1,000, $5,000, $10,000 $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of registered and book-entry securities, and the transfer of registered securities will be permitted. Bearer securities will not be available, and the interchange of registered or book-entry security for bearer securities will not be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20239, prior to 1:30 p.m., Eastern Standard time, Wednesday, February 8, 1984. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, February 7, 1984, and received no later than Wednesday, February 15, 1984.

3.2. The face amount of securities bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10 percent. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposit, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securites, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for, plus accrued interest as specified in Section 5 (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.5. A noncompetitive bidder may not have entered into an agreement, or make an agreement with respect to the purchase or sale or other disposition of any noncompetitive awards of this issue in this auction prior to the designated closing time for receipt of tenders.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Competitive tenders at yields higher than 12.13 percent will not be accepted, because the equivalent prices would fall below the original issue discount limit of 97.750. Tender at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received should absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price is over par

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes or applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted, and must include accrued interest from November 15, 1983, to February 15, 1984, in the amount of $29.69780 per $1,000 of securities allotted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4., must be made or completed on or before Wednesday, February 15, 1984. Payment in full (including accrued interest) must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Monday, February 13, 1984. When payment has been submitted with the tender and the purchase price of allotted securites is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for alotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying nunber)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20239. The securities must be delivered at the expense and risk of the holder.

5.4. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, and to receive payment for and make delivery of securities on full-paid allotments.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Carole Jones Dineen,

Fiscal Assistant Secretary.

[FR Doc. 84-3401 Filed 2-7-84; 8:45 am]

BILLING CODE 4810-40-M

[Dept. Circ. Public Debt Series—No. 2-84]

Treasury Notes of February 15, 1987; Series M-1987

February 2, 1984.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $6,500,000,000 of United States securities, designated Treasury Notes of February 15, 1987, Series M-1987 (CUSIP No. 912827 QL 9). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The securities will be dated February 15, 1984, and will bear interest from that date, payable on a semiannual basis on August 15, 1984, and each subsequent 6 months on February 15 and August 15 until the principal becomes payable. They will mature February 15, 1987, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2. The securities are subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Securities registered as to principal and interest will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of registered and

book-entry securities, and the transfer of registered securities will be permitted. Bearer securities will not be available, and the interchange of registered or book-entry securities for bearer securities will not be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20239, prior to 1:30 p.m., Eastern Standard time, Tuesday, February 7, 1984. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, February 6, 1984, and received no later than Wednesday, February 15, 1984.

3.2. The face amount of securities bid for must be stated on each tender. The ninimum bid is $5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yeild. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.5. A noncompetitive bidder may not have entered into an agreement, or make an agreement with respect to the purchase or sale or other disposition of any noncompetitive awards of this issue in this auction prior to the designated closing time for receipt of tenders.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.250. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4., must be made or completed on or before Wednesday, February 15, 1984. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Monday, February 13, 1984. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the

registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20239. The securities must be delivered at the expense and risk of the holder.

5.4. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, and to receive payment for and make delivery of securities on full-paid allotments.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Carole Jones Dineen,

Fiscal Assistant Secretary.

[FR Doc. 84-3402 Filed 2-7-84; 8:45 am]

BILLING CODE 4810-40-M

Internal Revenue Service

Art Advisory Panel of the Commissioner of Internal Revenue

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of determination of necessity for reestablishment of the Art Advisory Panel.

SUMMARY: It is in the public interest to continue the existence of the Art Advisory Panel.

FOR FURTHER INFORMATION CONTACT: Karen Carolan, CC:C:E:V:4, 1111 Constitution Avenue NW., Room 5553, Washington, D.C. 20224, Telephone No. (202) 566-4196, (not a toll free number).

Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. (1976), the Commissioner of Internal Revenue announces the reestablishment of the following advisory committee:

Title. The Art Advisory Panel of the Commissioner of Internal Revenue.

Purpose. The Panel assists the Internal Revenue Service by reviewing and evaluating the acceptability of property appraisals submitted by taxpayers in support of the fair market value claimed on works of art involved in Federal Income, Estate or Gift taxes in accordance with sections 170, 2031, and 2512 of the Internal Revenue Code of 1954.

Providing this assistance requires Panel records and discussions to include tax return information. Therefore, the Panel meetings will be closed to the public since all portions of the meetings will concern matters that are exempted from disclosure under the provisions of section 552b(c) (3), (4), (6) and (7) of Title 5 of the U.S. Code. This determination, which is in accordance with section 10(d) of the Federal Advisory Committee Act, is necessary to protect the confidentiality of tax returns and return information as required by section 6103 of Title 26 of the U.S. Code.

Statement of Public Interest. It is in the public interest to continue the existence of the Art Advisory Panel. The Secretary of Treasury, with the concurrence of the Office of Management and Budget, and the General Services Administration, has also approved continuation of the Panel. The membership of the Panel is balanced between museum directors and art dealers to afford differing points of view in determining fair market value.

Authority for this Panel will expire two years from the date the charter is approved by the Assistant Secretary of the Treasury for Administration and filed with the appropriate congressional committees unless, prior to the expiration of its charter, the Panel is renewed.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal Register** for Wednesday, November 8, 1978. (43 FR 52122).

James I. Owens,

Acting Commissioner.

[FR Doc. 84-3456 Filed 2-7-84; 8:45 am]

BILLING CODE 4830-01-M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 27
Wednesday, February 8, 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).

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FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, February 13, 1984, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b(c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: February 6, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84-3541 Filed 2-6-84; 3:16 pm]

BILLING CODE 6714-01-M

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FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 4:55 p.m. on Friday, February 3, 1984, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to: (1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Emerald Empire Banking Company, Springfield, Oregon, which was closed by the Superintendent of Banks for the State of Oregon on Friday, February 3, 1984; (2) accept the bid for the transaction submitted by Citizens Valley Bank, Albany, Oregon, an insured State nonmember bank; (3) approve the application of Citizens Valley Bank, Albany, Oregon, for consent to purchase the assets of and to assume the liability to pay deposits made in Emerald Empire Banking Company, Springfield, Oregon, and for consent to establish the two offices of Emerald Empire Banking Company as branches of Citizens Valley Bank; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to effect the purchase and assumption transaction.

The Board of Directors also: (1) Received bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in The Tucker County Bank, Parsons, West Virginia, which was closed by the Acting Commissioner of Banking for the State of West Virginia on Friday, February 3, 1984; (2) accepted the bid for the transaction submitted by Citizens National Bank of Elkins, Elkins, West Virginia; and (3) provided such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. Doyle L. Arnold, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: February 6, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84-3542 Filed 2-6-84; 8:45 am]

BILLING CODE 6714-01-M

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FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will

meet in open session at 2:00 p.m. on Monday, February 13, 1984, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Application for consent to merge and establish 21 branches:

Citizens Bank and Trust Company of Maryland, Riverdale, Maryland, an insured State nonmember bank, for consent to merge, under its charter and title, with Peoples Security Bank of Maryland, Landover (P.O. Hyattsville), Maryland, and for consent to establish the 21 offices of People Security Bank of Maryland as branches of the resultant bank.

Applications for consent to purchase assets and assume liabilities and establish branches:

South Mississippi Bank, Prentiss, Mississippi, an insured State nonmember bank, for consent to purchase the assets of and assume the liability to pay deposits made in the Bassfield Branch, Bassfield, Mississippi, of First Mississippi National Bank, Hattiesburg, Mississippi, and for consent to establish that office as a branch of South Mississippi Bank.

First Independent Bank, Vancouver, Washington, an insured State nonmember bank, for consent to purchase the assets of and assume the liability to pay deposits made in Columbia Gorge Bank, Stevenson, Washington, and for consent to establish the three offices of Columbia Gorge Bank as branches of First Independent Bank.

Applications for consent to establish a branch:

The Women's Bank, Richmond, Virginia, for consent to establish a branch at the intersection of Midlothian Turnpike and Mall Drive, Chesterfield County, Virginia.

Juniper Banking Company, Madras, Oregon, for consent to establish a branch at 513 West Fir, Redmond, Oregon.

Application for consent to establish a remote service facility:

Northern Michigan Bank, Escanaba, Michigan, for consent to establish a remote service facility on U.S. Highway 41, between First and Second Streets, Powers, Michigan.

Application for consent to establish a limited service branch (courier service):

Lewis and Clark State Bank, Lake Oswego, Oregon, for consent to establish a limited service branch (courier service) to serve the greater Portland metropolitan area, including Multnomah, Clackmas and Washington Counties.

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Memorandum and Resolution re: The Deschutes Bank, Redmond, Oregon

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications, requests, or actions involving administrative enforcement proceedings approved by the Director or an Associate Director of the Division of Bank Supervision and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Discussion Agenda:

No matters scheduled.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: February 6, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84–3543 Filed 2–6–84; 3:16 pm]

BILLING CODE 6714–01–M

4

FEDERAL ENERGY REGULATORY COMMISSION

Notice

February 1, 1984.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. 94–409), 5 U.S.C. 552b:

TIMES AND DATES: 10:00 a.m., February 8, 1984.

PLACE: 825 North Capitol Street, NE., Room 9306, Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 357–8400.

This is a list of matters to be considered by the Commission, it does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Division of Public Information.

Consent Power Agenda

785th Meeting—February 8, 1984, Regular Meeting (10:00 a.m.)

CAP–1:
Project No. 6755–001, Brown's Industries, Inc.

CAP–2:
Project No. 3598–001, Cook Electric Company
Project No. 4881–002, Ada County, the city of Boise, and Arthur L. Bloom

CAP–3:
Project No. 4506–002, city of Westernport, Maryland

CAP–4:
Project Nos. 6442–000, 001, 002, 004, and 005, Lester Kelley, Vernon Ravenscroft
Project Nos. 6230–002 and 003, Helen Chenoweth
Project Nos. 7184–002, 003 and 004, Richard A. and Carol K. Sorensen
Project Nos. 6810–000, 001, 002, 004 and 6811–000, 001, 002 and 004, Douglas Mendenhall
Project Nos. 6591–002 and 003, Hi-Tech

CAP–5:
Project No. HB–24–63–3–005, Public Service Company of Colorado

CAP–6:
Project No. 7570–003, Calaveras Public Utility District

CAP–7:
Project No. 3415–002, Southeastern Renewable Resources, Inc., and the County of Mingo, West Virginia
Project No. 3972–000, Energenics Systems, Inc.
Project No. 4151–001, city of Bedford, et al.

CAP–8:
Project No. 5695–002, Paradise Irrigation District

CAP–9:
Project No. 7082–001, Fall Creek Associates
Project No. 7134–001, Mountain West Hydropower, Inc.
Project No. 7176–001, Hydro-Cor, Inc.
Project No. 7028–001, Grisdale Hill Company

CAP–10:
Project No. 7038–001, Great Northern Hydro Company

CAP–11:
Project No. 4314–001, Henwood Associates, Inc.

CAP–12:
Docket No. ER83–729–002, New England Power Company

CAP–13:
Docket No. ER84–108–000, Virginia Electric and Power Company

CAP–14:
Docket No. ER83–369–004, Alabama Power Company

CAP–15:
Docket No. EL84–2–000, North Carolina Utilities Commission V. Tapoco, Inc.; Nantahala Power and Light Company; and Aluminum Company of America

Consent Miscellaneous Agenda

CAM–1:
Docket No. SA82–25–001, Amoco Production Company

Consent Gas Agenda

CAG–1:
Docket No. TA84–1–59–003, Northern Natural Gas Company, Division of Internorth, Inc.
CAG–2:
Docket Nos. CP83–81–004, RP83–11–016 and RP83–30–012, Transcontinental Gas Pipe Line Corporation
CAG–3:
Docket No. RP84–1–001, and Pipeline Company (formerly Michigan Wisconsin Pipe Line Company)
CAG–4:
Docket No. RP84–15–001, MIGC, Inc.
Docket No. RP84–7–003, Colorado Interstate Gas Company
CAG–5:
Docket Nos. RP84–40–000 and RP84–41–000, Great Lakes Gas Transmission Company
CAG–6:
Docket Nos. RP80–66–000, RP81–26–000, RP82–15–000 and RP83–28–000, Grand Bay Company
CAG–7:
Docket No. RP83–90–000, GHR Energy Corporation
CAG–8:
Docket No. RP83–7–000, Columbia Gas Transmission Corporation v. Texas Eastern Transmission Corporation
Docket No. RP83–9–000, Texas Eastern Transmission Corporation
CAG–9:
Docket No. RP83–84–000, Michigan Consolidated Gas Company v. Panhandle Eastern Pipeline Company
CAG–10:
Docket Nos. TA83–1–29–000 and 001, Transcontinental Gas Pile Line Corporation
CAG–11:
Docket No. RP83–93–000 (Phase II), Trunkline Gas Company
CAG–12:
Docket No. RP83–32–000 and RP83–94–000, Eastern Shore Natural Gas Company
CAG–13: Docket Nos. RP77–140–000, RP78–52–015 and RP79–22–015, Consolidated Gas Supply Corporation
CAG–14: Docket No. RP83–104–000, Florida Gas Transmission Company
CAG–15: Docket No. RI83–8–010, Mobil Oil Corporation and Northern Natural Gas Producing Company
CAG–16:
Docket No. G–9947, et al., Tenneco Oil Company (operator), et al., (agent for Tema Oil Company), et al.
Docket No. CI81–437–000, Sonat Exploration Company
CAG–17: Docket Nos. CI77–329–001, CP77–304–001 and CP64–97–000, Texaco Inc.
CAG–18: Docket Nos. RI74–188–021 and RI75–21–016, Independent Oil & Gas Association of West Virginia
CAG–19: Docket No. ST83–694–000, Cranberry Pipeline Corporation
CAG–20: Docket No. ST83–697–000, Consumers Power Company
CAG–21: Docket Nos. ST82–307–000 and ST82–308–000, SW Pipeline Company
CAG–22: Docket No. CP77–459–004, Midwestern Gas Transmission Company
CAG–23: Docket No. CP77–494–007, Columbia Gulf Transmission Company and Texas Eastern Transmission Corporation
CAG–24: Docket No. CP82–158–006, Transcontinental Gas Pipe Line Corporation, Tennessee Gas Pipeline Company, a Division of Tenneco Inc., Columbia Gulf Transmission Company, Michigan Wisconsin Pipe Line Company, Northern Natural Gas Company, Division of Internorth, Inc., and Southern Natural Gas Company
CAG–25:
Docket Nos. RP83–11–015 and RP83–30–011, Transcontinental Gas Pipe Line Corporation
Docket No. CP83–279–009, Producer-Suppliers of Transcontinental Gas Pipe Line Corporation
Docket No. CP83–340–010, Producer-Suppliers of Transco Gas Supply Company
Docket No. CP83–428–009, Producer-Suppliers of Transco Gas Company and Transcontinental Gas Pipe Line Corporation
CAG–26: Docket No. CP81–388–018, Northwest Alaskan Pipeline Company
CAG–27:
Docket No. CP83–273–000, El Paso Natural Gas Company
Docket No. CP83–322–000, Northwest Pipeline Corporation
CAG–28: Docket No. CP83–533–000, Mountain Fuel Supply Company
CAG–29: Docket No. CP83–211–000, Columbia Gulf Transmission Company
CAG–30: Docket No. CP84–41–000, South Georgia Natural Gas Company
CAG–31: Docket No. CP81–316–005, Montana-Dakota Utilities Co.
CAG–32: Docket No. TC82–42–000, Texas Eastern Transmission Corporation
CAG–33: Docket Nos. CP81–366–000, ST82–34–001, ST83–133–000, ST83–567–000 and ST84–20–000, Llano, Inc.
CAG–34: Docket No. RP83–105–001, National Fuel Gas Supply Corporation
CAG–35: Docket No. CP83–501–001, 002, 003 and 004, Tennessee Gas Pipeline Company, a Division of Tenneco Inc.

Power Agenda

I. Licensed Project Matters

P–1:
Project Nos. 4190–000 and 4392–000, Consolidated Hydroelectric, Inc.
Project Nos. 4830–000 and 4973–000, city of Rohnert Park, California
Project Nos. 4953–001 and 5224–000, Modesto Irrigation District
Project Nos. 5232–001 and 5374–002, Tehama County Flood Control and Water Conservation District
P–2:
Project No. 5275–000, Hydro Resource Company
Project No. 5325–000, Capital Development Company
Project No. 6014–001, Pud No. 1 of Lewis County, Washington
Project No. 6600–000, Eagle Power Company
P–3: Project No. 7406–000, Cook Industries, Inc.
P–4: Project No. 7191–000, Orofino Falls Hydro Limited Partnership

II. Electric Rate Matters

ER–1: Docket No. EC83–13–001, Union Electric Company, Missouri Utilities Company, Missouri Power & Light Company and Missouri Edison Company
ER–2: Docket Nos. ER84–198–000, ER84–40–000, ER83–706–000, ER83–567–000, ER83–541–000, ER83–334–000, ER83–187–000, ER83–46–000, ER83–45–000, ER83–44–000, ER82–715–000 and ER82–448–000, Puget Sound Power and Light Company
Docket No. ER84–163–000, Portland General Electric Company
Docket No. ER–84–156–000, Montana Power Company
ER–3: Docket No. ER83–656–002, Kentucky Utilities Company
ER–4: Docket No. QF84–31–000, PRI Energy Systems, Inc.
ER–5: Docket Nos. QF83–219–000, QF83–223–000, QF83–224–000, QF83–219–001, QF83–223–001, QF83–224–001, QF83–219–002, QF83–223–002 and QF82–224–002, El Dorado County Water Agency and El Dorado Irrigation District
ER–6: Omitted

Miscellaneous Agenda

M–1: Reserved
M–2: Reserved
M–3: Docket Nos. RM83–73–001, 002, 003, 004, 005, 006, 007, and 008, Standard Form for Purchased Gas Adjustment Filings Submitted by Natural Gas Pipeline Companies: FERC Form No. 542–PGA
M–4: Omitted
M–5:
(A) Docket No. RM83–50–000, Regulations Relating to Independent Producer Filing Requirements and Notice of Receipt of Determinations of Eligibility
(B) Rate Schedule No. 43, et al., Aminoil USA, Inc., et al.

Gas Agenda

I. Pipeline Rate Matters

RP–1: Docket Nos. RP83–35–011, RP74–41–029, RP74–41–030 and RP74–41–031 (RP81–109, RP82–37, RP78–87), Texas Eastern Transmission Corporation
RP–2: Docket Nos. RP84–11–001 and 003, Columbia Gas Transmission Corporation
RP–3: Docket No. RP81–34–000, Distrigas of Massachusetts Corporation
RP–4: Docket No. OR84–2–000, Hydrocarbon Trading and Transport Company, Inc. v. Texas Eastern Transmission Corporation
RP–5: Docket Nos. RP81–49–013, 014, 015, 016 and 020, Natural Gas Pipeline Company of America

II. Producers Matters

CI–1: Reserved

III. Pipeline Certificate Matters

CP–1: Docket Nos. CP80–17–000, 001 and 002 (Phase I), TransAnadarko Pipeline System
CP–2: Omitted
CP–3:
Docket No. CP83–439–001, Southern Natural Gas Company
Docket No. CP83–479–001, Louisiana Intrastate Gas Corporation

CP-4: Docket No. CP82-355-000, Natural Gas Pipeline Company of America

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3444 Filed 2-3-84; 4:21 pm]

BILLING CODE 6717-01-M

5

FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: 2:30 p.m., Tuesday, February 14, 1984.

PLACE: Board Room, 6th Floor, 1700 G St., NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Ms. Gravelee (202-377-6970).

MATTERS TO BE CONSIDERED:

Five Year Averaging
Deposit Growth Plan
Interim Net Worth Standard for Brokered Funds
Insurance Company and Joint Accounts

John M. Buckley, Jr.,

Acting Secretary.

Dated: February 6, 1984.

[FR Doc. 84-3559 Filed 2-6-84; 8:45 am]

BILLING CODE 6720-01-M

6

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Monday, February 13, 1984.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: February 3, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-3476 Filed 2-6-84; 10:10 am]

BILLING CODE 6210-01-M

7

NATIONAL CREDIT UNION ADMINISTRATION

Change in Subject of Meeting

The National Credit Union Administration Board has determined that its business requires that the previously announced closed meeting on February 7, 1984 (49 FR 4449) include two additional items, which are closed to public observation:

1. Termination of Outstanding Cease and Desist Order Issued Against a Federal Credit Union. Closed pursuant to exemptions (8) and (10).
2. Review of Item in Fiscal Year 1984 Agency Budget. Closed pursuant to exemption (2).

The Board voted unanimously to add these items to the closed agenda.

The previously announded items were:

1. Approval of Minutes to Previous Closed Meeting.
2. Special Assistance to Prevent Liquidation Under Section 208(a)(1) of the Federal Credit Unioin Act. Closed pursuant to exemptions (8) and (9)(a)(ii).
3. Appeal of Regional Director's Disapproval of a Charter Application for a Proposed New Federal Credit Union. Closed pursuant to exemptions (6), (7)(C) and (8).
4. Appeal of Regional Director's Denial of Field of Membership Expansion Request. Closed pursuant to exemptions (8) and (9)(a)(ii).
5. Personnel Actions. Closed pursuant to exemptions (2) and (6).

The meeting will be held at 2:00 p.m. in the 7th Floor Board Room, National Credit Union Administration, 1776 G Street, NW., Washington, D.C. 20456.

FOR MORE INFORMATION CONTACT: Rosemary Brady, Secretary of the Board, telephone: (202) 357-1100.

Rosemary Brady,

Secretary of the Board.

[FR Doc. 84-3502 Filed 2-6-84; 2:42 pm]

BILLING CODE 7535-01-M

8

NUCLEAR REGULATORY COMMISSION

DATE: Week of February 6, 1984 (Revised).

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE DISCUSSED:

Monday, February 6

1:30 p.m.
Discussion of Physical Security at Domestic Research Reactors (Closed—Ex. 1) (Postponed from January 27)
3:00 p.m.
Discussion of LEU/HEU Guidance (Public Meeting) (Time Change)

Tuesday, February 7

9:30 a.m.
Briefing on Status of Byron (Closed—Ex. 10) (Date Change)
10:30 a.m.
Briefing by Executive Branch (Closed—Ex. 1) (New Item)
2:00 p.m.
Meeting with Regional Administrators (Open/Portion may be Closed)

Wednesday, February 8

10:00 a.m.
Discussion of Reviews Performed for Other Agencies (Closed—Ex. 1) (As Announced)

Thursday, February 9

2:00 p.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 and 6) (As Announced)
3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (New Item)
a. Revised General Statement of Policy and Procedure for Enforcement Actions (Postponed from February 2)

Friday, February 10

10:00 a.m.
Comments by Parties on Diablo Canyon Criticality and Low Power Operation (Public Meeting) (As Announced)

ADDITIONAL INFORMATION:

Affirmation of NRC Response to Court Decision Vacating Interim Rule on Environmental Qualification Deadline scheduled for January 26, *postponed.*

The Commission voted 4-0 (Commissioner Asselstine not present) on January 26 to hold Discussion of Memorandum on Future Steps in TMI-1 Restart, held that day.

The Commission voted 4-0 (Commissioner Asselstine not present) on January 26 to hold Possible Vote on Memorandum on Future Steps in TMI-1 Restart, held on January 27.

The Commission voted 5-0 on January 31 to hold Discussion of Management-Organization and Internal Personnel Matters, held that day.

TO VERIFY THE STATUS OF MEETINGS CALL: (Recording)—(202) 634-1498.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634-1410.

Walter Magee,

Office of the Secretary.

February 2, 1984.

[FR Doc. 84-3553 Filed 2-6-84; 3:23 pm]

BILLING CODE 7590-01-M

9

PAROLE COMMISSION

Pursuant to the Government in the Sunshine Act, Public L. 94-409 (5 U.S.C. 552b)

AGENCY HOLDING MEETING: U.S. Parole Commission, National Commissioners (the Commissioners presently maintaining offices at Chevy Chase, Maryland Headquarters.)

TIME AND DATE: 2:00 p.m., Thursday, February 9, 1984.

PLACE: Room 420-F, One North Park Building, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Referrals from Regional Commissioners of

approximately 5 cases in which inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Chief Case Analyst, National Appeals Board, United States Parole Commission, (301) 492–5987.

Dated: February 3, 1984.

Joseph A. Barry,

General Counsel, United States Parole Commission.

[FR Doc. 84–3499 Filed 2–6–84; 1:39 pm]

BILLING CODE 4410–10–M

10

SYNTHETIC FUELS CORPORATION

Meeting of the Board of Directors

ENTITY: United States Synthetic Fuels Corporation.

ACTION: Notice of Meeting.

SUMMARY: Interested members of the public are invited to attend and observe a meeting of the Board of Directors of the United States Synthetic Fuels Corporation to be held at the time date and place specified below. This public announcement is made pursuant to the open meeting requirements of Section 116(f)(1) of the Energy Security Act (9 Stat. 611, 637; 42 U.S.C. 8701, 8712(f)(1) and Section 4 of the Corporation's Policy on Public Access to Board meetings. During the meeting, the Board of Directors will consider a resolution to close a portion of the meeting pursuant to Article II, Section 4 of the Corporation's By-laws, Section 116(f) of the said Act and Sections 4 and 5 of the said policy.

MATTERS TO BE CONSIDERED:

Open Session

1. Call to Order (9:30 a.m.)
   A. Chairman's Remarks
2. Approval of Minutes
3. Consideration of Final Approval of the Retrofit Solicitation
4. Consideration of Final Approval of the Fourth General Solicitation
5. Report of the Audit Committee
   A. Management Audit
   B. Other
6. Report of the Compensation Committee
   A. Officer Elections/Positions
   B. Employee Incentives
7. Report of the Comprehensive Strategy Committee
   A. Options
   B. Timing
8. Consideration of Policy on Standards of Conduct
   A. Cohen Subcommittee Recommendations
   B. Political Activities
9. Consideration of Basic Business Plan
10. Other Matters
    A. Committee Memberships
    B. Interests of Directors
11. Resolution to Close Meeting

Closed Session

12. Consideration of the First Colony Project
13. Consideration of the Enpex Project
14. Consideration of Conditions, Term Sheets and Negotiation Status of Other Pending Projects
15. Consideration of Requests for Minutes

In addition, the Board of Directors will consider such other matters as may be properly brought before the meeting.

TIME AND DATE: 9:30 a.m., February 16, 1984.

PLACE: U.S. Synthetic Fuels Corporation, 2121 K Street, NW., Room 503, Washington, D.C. 20586.

PERSON TO CONTACT FOR MORE INFORMATION: If you have any questions regarding this meeting, please contact Mr. Owen J. Malone, Assistant Secretary, at (202) 822–6336.

United States Synthetic Fuels Corporation.

Leonard C. Axelrod,

Acting Group Vice President-Corporate.

February 6, 1984.

[FR Doc. 84–3557 Filed 2–8–84; 8:45 am]

BILLING CODE 0000–00–M

federal register

Wednesday
February 8, 1984

Part II

Department of Energy

Office of Conservation and Renewable Energy

10 CFR Part 430

Energy Conservation Program for Consumer Products; Test Procedures for Water Heaters; Public Hearing; Proposed Rule

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

10 CFR Part 430

[Docket No. CAS-RM-79-105]

Energy Conservation Program for Consumer Products; Test Procedures for Water Heaters; Public Hearing

AGENCY: Office of Conservation and Renewable Energy.

ACTION: Proposed rule.

SUMMARY: The Department of Energy (DOE) hereby proposes to amend its test procedure for water heaters. Test procedures are one part of the energy conservation program for consumer products established pursuant to the Energy Policy and Conservation Act as amended by the National Energy Conservation Policy Act. The purpose of today's proposed amendments to the Water heater test procedure is threefold. First, to extend coverage of the test procedure to heat pump water heaters, a relatively new water heater design that is not covered by the existing test procedures. Second, to prescribe changes to the existing test procedure to allow for more accurate determinations of energy efficiency and cost of operation. Third, to prescribe a new method of testing to determine the first hour rating of water heaters equipped with thermal compensating dip tubes.

DATES: Written comments in response to this notice by April 9, 1984; requests to speak at the public hearing by March 9, 1984; speakers to be notified by March 12, 1984; statements by March 13, 1984; public hearing to be held on March 15, 1984, at 9:00 a.m.

ADDRESSES: Written comments, requests to speak at the public hearing, and copies of statement to: U.S. Department of Energy, Office of Conservation and Renewable Energy, Office of Hearings and Dockets, Water Heater Test Procedure, Docket No. CAS-RM-79-105, Room 6B-025, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-9319.

Public hearing to be held at Room 1E-245, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585.

Copies of the transcript of the public hearing, and the public comments received may be read in the DOE Freedom of Information Reading Room; Room 1E-190, 1000 Independence Avenue SW., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT:

Michael J. McCabe, U.S. Department of Energy, Office of Conservation and Renewable Energy, Forrestal Building, Mail Station CE-112.1, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-9127

U.S. Department of Energy, Office of Conservation and Renewable Energy, Office of Hearings and Dockets, Forrestal Building, Room 6B-025, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-9319

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel Forrestal Building, Mail Station GC-33, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-9513.

SUPPLEMENTARY INFORMATION:

I. Background

On October 1, 1977, the Department of Energy (DOE) assumed the authority of the Federal Energy Administration (FEA) for the energy conservation program for consumer products, under Section 301 of the Department of Energy Organization Act (DOE Act) (Pub. L. 95-91). The energy conservation program for consumer products was established by FEA pursuant to Title III, Part B of the Energy Policy and Conservation Act (EPCA) (Pub. L. 94-163). Subsequently, EPCA was amended by the National Energy Conservation Policy Act (NECPA) (Pub. L. 95-619). References in this notice to the Act, or to sections of the Act, refer to EPCA as amended by NECPA. Among other program elements, Section 323 of the Act requires that standard methods of testing be prescribed for covered products, including water heaters. Test procedures appear at 10 CFR Part 430, Subpart B.

The water heater test procedure was prescribed by FEA by notice issued September 27, 1977 (42 FR 54110, October 4, 1977). DOE amended the water heater test procedure by notice issued October 13, 1978 (43 FR 48986, October 19, 1978), in order to correct an error in the derivation of energy factor, DOE's overall measure of efficiency of a water heater. DOE again amended the water heater test procedure by notice issued August 30, 1979 (44 FR 52632, September 7, 1979), in order to prescribe a new measure of capacity for water heaters called first hour rating.

The purpose of today's proposed amendments to the water heater test procedure is threefold. First, to extend coverage of the test procedure to heat pump water heaters, a relatively new water heater design that is not covered by the existing test procedure. Second, to prescribe changes to the existing test procedure to allow for more accurate determinations of energy efficiency and cost of operation. Third, to prescribe a new method of testing to determine the first hour rating of water heaters equipped with thermal compensating dip tubes. This third purpose is intended to satisfy the requirements of § 430.27(h) of this subpart since, by notice issued November 9, 1982 (47 FR 53942, November 30, 1982), DOE granted a waiver from the first hour rating test of section 4.8 of the existing water heater test procedure to A. O. Smith Corporation for its gas storage water heaters equipped with theirmal compensating dip tubes. Today's proposed rule would extend the alternate test procedure for determining the first hour rating of water heaters with thermal compensating dip tubes prescribed in the A. O. Smith Corporation waiver to all manufacturers using thermal compensating dip tubes.

II. Discussion

a. Heat Pump Water Heater Test Procedure

The heat pump water heater is a relatively new design of water heater which is appearing in increasing numbers in the marketplace. As its name implies, a heat pump water heater utilizes a heat pump, a mechanical refrigeration unit consisting of a compressor, a condenser, an expansion device and an evaporator, to heat water. The heat pump extracts heat energy from its surroundings, boosts it with electromechanical energy, and delivers the total heat energy to water which is stored in a storage tank connected to the domestic hot water supply system of a household.

Heat pump water heaters have the potential to heat water much more efficiently than other types of water heaters since they utilize the heat energy available from their surroundings to do part of the work of heating water. This is the key distinction between heat pump water heaters and other types of water heaters. With these other types of water heaters, all heat energy imparted to the water comes directly from the conversion of the source energy (gas, oil, or electricity) to heat energy.

While heat pump water heaters may operate very efficiently from the standpoint of the amount of water heated versus the amount of energy directly consumed by the heat pump, to evaluate the true cost of operation one must consider where the heat energy comes from. A heat pump water heater which is located in the conditioned space of the home will extract heat

energy from the conditioned space. The heat energy extracted must be replaced by the home heating system during the winter heating season. On the other hand, during summer months, a heat pump water heater will reduce the load on the home air conditioning system. This interaction of the heat pump water heater with the home heating and cooling system must be accounted for to determine the true cost of operating a heat pump water heater. Of course, heat pump water heaters need not be installed in the conditioned space of a home, it is likely that many units will be located in basements, utility closets, or garages which may be indirectly affected by the home space conditioning system or not affected at all. In these cases, the available heat energy in the vicinity of the heat pump water heater is likely to be a function of the climatic conditions of the geographical location.

This brings up another important operational characteristic of heat pump water heaters. The amount of heat energy that a heat pump water heater can extract from its surroundings and deliver to the water per unit of energy consumed directly by the heat pump itself is strongly affected by the temperature of the surroundings and the temperature difference between the water being heated and the surroundings. Generally speaking, the lower the temperature of the surroundings, the less heat energy that a heat pump water heater extracts from it per unit of energy consumed directly. Also, in general, the greater the difference in temperature between the water being heated and the surroundings, the less heat energy that a heat pump water heater extracts from its surroundings per unit of energy consumed directly.

Because of the sensitivity of the energy consumption and hence, efficiency, of a heat pump water heater to the temperature of its surroundings and to the temperature difference between the water being heated and the surroundings, DOE exercised careful judgement in developing the temperature specifications for the test conditions for heat pump water heaters. This issue is addressed in greater depth later in this notice.

Heat pump water heaters can be classified into two categories: those with storage tanks and those without storage tanks. Heat pump water heaters with storage tanks are intended for use as sold to meet the hot water demands of a household. Heat pump water heaters without storage tanks, on the other hand, are not. Heat pump water heaters without storage tanks are intended to be used in conjunction with a separate storage tank which must be supplied by the homeowner. In actual usage, there will be no functional difference between these two categories of heat pump water heaters. Both will consist of a heat pump unit and a storage tank, be it supplied with the heat pump unit or not.

Within each of these two categories of heat pump water heaters there can be differences in design. For example, many heat pump water heaters without storage tanks are designed as self-contained units which are connected to a source of electricity using an electrical power cord and which are connected to a storage tank by hoses or pipes. To heat the water in the storage tank, these types of units utilize a self-contained water pump to pump water from the storage tank to the heat pump water heater by means of one of the hoses or pipes. The water is pumped through the refrigerant-to-water heat exchanger (condenser) of the operating heat pump where it is heated by the hot, high-pressure liquid refrigerant entering the heat exchanger. The heated water is then returned to the storage tank by means of a second hose or pipe.

Another type of heat pump water heater without storage tank has a remote condenser which is installed inside of the storage tank itself. This type of unit has no need of a water pump or water pipes or hoses since the hot high-pressure liquid refrigerant is routed through the condenser inside of the storage tank to heat the water contained within it directly.

Heat pump water heaters with storage tanks are typically integral units—the heat pump is securely attached to the storage tank, usually on top. These units will also typically have the heat pump condenser located inside of the storage tank to heat the water contained within it directly.

In today's proposed rule, DOE recognizes another type of heat pump water heater with storage tank, i.e. any prepackaged assembly of a heat pump unit (which, by itself, might fall into the category of a heat pump water heater without storage tank) and a storage tank offered for sale by a manufacturer as a single product.

The purpose behind the definitions of "heat pump water heater with storage tank" and "heat pump water heater without storage tank" that are included in today's proposed test procedure is to insure that any heat pump water heater that is supplied with a storage tank by the manufacturer, whether as an integral unit or an assembly, shall be tested with that particular storage tank and that any heat pump water heater without storage tank shall be tested with a standard test storage tank. (The development of the specification for the "standard test storage tank" is discussed later in this notice.)

In consideration of this unique design of water heater, DOE is faced with difficult issues in developing a test procedure. The issues and DOE's decisions on these issues which led to today's proposed rule are discussed below.

1. *Test set-up specifications for heat pump water heaters without storage tanks.* Since a heat pump water heater without a storage tank is intended to be used in conjunction with a storage tank in the home, it was necessary for DOE to develop specifications for the storage tank or storage tanks to be used for testing purposes in order to simulate characteristic home use.

DOE expects that almost all homeowners who purchase heat pump water heaters will use their existing storage water water heater or a newly purchased storage water heater as the storage tank for the heat pump water heater, disabling it so that all water heating is performed by the heat pump. Also, while a heat pump water heater without a storage tank can be connected to almost any gas, oil, or electric storage water heater, DOE expects the vast majority to be connected to electric storage water heaters. The primary reason for this is one of economics. In most areas of the country, electricity is a much more costly form of energy than is natural gas, propane, or oil.[1] Even after accounting for the efficiency advantage that electric storage water heaters have over gas and oil storage water heaters, the cost of operating an electric storage water heater is often twice the cost of operating a gas or oil storage water heater, or more. At the representative average unit costs of energy forecasted by DOE for 1983, DOE estimates that the average cost of operation of an electric storage water heater will be in the range of $400 to $500 per year, the average cost of operation of a gas storage water heater will be in the range of $190 to $230 per year for natural gas and $260 to $350 per year for propane, and the

[1] Referring to the representative average unit costs of four residential energy sources forcasted for 1983 by DOE and published in the January 25, 1983, **Federal Register** (48 FR 3409), one finds that the estimated cost of electricity (7.63 cents per kilowatt-hour or, equivalently, $22.36 per million Btu) is 3.6 times that of natural gas (62.7 cents per therm or, equivalently, $6.27 per million Btu), 2.6 times that of propane (78.7 cents per gallon or, equivalently, $8.65 per million Btu), and 2.5 times that of No. 2 heating oil $1.22 per gallon or, equivalently, $8.80 per million Btu) when compared on a common basis of dollars spent per unit of energy purchased.

average cost of operation of an oil storage water heater will be approximately $300 per year. DOE estimates that, in typical usage, the cost of operation of a heat pump water water will be about one half the cost of operation of an electric storage water heater, or $200 to $250 per year at DOE's current average cost of electricity.[2] Comparing these estimated annual operating costs for different types of water heaters, one finds that homeowners with electric storage water heaters stand to gain the most by switching to a heat pump water heater (estimated annual operating cost savings of $150 to $300 per year). Homeowners with natural gas storage water heaters stand to gain very little, if anything, and homeowners with propane storage water heaters and oil storage water heaters stand to gain, at most, one half the estimated annual operating cost savings of homeowners with electric storage water heaters. In consideration of the purchase cost of heat pump water heaters, approximately $500 to $800 for a heat pump water heater without storange tank and $800 to $1,000 for a heat pump water heater with storage tank, DOE's cost estimates lead DOE to believe that few homeowners with natural gas, propane, or oil water heaters will switch to heat pump water heaters because they will find the economic payback period of the changeover unacceptable.[3]

Another consideration which lends support to DOE's belief that the vast majority of heat pump water heaters without storage tanks will be connected to electric storage water heaters has to do with the typical storage capacities of electric, gas and oil storage water heaters. Most commonly, gas storage water heaters found in homes have a rated storage capacity of 30 or 40 gallons, oil storage water heaters have a rated storage capacity of about 30 gallons, and electric storage water heaters have a rated storage capacity of 40 gallons, 50 gallons, or 52 gallons. Electric storage water heaters are slightly larger because, in general, they heat water more slowly than gas or oil storage a water heaters. A typical electric storage water heater heats water at about one half the heating rate of a typical gas storage water heater and at about one fourth that of an oil storage water heater. Therefore, it is more dependent upon its stored hot water supply to meet hot water demands. A typical heat pump water heater heats water at about one half the rate of a typical electric storage water heater. Therefore, a heat pump water heater is even more dependent upon its stored hot water supply to meet hot water demands than is an electric storage water heater. It follows, then, that a heat pump water heater without storage tank connected to a disabled gas or oil storage water heater with a rated storage capacity of 30 or 40 gallons will have a much reduced capacity to satisfy hot water demands and will take much longer to replenish the supply of hot water than the gas or oil storage water heater would if it were left to operate normally. DOE believes that those homeowners with gas or oil storage water heaters who purchase heat pump water heaters without storage tanks will not use their existing gas or oil storage water heater as a storage tank for the heat pump water heater, at least not for long, but will purchase an electric storage water heater of larger storage capacity than their existing gas or oil storage water heater to maintain the equivalent hot water delivery performance of the gas or oil storage water heater and take advantage of the additional energy savings due to the lower standby loss of an electric storage water heater compared to gas and oil storage water heaters.

In the belief that the vast majority of heat pump water heaters without storage tanks will be connected to electric storage water heaters, as discussed above, DOE is proposing in today's rule that heat pump water heaters without storage tanks be tested while connected to a standard "test" electric storage water heater only and that the results of such testing be used to predict measures of energy consumption in cases where the heat pump water heater without storage tank is connected to any other design of electric storage water heater.

DOE has not provided for testing heat pump water heaters without storage tanks while connected to a gas or an oil storage water heater for the reason that the small number of consumers who would make use of the results of such testing do not justify the test burden that would be imposed on the heat pump water heater industry if such testing were required.

Having made the determinations discussed above, the next step was to develop the specifications for the electric storage water heater to be used for testing heat pump water heaters without storage tanks. Only storage capacity and standby loss need be specified since the electric storage water heater will only be used as a storage tank for test purposes. Recovery efficiency of the original electric storage water heater is not a consideration when testing the add-on system. With regard to storage capacity, DOE consulted industry water heater sales statistics and determined that electric storage water heaters with rated storage capacities of 50 or 52 gallons dominate in shipments over other standard electric storage water heater capacity sizes. DOE then reviewed the July 1982 issue of the Gas Appliance Manufacturers Association's (GAMA) "Directory of Certified Water Heater Efficiency Ratings" to determine the number of models of electric storage water heaters with capacities of 50 or 52 gallons at each standby loss level. It was found that the standby loss ratings ranged from 0.6 to 2.1 percent per hour and that about one half of the models listed had standby loss ratings between 0.7 and 0.9 percent per hour while most of the other models listed had standby loss ratings between 1.3 and 2.1 percent per hour. To determine the standby loss specification for the electric storage water heater to be used for test purposes, DOE considered that the type of homeowner who is likely to make the rather large investment in purchasing a heat pump water heater to reduce the cost of heating water is also likely to have, or to purchase, an electric storage water heater with a low standby loss, one which was manufactured with more or better performing insulation, or one to which the homeowner has added a retrofit insulation blanket to reduce standby loss. this consideration led DOE to select a standby loss specification equivalent to 0.9 ± 0.05 percent per hour. (The actual specification in the dimensional units used in the test procedure is 0.009 ± 0.0005 per hour.) This standby loss specification is met by a large number of models of electric storage water heaters listed in the GAMA Directory and is representative

[2] This estimate is based on the heat pump water heater operational conditions specified in today's proposed test procedure.

[3] The following are the simple payback periods associated with switching to a heat pump water heater: (1) Without storage tank and (2) with storage tank from various types of storage water heaters. These values were determined using the estimated annual operating cost figures already presented for each type of water heater: for electric storage water heaters, (1) 1.7–5.3 years, and (2) 2.7–6.7 years. For natural gas storage water heaters the minimum payback period is 16.7 years. This exceeds the estimated life of the equipment. For propane storage water heaters, (1) 3.3–80 years and (2) 5.3–100. Again, in most cases the estimated payback period exceeds the estimated life of the equipment. For oil storage water heaters, (1) 5–16, and (2) 8–20. These payback periods are sufficiently long to convince DOE that few homeowners with oil storage water heaters will switch to heat pump water heaters. The price of energy sources varies widely between different geographical areas of the country so there may be local situations with more attractive and less attractive payback periods.

of high efficiency (well insulated) electric storage water heaters.

Having specified the standby loss rating of the electric storage water heater to be used for test purposes, DOE then reviewed the GAMA Directory to determine the number of models of 50 and 52 gallon rated storage capacity electric storage water heaters with a rated standby loss of 0.9±0.05 percent per hour and found that there are more models of 52 gallon water heaters at this rated standby loss available than there are 50 gallon water heaters available. DOE has, therefore, selected 52 gallons as the rated storage capacity specification for the electric storage water heater to be used for test purposes.

2. *Method of testing heat pump water heaters.* The existing test procedure for water heaters was developed for the purposes of testing gas, oil and electric storage water heaters. It evaluates these types of water heaters to determine their two major performance factors: recovery efficency and standby loss. For the recovery efficiency test, each unit must heat a full tank of water through a 90°F temperature rise. For the standby loss test, each unit is operated for a 48 hour period to maintain the water at a temperature of 90°F above the test room ambient temperature. Once values are determined for recovery efficiency and standby loss, values for daily energy consumption, annual operating cost, and energy factor can be calculated. While this approach suffices for these types of water heaters, DOE believes it is inappropriate for heat pump water heaters, particularly the recovery efficiency test.

In performing the recovery efficiency test of the existing test procedure for water heaters on gas, oil, or electric storage water heaters, the stored water is heated through a 90°F temperature rise. This temperature rise was determined as the temperature difference between the national average inlet water temperature of 55°F and the national average gas, oil, and electric storage water heater thermostat setting of 145°F, as specified by DOE for the purposes of the test procedure. Hence, the recovery efficiency test of the existing test procedure simulates heating a full tank of water from the inlet water temperature to the thermostatically-controlled temperature. This does not represent characteristic conditions of recovery operation of these types of water heaters; however, it is not necessary to simulate characteristic conditions of operation to determine the recovery efficiency of gas, oil, and electric storage water heaters, as is explained below.

Under characteristic conditions of operation, hot water will be withdrawn from the water heater at its thermostatically-controlled temperature. Cold water will enter the water heater as the hot water is withdrawn and will begin mixing with the hot water in the tank. The "starting" water temperature for the water heater to recover from the hot water draw will be a function of how much hot water was withdrawn from the tank, or equivalently, how much cold water entered the tank. The less hot water withdrawn, the higher the starting water temperature, and the lower the temperature rise for recovery since there will be less cold water entering the tank to mix with the hot water. Conversely, the more hot water withdrawn, the lower the starting water temperature, and the greater the temperature rise for recovery. However, even under the extreme condition of a hot water demand that exceeds the capability of the water heater to supply enough hot water to meet the demand, mixing between the hot and cold water will occur during the draw and the homeowner will most likely consider that the hot water supply has been exhausted and terminate the draw before the temperature of the water in the tank has dropped to the inlet water temperature. Therefore, even under this extreme condition, the starting water temperature for recovery would be higher than the water inlet. Thus, the temperature rise for recovery would still be less than 90°F.

It is not necessary to simulate characteristic conditions of operation to determine the recovery efficiency of gas, oil, and electric storage water heaters because the recovery efficiency of these types of water heaters is relatively constant over a wide range of initial and final stored water temperatures for the recovery efficiency test. For these types of water heaters, it is found that the amount of energy consumed in heating the stored water in the tank from one temperature to a higher temperature is a function of the difference between the two temperatures, not the two temperature values themselves, i.e. the amount of energy consumed in heating water from 55°F to 65°F will nearly be the same as that consumed in heating water from 135°F to 145°F since the difference in temperature is the same, 10°F, in each case. Recognizing this characteristic of gas, oil, and electric storage water heaters, DOE chose to prescribe a recovery efficiency test requiring the stored water to be heated through a temperature rise of 90°F for the purpose of improving the accuracy of the test results because a large temperature rise test is inherently more accurate.

The behavior of heat pump water heaters, though, is not similar to storage water heaters with regard to their energy consumption characteristics. The amount of heat energy that a heat pump water heater can extract from the air and deliver to the water per unit of electrical energy consumed directly by the heat pump (i.e. the recovry efficiency) decreases as the relative difference in temperature between the water and the air increases.[4]

Therefore, it a heat pump water heater were to be put through the recovery efficiency test of the existing water heater test procedure, the amount of energy consumed in heating the stored water in the tank through the first 10°F or 20°F of the 90°F temperature rise (when the difference in temperature between the water and the air would be small) would be much less than that would be consumed in heating in the stored water in the tank through the final 10°F or 20°F of the 90°F temperature rise (when the difference in temperature between the water and the air would be much larger).

DOE believes that because the energy consumption of heat pump water heaters is affected by the changing temperatures of its heat energy "source" and "destination," a meaningful determination of its efficiency and estimated annual operating cost can be best made by testing units under "simulated use" conditions of operation. The major advantage of this approach is that no laboratory test considerations need be given to how the performance of the heat pump water heater varies as a function of the temperature difference between the heat energy "source" and "destination" since the total energy consumption measured under a

[4] This behavior of heat pump water heaters is characteristics of any mechanical refrigeration system. It is a principle of thermodynamics that the amount of heat energy "moved" by a refrigeration system per unit of energy consumed by the refrigeration system is dependent on the temperature of the heat energy "source" and the temperature of the heat energy "destination." As the refigeration system acts to elevate the temperature of the heat energy "destination" relative to the temperature of the heat energy "source," it creates an even higher thermodynamic "hill" over which it works to move the heat energy. This "hill" is the temperature difference between the heat energy "destination" and the "source" at any particular instant of operation. As this temperature difference (the "hill") becomes larger, the amount of work that the refrigeration system must do to move a given amount of heat energy across it (up the "hill") becomes larger. This shows up as less heat energy moved per unit energy consumed (lower recovery efficiency).

simulated use test should fairly reflect the energy consumption that homeowners will experience in actual usage. DOE believes that this advantage of a simulated use test approach outweighs the disadvantages of its somewhat greater complexity and diminished repeatability when compared to the approach of the existing test procedure. DOE is specifically interested in receiving comments and/or data on the relative magnitude of testing burden and diminished repeatability when comparing one method to the other.

3. *Simulated use test requirements (water draw).* Today's proposed rule specifies a simulated use test for heat pump water heaters which is 24 hours in duration and involves making three draws of hot water of specified volume at specified times. Since testing at the National Bureau of Standards (NBS) of several representative designs of heat pump water heaters [5] revealed that the energy consumption of such units is relatively insensitive to the hot water draw schedule employed in a simulated use test, so long as the same total volume of hot water was withdrawn over the same period of time, today's proposal calls for a hot water draw schedule that minimizes test burden while still insuring test accuracy and repeatability.

The test is to begin with the heat pump water heater in operation with a full tank of hot water. The first draw of hot water is to commence immediately after a thermostat cut-out at a rate of 3.0 ± 0.25 gallons per minute (the same rate is used for all water draws) and is to be terminated when 21.4 gallons ± 0.5 gallons of water have been withdrawn from the unit. This volume of hot water is approximately one third of the total daily hot water usage specified by DOE in the existing test procedure for water heaters (64.3 gallons per day). The same specifications for the first draw of water apply to the second draw which is to commence as soon as the heat pump has totally replenished the supply of hot water. The third and final water draw shall commence as soon as the heat pump has totally replenished the supply of hot water after the second water draw. For the third water draw, the volume of water withdrawn shall be that amount which brings the total amount of hot water withdrawn from the heat pump water heater over all three water draws to 64.3 gallons with a total permissible tolerance of ± 0.5 gallon. No further water draws are made over the remainder of the 24 hour period of the simulated use test. Employing this water draw schedules, DOE expects that the simulated use test for heat pump water heaters can be started and all of the water draws completed within a standard eight hour workday and the unit can be left to operate unattended for the remaining portion of the test so long as the specified test conditions are met at all times.

4. *National average operating conditions for heat pump water heaters.* The existing test procedures for water heaters require that the water supply to the water heater be maintained at a temperature between 68°F and 72°F, that the ambient air temperature be maintained at a temperature between 65°F and 85°F (and not vary more than ±7°F throughout the test), and that the thermostat on the water heater be set to achieve a maximum mean tank temperature within the range of 160°F±5°F. These test conditions were established to simulate the national average field conditions of operation for water heaters, estimated by DOE at that time to be: a stored water temperature of 145°F, an inlet water temperature of 55°F, and a room ambient air temperature of 55°F. It was for the convenience of testing that these temperatures were uniformly elevated 15°F to arrive at the test temperatures. Elevating these temperatures virtually assured that the inlet water temperature could be attanied at all times in all test laboratories without need of water chilling refrigeration equipment.

At the time that the existing test procedure for water heaters was being developed, there was no available field data on the thermostat setting of water heaters used by households or the ambient air temperature in the vicinity of water heaters located in the dwellings of households sufficient to arrive at a confident estimate of national average field conditions of use.

Lacking such field data, DOE arrived at its estimates of national average field conditions of use by other means. The national average inlet water temperature specification of 55°F was derived from U.S. Geological Survey data that indicates that 55°F is the national average ground water temperature of the continental United States.

The national average water heater thermostat setting of 145°F was arrived at by computing the average thermostat setting specification of gas and electric storage water heaters as set by the manufacturer at the factory prior to shipping. While there was no specific data available on the thermostat setting of water heaters as shipped from the factory, information from water heater industry officials indicated that gas storage water heater thermostats were set to achieve a stored water temperature of approximately 140°F when shipped from the factory and electric storage water heater thermostats were set to achieve a stored water temperature of approximately 150°F when shipped from the factory. Oil storage water heater factory-set thermostat settings were not investigated since oil storage water heaters account for less than one percent of total water heater shipments. Gas and electric storage water heater shipments were roughly equal at the time so the average of the two factory-set thermostat settings, 145°F, was taken as the national average thermostat setting.

In lieu of performing an arduous field survey, the national average room ambient air temperature specification of 55°F was derived by calculation using field data on actual gas and electric storage water heater energy consumption in the residential sector obtained from a survey of 50 gas and 50 electric utility companies conducted by NBS [6] in July 1974. Thirty-eight companies responded to this survey Eighteen of them supplied metered data. The data obtained was normalized to a 90°F water temperature rise and a family size of four persons. Two of the companies responding supplied data on both water usage and energy usage. NBS used the data supplied by these two companies to compute an average energy factor for gas and electric storage water heaters. These energy factors were then applied to the energy use data supplied by the other companies to derive average hot water usage of households and associated average room ambient air temperature. Following this approach, NBS determined the average hot water usage of households to be 450 gallons per week, or 64.3 gallons per day and the average room ambient air temperature to be 55°F for the purposes of DOE's test procedures for water heaters. DOE acknowledged at the time that this average ambient room temperature specification may or may not simulate actual ambient temperature conditions where water heaters are installed; however, the use of this specification coupled with the daily hot water usage specification of 64.3 gallons per day

[5] NBS Letter Report: "Energy Use of a Heat Pump Water Heater by Various Draw Schedules," October 1982.

[6] The results of this survey are presented in an internal NBS memorandum entitled, "Results of Survey Utility Companies for Energy Consumption of Water Heaters," dated April 2, 1975.

resulted in calculated values of energy consumption that agree with actual energy consumption obtained from field data.

At the time of the initial development of the existing test procedures for water heaters, the method of arriving at the national average conditions of usage was considered satisfactory since all water heaters subject to the test procedure would be tested under these conditions and their relative rankings in terms of the measures of energy consumption derived from the test would be fairly reflected. A key consideration at the time was that while small changes in the temperature specifications on the order of 10°F either way would affect the values of the measures of engery consumption derived for gas, oil, and electric storage water heaters, such changes would have little effect on the relative rankings of such water heaters based on these measures. The same holds true for the hot water usage specification: a small change, on the order of a few gallons either way, would not affect these rankings significantly. For this reason, DOE did not attempt to gather further field data on the national average conditions of operation of water heaters.

In developing today's proposal, DOE reevaluated the national average field conditions of operation for gas, oil, and electric storage water heaters that are a part of the existing test procedures for water heaters to determine their applicability to heat pump water heaters. DOE was particularly concerned with the uncertainty associated with its temperature specifications for a water heater's surroundings and its thermostat setting since the energy consumption (and efficiency) of a heat pump water heater is strongly influenced by the selection of these temperature specifications. Unlike gas, oil, and electric storage water heaters whose relative efficiency rankings would change little if small changes were to be made to these temperature specifications, the rankings of heat pump water heaters relative to gas, oil, and electric storage water heaters can be significantly altered as a result of small changes to these temperature specifications. (The reasons for this have to do with the characteristic operation of mechanical refrigeration systems, including heat pumps, which was discussed previously.

This reevaluation of national average field conditions of use had the following results: The specifications for inlet water temperature (55°F), Thermostat setting 145°), and daily hot water usage (64.3 gallons per day) that were developed for the existing test procedures for water heaters are used in today's proposed test procedures for heat pump water heaters and a new value has been specified for the ambient temperature of the surroundings of heat pump water heaters. This new value is 65°F. The existing test procedure for water heaters uses the value 55°F for this specification. The rationale for the national average field conditions of use specifications included in today's proposal are discussed below.

Regarding the specification for inlet water temperature of 55°F, DOE believes that the derivation of this specification from U.S. Geological Survey data on average ground water temperature was, and still is, the most appropriate approach to derive this specification. Therefore, it remains unchanged in today's proposal.

The thermostat setting specification of 145°F found in today's proposal is that which was derived for gas, oil, and electric storage water heaters. DOE has only limited consumer usage data for heat pump water heaters. The data is from heat pump water heater field test programs which were so closely controlled by the test sponsors who supplied the heat pump water heaters, installed them, and set their thermostats, that it is questionable whether they totally reflect true consumer usage. DOE believes that it would be inappropriate to base projections of national average conditions of use for heat pump water heaters on the limited field data currently available. Lacking such field data, DOE then considered whether there is any inherent reason why consumers would set the thermostats on heat pump water heaters to a setting different from that of a gas, oil, or more likely, an electric storage water heater used in its place. DOE could not conceive of any such reason. Therefore, lacking sufficient field data and lacking any intuitive rationale to justify a thermostat setting for heat pump water heaters different from that of gas, oil, and electric storage water heaters, DOE is proposing that heat pump water heaters be tested at the 145°F thermostat setting determined for gas, oil and electric storage water heaters.

Since DOE determined that there is no basis to believe that consumers would set the thermostats on heat pump water heaters to different setting than that at which they would set the thermostat of a gas, oil, and electric storage water heater, DOE also determined that there is no basis to believe that consumers with heat pump water heaters would use any more or less hot water than consumers with gas, oil, and electric storage water heaters.

If DOE had some basis for proposing a different thermostat setting for heat pump water heaters, then DOE would have considered making a change in the daily hot water usage for heat pump water heaters from that specified for gas, oil, and electric storage water heaters in the existing test procedures for water heaters. The basis for counsidering making such a change if this were the case is the matter that a significant amount of the hot water used by a household is for personal use, i.e., bathing and showering. For these applications people use their bathroom faucets to mix hot water with cold water in proportions which result in a comfortable water temperature. It follows that the amount of hot water used by a household for bathing and showering will be different for different hot water storage temperatures since the members of the household are expected to adjust the bathroom faucets to achieve the same comfortable water temperature. The amount of hot water used for bathing and showering will decrease with increasing hot water temperature and increase with decreasing hot water temperature. Since DOE has not changed the thermostat setting specification for heat pump water heaters, this need not be considered. It is mentioned here, however, to make it clear that there is a definite relationship between the temperature of the hot water supplied by a water heater and the volume of hot water used by the households served by that water heater. If DOE were to consider establishing a different thermostat setting specification for the heat pump water heaters, then the issue of its effect on the daily hot water usage rate of households served by heat pump water heaters would have to be addressed.

DOE has given much consideration to its national average room ambient air temperature specification found in the existing test procedure for water heaters. The method of derivation of the value used in the existing test procedure, 55°F, is open to criticism, and there is no comprehensive data on which to base an estimate. Even if such information was available, one would likely find a quite significant spread in the data collected since there is no single predominant operational environment for residential water heaters. Many water heaters are located in basements of homes, some of these basements may be directly heated and/or cooled by the home space conditioning equipment, some may be

indirectly heated and/or cooled by the home space conditioning equipment, and others may not be affected by the home space conditioning equipment at all. Another common location for water heaters is in utility "closets" in homes. Some of these colsets open into the living space of the home. In these cases, the closet is likely to be heated and/or cooled by the home space conditioning equipment. Other which open to the outdoors are unlikely to be affected by such equipment.

For those water heaters which are located in a space which is heated and/or cooled by the home space conditioning equipment directly, the average ambient air temperature would be about 70°F. For water heaters which are located in a space which is indirectly heated and/or cooled by the home space conditioning equipment, the average ambient air temperature is likely to be lower since most areas of the country have a higher heating load than cooling load. For water heaters which are located in spaces which are not at all affected by the home space conditioning equipment, the average ambient air temperature is likely to be lower still.

Yet another consideration bearing on average ambient air temperature that is unique to heat pump water heaters is that as the heat pump extracts thermal energy from the surrounding air, it lowers the temperature of the air. How much the average temperature of the air surrounding a heat pump water heater drops when the heat pump operates and how quickly it rises again after the heat pump stops operating will largely be a function of where it is installed in a house. The smaller the volume of the space in which it is located and/or the "tighter" the space is from the standpoint of air circulation between the space and its surroundings, the more the temperature will drop and the slower it will be to rise again. Therefore, all other things being equal, the average ambient air temperature in the vicinity of a heat pump water heater will likely be lower than it would be for a gas, oil or electric storage water heater used in its place. While DOE is aware of this consideration, DOE has no basis for making a determination of how much lower the average ambient air temperature for heat pump water heaters might be compared to that for gas, oil, and electric storage water heaters.

To arrive at an average ambient air temperature specification for the purposes of determining measures of energy consumption for heat pump water heaters, DOE narrowed the list of factors that it could possible consider down to the following two: (1) The uncertainty associated with the national average ambient air temperature specification included in the existing test procedure for water heaters, and (2) the high degree of sensitivity of the measures of energy consumption for heat pump water heaters to the selection of the average ambient air temperature for test purposes. DOE believes that there is simply not enough information available regarding the other factors which have a bearing on this issue to have included them in its deliberations on this issue.

The method used to derive the national average ambient air temperature specification of 55°F for gas, oil, and electric storage water heaters found in the existing test procedure for water heaters has already been briefly described. DOE believes that there is a higher degree of uncertainty associated with the derivation of this specification than any of the other temperature specifications included in the existing test procedure for water heaters. This belief is based on the methodology employed to derive this specification. Using its formulas for calculating the estimated energy consumption of gas and electric storage water heaters, DOE substituted its specifications for average thermostat setting, average inlet water temperature, and average hot water usage, as well as estimated values of average recovery efficiency and standby loss, into each formula, then set each formula equal to the appropriate average water heater energy consumption values determined from the utility-supplied field data and solved each equation for average ambient air temperature. This meant that DOE used the average ambient air temperature to adjust for the cumulative effect of all of the errors associated with all of DOE's other specifications, assumptions, DOE's formulas, and the utility-supplied data.

There is no means at DOE's disposal to estimate the magnitude of this total error. Intuitively, the 55°F temperature specification does not seem to be an unreasonable assumption; however, DOE is concerned that this estimate may be below the true value. If it is, then not only would the measures of energy consumption for all water heaters be in error, but the relative rankings of heat pump water heaters compared to gas, oil, and electric water heaters would be erroneous also. As was previously discussed, the relative rankings of gas, oil and electric storage water heaters made on the basis of energy factor or estimated annual operating cost are little affected by small changes in estimated national average conditions of use. The relative rankings of heat pump water heaters compared to gas, oil, and electric storage water heaters, on the other hand, are significantly affected by such changes. DOE believes that it is important to avoid the risk that the relative rankings of heat pump water heaters compared to other water heaters will be lower than they should be. Therefore, in today's proposal DOE is using 65°F as the ambient air temperature specification for testing heat pump water heaters. DOE believes that this estimate should insure that heat pump water heaters will not be unfairly ranked compared to other water heaters.

Since this temperature specification for the ambient air temperature for heat pump water heaters is not based on field data, DOE especially invites comments on this issue and welcomes any available field data bearing on this issue. DOE is also interested in comments concerning the issue of whether all types of water heaters should be tested to reflect identical operational conditions.

5. *Measures of energy consumption for heat pump water heaters without storage tanks.* As previously discussed, today's proposal calls for testing heat pump water heaters while connected to an electric storage water heater that meets certain specifications, including having a storage capacity of 52 gallons. However, in actual usage, heat pump water heaters are likely to be connected to any number of designs of electric storage water heaters which differ by storage capacity and standby loss.[7] Since the Act specifically requires that test procedures for consumer products under Part 430 shall be designed to determine the estimated annual operating cost of such products, DOE had to devise a method to determine the estimated daily energy consumption of a heat pump water heater without a storage tank in order to determine its estimated annual operating cost. The method devised, as reflected in today's proposal, is a formula which expresses estimated daily energy consumption as a function of the storage capacity of the electric storage water heater to which it is connected.

The formula is expressed as the sum of two terms. The first term is the

[7] As previously discussed, DOE believes that the number of occurances of heat pump water heaters without storage tanks being connected to gas and oil storage water heaters will be quite small.

amount of energy consumed by the heat pump water heater in heating the 64.3 gallons of water used daily, as determined by testing. This term is unaffected by the storage capacity of the electric storage water heater to which the heat pump water heater is to be connected. The second term is a prediction of the amount of energy that the heat pump water heater will consume daily to replace the heat energy lost by the storage water heater to which it is connected. To solve for this term, the amount of energy consumed by the heat pump water heater to replace the standby losses of the specified electric storage water heater, as determined by testing, is first divided by the storage capacity of the standard test electric storage water heater, 52 gallons, to determine the amount of energy consumed per gallon of storage capacity, and then multiplied by the storage capacity of the water heater to which the heat pump water heater is to be connected. Basing the amount of energy that a heat pump water heater will consume to replace the standby losses on storage capacity is not as accurate a method as basing it on the storage water heater tank surface area. However, in DOE's experience, tank surface area is not a measure which is disclosed on storage water heaters or in the accompanying literature while rated storage capacity is disclosed on all storage water heaters in accordance with industry procedures. Since tank service area generally increases with increasing storage capacity and since consumers are more accustomed to comparing storage water heaters on the basis of storage capacity, DOE considered the approach to determining the estimated annual operating cost of heat pump water heaters without storage tanks that is included in today's proposal to be the most useful and understandable approach for consumers to use.

Today's proposal also provides for the determination of the energy factor of a heat pump water heater without storage tank in a manner similar to that used for determining the estimated annual operating cost.

As a final matter concerning measures of energy consumption for heat pump water heaters, today's proposal provides for a new measure of energy consumption for heat pump water heaters alone. This measure is entitled "coefficient of performance." It is defined as equal to the recovery efficiency of a heat pump water heater as determined by test in accordance with today's proposal. This measure is useful in that it is a measure of the efficiency of the heat pump component of a heat pump water heater alone. It thereby permits efficiency comparisons between heat pump water heaters with and without storage tanks to be readily made regardless of the capacity of the integral storage tank or the separate water heater to which it is or will be connected.

6. *Recovery efficiency test for heat pump water heaters.* As previously discussed, DOE has proposed a simulated use test for heat pump water heaters for the purposes of measuring the energy consumption of such units. While this change in test methodology from the approach taken in the existing test procedure eliminates any need for determining the recovery efficiency of a heat pump water heater to determine its energy consumption, there remain other needs for determining the recovery efficiency of heat pump water heaters in today's proposal, namely the determination of first hour rating and the determination of estimated annual operating cost for heat pump water heaters without storage tanks when connected to storage water heaters with capacities other than 52 gallons, the capacity of the standard test electric storage water heater (for which estimated annual operating cost can be computed directly from the test results of the simulated use test).

In today's proposal, DOE calls for determining the recovery efficiency of a heat pump water heater from energy consumption measurements made during the simulated use test. As previously discussed, the simulated use test for heat pump water heaters begins with a series of hot water draws from the heat pump water heater storage tank. Since the water draws are conducted consecutively, the heat pump water heater is operating in the recovery mode throughout the first portion of the stimulated use test. The total amount of water withdrawn during the simulated use test is 64.3±0.5 gallons. By measuring the total amount of energy consumed by the heat pump water heater during the water draw portion of the stimulated use test, the recovery efficiency of the heat pump water heater can be computed as the energy content of 64.3 gallons of hot water divided by this measured valued.

DOE acknowledges that this method of determining recovery efficiency will yield a lower value of efficiency compared to conducting the recovery efficiency test over a 90°F rise in stored tank temperature from a cold start. However, DOE believes that the recovery efficiency value determined using the approach which is included in today's proposal is representative of that which consumers are likely to experience in typical usage of heat pump water heaters.

b. Proposed Changes To Existing Test Procedures for Water Heaters

1. *First hour rating test.* Included in today's proposal is a revised specification for the water draw rate for the first hour rating water draw test. Today's proposal calls for a water draw rate of 3.0±0.25 gallons per minute. The existing test procedure requires the water draw rate to be 5.0±0.25 gallons per minute. This proposed change is prompted by a change in DOE's position on the proper basis for determining this measure of the hot water delivery performance of a storage water heater. As was made clear in DOE's response to comments on the proposed rule to amend the test procedures for water heaters to include the measure, first hour rating,* DOE considered a hot water draw rate of 5 gallons per minute to be a rate which is likely to occur in typical household hot water usage. DOE did not, however, consider such a hot water draw rate to be representative of average conditions of hot water usage of households. At the time of this rulemaking, many commenters estimated 3 gallons per minute to be a representative average hot water flow rate for typical hot water usage. In reevaluating this issue in developing today's proposed rule, DOE now considered a hot water draw rate of 3.0±0.25 gallons per minute to be more appropriate for the first hour rating water draw test on the basis that it is more representative of the average hot water flow rate for a typical household. The previous flow rate specification of 5.0±0.25 gallons per minute was representative of typical severe conditions of hot water usage of households. The first hour ratings determined in accordance with the existing test procedures for water heaters are by themselves very useful measures; however, DOE now believes that first hour ratings determined in accordance with today's proposed first hour rating water draw test will be more useful measures for consumers. DOE is interested in obtaining comments on this matter of the proper flow rate specification for the first hour rating hot water draw test.

A further change pertaining to the determination of first hour rating that is a part of today's proposal is a change in

* See the final rule notice prescribing amendments to the test procedures for water heaters to include the measure: First hour rating. (44 FR 52632, September 7, 1979.)

the temperature ratio adjustment factor in the formula for computing first hour rating from test results. The purpose of this temperature ratio adjustment factor is to normalize the first hour rating water draw test results on the basis of the energy content of the hot water withdrawn. The existing test procedure requires that the temperature of the water at the water heater outlet be recorded every 15 seconds from the start of the first hour rating water draw test. At the conclusion of the test, the maximum temperature reading recorded is labeled the initial water temperature and the mean of all of the outlet water temperature readings is computed. The volume of water withdrawn is then multiplied by the ratio of the mean of the outlet water temperature readings divided by the initial outlet water temperature. Multiplying by this ratio was intended to adjust, on an energy basis, the actual volume of water withdrawn during the test to that volume of water at the initial outlet water temperature which has an equivalent hot water energy content.

To understand the purpose of the temperature ratio adjustment factor, one must first understand that the Energy Guide labeling program of the Federal Trade Commission (FTC) acts as an incentive for water heater manufacturers to produce a range of water heater designs which yield the highest values of first hour rating for the lowest values of estimated annual operating cost.

In developing test methods for consumer products, not only does DOE have to consider whether a particular candidate test method will yield results which are fair and representative for all products which will be subject to the testing requirement, but also whether the test method itself will act as an incentive to manufacturers to alter the design of their products in ways which may adversely affect the utility of their products from the user's standpoint. Such was DOE's concern in developing the first hour rating water draw test for water heaters. The test method developed stipulates that starting with a full tank of hot water, water is to be withdrawn from the water heater until the temperature of the water being withdrawn drops 20°F from its initial value. The total volume of the water withdrawn is then determined. If under this test method, water heaters which are designed to deliver most of their stored hot water at the initial stored water temperature (i.e. those designs which inhibit mixing between the incoming cold water and the stored hot water when hot water is being withdrawn) will generally yield less water than those water heaters of identical storage capacity and configuration which exhibit a gradual reduction in outlet water temperature due to mixing between the hot and cold water in the tank of the water heater.

Consider the following two theoretical water heater designs of identical storage capacity. The first water heater design has the capability to precisely control mixing between the incoming cold water and the stored hot water in such a way that when DOE's first hour rating water draw test is performed, it is found that the outlet water temperature drops immediately to a value just less than 20°F below the initial value and then stays constant until all of the stored hot water has been withdrawn. The second water heater design has the capability to prevent any mixing from occurring and delivers its entire supply of stored hot water at its initial stored temperature when subjected to the first hour rating water draw test. The volume of water withdrawn from the first water heater as a result of the test will be 29 percent greater [9] than that amount withdrawn from the second water heater despite the fact that they both began the test with the same amount of hot water at the same temperature and they both ended the test with a full tank of cold water.

Mixing between incoming cold water and stored hot water will occur to some extent in all storage water heaters when hot water is withdrawn from the water heater. Most water heater manufacturers try to design their storage water heaters to minimize the amount of mixing that occurs when hot water is withdrawn from the water heater. At least one manufacturer, however, equips some of his models of gas storage water heaters with a special dip tube design (e.g. thermal compensating) specifically intended to facilitate mixing between the incoming cold water and the stored hot water in a controlled fashion.

DOE sees merit in both approaches to controlling the temperature of the hot water delivered by a storage water heater. Therefore, in order to avoid encouraging one storage water heater design approach over another regarding this matter of promoting or inhibiting mixing between incoming cold water and stored hot water under conditions of a hot water draw, DOE developed the temperature ratio adjustment factor mentioned previously. When the measured volume of water withdrawn from the water heater during the first hour rating water draw test is multiplied by the temperature ratio adjustment factor, the effects of mixing on the test results are negated. Referring again to the previous example involving the two theoretical water heaters, the first water heater would yield 29 percent more water during the water draw test than would the second water heater. However, the larger volume of water delivered by the first water heater would have been at a temperature 20°F lower than the lesser volume of water delivered by the second water heater. Applying the temperature ratio adjustment factor to the test results of the first water heater would reduce the test results by 22 percent, effectively eliminating the 29 percent difference in the original test results. The temperature ratio adjustment factor for the second water heater would be unity. Applying it to the test results of the second water heater would make for no change in the results. The "adjusted" test results for the two water heaters would, therefore, be equal. This is appropriate since both water heaters are of equal storage capacity and both delivered their entire supply of stored hot water during the test.

Today, DOE is proposing to revise the temperature ratio adjustment factor included in the existing test procedures for water heaters on the basis that it is inconsistent with the approach for determining other measures of energy consumption. In the existing test procedure, the temperature adjustment ratio factor is defined as the mean of the outlet water temperature readings taken every 15 seconds for the duration of the first hour rating water draw test divided by the initial outlet water temperature reading of the test. This approach is inconsistent with that of the overall test procedure since it does not account for the inherent assumption that the useful energy content of hot water is determined as a function of its temperature above 55°F, the national average inlet water temperature to water heaters. To be consistent with the overall approach of the existing test procedure, today's proposal defines two temperature ratio adjustment factors. The first factor is applicable to heat pump water heaters and to gas, oil, and electric storage water heaters with thermal compensating dip tubes only. It is defined as having the mean of the outlet water temperature readings minus 55°F for its numerator, and the initial outlet water temperature reading minus

[9] Since the first of the two theoretical water heaters described in this example would yield the most water from the first hour rating water draw test, and the second would yield the least, this value represents the maximum difference in the first hour rating water draw test results possible between water heaters of like storage capacity and configuration.

55°F as its denominator. The second temperature ratio adjustment factor is applicable to gas, oil and electric storage water heaters without thermal compensating dip tubes. It is defined as having the mean of the outlet water temperature readings minus 70°F for its numerator and the initial outlet water temperature reading minus 70°F as its denominator. Recall that for the convenience of testing, the temperatures identified as national average conditions of use were uniformly elevated 15°F for all testing of gas, oil, and electric storage water heaters under the existing test procedure. Hence, the use of 70°F in place of 55°F in the temperature ratio adjustment factor for gas, oil and electric storage water heaters without thermal compensating dip tubes. Since today's proposal also provides for performing the first hour rating water draw test at the temperatures specified as national average conditions of use for all heat pump water heaters and for gas, oil and electric storage water heaters with thermal compensating dip tubes, the temperature ratio adjustment factor applicable to these types of water heaters uses the 55°F reference temperature specification.

2. *Determination of the effectiveness of heat traps.* In the existing test procedure, the installation instructions require that heat traps be installed in the hot water outlet and cold water inlet piping to the water heater unless the water heater is already equipped with heat traps for the hot and cold water pipe connections on the water heater. The piping is then insulated along its vertical length in accordance with the installation instructions. In the calculation section of the existing test procedure, the formula for computing the daily energy consumption of a water heater from test results includes daily energy savings credits for heat traps installed as an integral part of the water heater. These credits (1,311 Btu per day for a heat trap installed in the hot water outlet connection and 983 Btu per day for one installed in the cold water inlet connection) are subtracted from the daily energy consumption computed from test results.

This approach was taken to eliminate pipe heat losses from affecting the measures of energy consumption of a water heater and yet credit water heaters, that are equipped with heat traps by the manufacturer as an integral part of the water heater, for the energy savings attributable to the heat traps that are expected to occur in actual consumer usage of water heaters.

At the request of DOE, NBS has investigated the performance of a number of heat trap designs.[10] The test results showed a significant variation in the energy savings performance of the various designs investigated.

While the magnitude of the energy savings achievable by even the best performing heat trap would have only a minimal effect on the energy consumption of any water heater, DOE believes that the approach of the existing test procedure of crediting all heat trap designs with the same fixed daily energy savings credits which are then subtracted from the average daily energy consumption computed for the water heater, is inappropriate.

Included in today's proposal are modifications to the installation specifications of the existing test procedure. Today's proposal calls for four foot lengths of uninsulated copper pipe to be connected to the hot water outlet and the cold water inlet connections of the water heater. The water heater is then tested in this configuration. Thus, any contribution to energy savings resulting from heat traps which are an integral part of the water heater should be directly reflected in the test results for the water heater. Consequently, today's proposal eliminates the fixed daily energy savings credits for heat traps found in the existing test procedure since they are no longer needed. DOE considers the approach of today's proposed test procedure to be the most appropriate to account for the contribution of heat traps to improving the efficiency of water heaters.

c. First Hour Rating Water Draw Test for Gas Storage Water Heaters With Thermal Compensating Dip Tubes

On May 4, 1981, A. O. Smith Corporation (A. O. Smith), a manufacturer of water heaters, filed a petition for waiver from the DOE test procedures for water heaters on the ground that the procedures give materially inaccurate estimates of the first hour rating of its gas storage water heaters equipped with thermal compensating dip tubes. First hour rating is a measure of capacity for water heaters. It represents the volume of hot water, expressed in gallons, available to be delivered on demand by a water heater. A. O. Smith's petition alleged that the first hour rating test requirements of a starting temperature of 160°F and a 20°F temperature drop yields an inaccurate estimate of the performance of gas storage water heaters equipped with thermal compensating dip tubes.

In response to A. O. Smith's petition, DOE found that, unlike gas storage water heaters equipped with conventional open-end dip tubes which direct all of the incoming cold water to the bottom of the tank, water heaters equipped with thermal compensating dip tubes can exhibit different first hour rating water draw test results for different stored water starting temperatures. This is because thermal compensating dip tubes function over a specific fixed temperature range. Their purpose is to provide controlled mixing of incoming cold water with stored hot water when water is being withdrawn from the water heater. In the case of A. O. Smith's thermal compensating dip tube, this was accomplished by means of its perforated tube and perforated sleeve construction. Under the condition of high stored water temperature in the water heater, the perforations in the tube and in the sleeve assembly align. Thus, at the start of a water draw, cold water bleeds out of these holes along the length of the dip tube mixing with the stored hot water. This results in an immediate tempering of the outlet water temperature. As the water draw continues and this tempering effect lowers the temperature of the water in the water heater, the thermal compensating feature of the dip tube causes the perforated sleeve and tube to change position relative to each other. This changes the alignment of the perforations, effectively throttling the amount of cold water bleeding out of the sides of the dip tube. Eventually, the temperature of the water in the water heater lowers to the point where the perforations do not overlap at all. When this occurs, the thermal compensating dip tube performs in the same manner as a conventional open-end dip tube, that is, it directs all incoming cold water out the bottom end of the dip tube.

The existing test procedure for water heaters specifies that the first hour rating water draw test shall be conducted with a stored water starting temperature of 160°F±5°F, a water supply temperature of between 68°F and 72°F, and an ambient room temperature of between 65°F and 85°F. As discussed previously, these test conditions were established to simulate the national average field conditions of operation for water hearters, i.e., a stored water temperature of 145°F, an inlet water temperature of 55°F, and a room ambient temperature of 55°F. It was for the convenience of testing that these

[10] The results of NBS's investigation are presented in the NBS Report, "Test Results on the Effectiveness of Heat Traps on Water Heaters," May 1982.

temperatures were uniformly elevated 15°F to arrive at the test temperatures.

Since subjecting A. O. Smith's water hearters equipped with thermal compensating dip tubes to the first hour rating water draw test at these elevated test temperature specifications may yield unrepresentative results compared to the actual field performance of such water heaters, DOE determined that A. O. Smith should be granted a waiver from the test procedures for water heaters for its gas storage water heaters equipped with thermal compensating dip tubes to permit first hour rating tests to be conducted with the maximum mean tank temperature in the range of 145°F±5°F and the water supply to the water heater inlet at a temperature in the range of 55°F±2°F. In all other regards, the conditions and requirements of the first hour rating test remained unchanged by the waiver. (DOE made no change to the ambient room temperature specification as a condition of the waiver because ambient room temperature has little effect on the results of first hour rating water draw tests.) DOE's Decision and Order to grant a waiver to A.O. Smith was published in the **Federal Register** on November 30, 1982 (47 FR 53942).

Today's proposed rule provides that the first hour rating water draw test for all water heaters equipped with thermal compensating dip tubes shall be conducted with the maximum mean tank temperature in the range of 145°F±5°F and the water supply to the water heater inlet at a temperature in the range of 55°F±2°F. This procedure is equivalent to that found in the A. O. Smith Decision and Order after having made the change in the water draw rate of the first hour rating water draw test (from 5.0 gallons per minute to 3.0 gallons per minute) as previously discussed. Today's rule also includes a definition of the term "thermal compensating dip tube."

d. Miscellaneous

DOE has incorporated certain minor technical and editorial changes in today's proposed test procedure that are not specifically discussed above. For example, DOE has made slight changes to the existing definition of the term "water heater" beyond the addition of the subcategories "heat pump water heaters with storage tanks" and "heat pump water heaters without storage tanks." These changes streamline the definition without altering its coverage. (While a change has been made in the maximum energy input rating specification for oil water heaters covered by the test procedure from 103,875 Btu per hour to 104,000 Btu per hour, DOE does not consider this change as increasing the coverage of the test procedures.) Today's proposal requires that the power input to an oil water heater be determined using instrumentation with a measurement error of no greater than ±1 percent. This does not represent a change from the existing test procedure. Thus at 100,000 Btu per hour, the permissible measurement error would allow the measured value to fall between 99,000 Btu per hour and 101,000 Btu per hour. Obviously, the last three of the six significant figures of the existing oil water heater maximum input rating specification are unnecessary. Therefore, DOE has rounded off the specified value to three significant figures in today's proposal.

Also concerning definitions, DOE has defined the term "electric resistance heating element" and "immersed electric resistance heating element" in section 430.2 in today's proposal as well as defining the terms "condenser," "cut-in," "evaporator" and "thermal compensating dip tube," revising the definitions of "cut-out" and "design power rating" and deleting the definitions of "heat trap," "recovery efficiency" and "standby loss" in Appendix E.

An additional minor change in today's proposal is that the procedure for determining the tank storage capacity of a storage water heater or the storage tank of a heat pump water heater is included in the test procedure. In the existing test procedure, section 2.26 of the American National Standard for Gas Water Heaters, Volume I, designated ANS Z21.10.1–1975 is referenced as the procedure for determining tank storage capacity. The procedure discussed in today's proposal is essentially the same as that of the existing test procedure.

III. Comment Procedure

a. Written Comment

Interested persons are invited to participate in the rulemaking by submitting data, views, or arguments with respect to the proposed amendments set forth in this notice to the address indicated at the beginning of the notice.

Comments should be identified on the outside of the envelope and on documents submitted to DOE with the designation "Water Heater Test Procedures (Docket No. CAS–RM–79–105)." Seven (7) copies are requested to be submitted. All comments received by the date specified at the beginning of this notice and all other relevant information will be considered by DOE before final action is taken on the proposed regulation. Pursuant to the provisions of 10 CFR 1004.11, any person submitting information which he or she believes to be confidential and exempt by law from public disclosure should submit one complete copy of the document, and 6 copies, if possible, from which the information believed to be confidential has been deleted. DOE will make its own determination with regard to the confidential status of the information and treat it according to its determination.

Factors of interest to DOE, when evaluating requests to treat as confidential information that has been submitted, include: (1) A description of the item; (2) an indication as to whether and why such items of information have been treated by the submitting party as confidential, and whether and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person which would result from public disclosure; (6) an indication as to when such information might lose its confidential character due to the passage of time; and (7) whether disclosure of the information would be in the public interest.

b. Public Hearing

1. *Procedures for Submitting Requests to Speak.* The time and place of the public hearing are indicated at the beginning of this notice. DOE invites any person who has an interest in today's proposed rule amendments, or who is a representative of a group or class of persons that has an interest in the proposed amendments, to make a written request for an opportunity to make an oral presentation. Such requests should be directed to the address indicated at the beginning of this notice and must be received by the time specified at the beginning of this notice. Requests may be hand delivered to such address between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday. Requests should be labeled "Water Heater Test Procedures (Docket No. CAS–RM–79–105)" both on the document and on the envelope.

The person making the request should briefly describe the interest concerned and, if appropriate, state why he or she is a proper representative of the group or class of persons that has such an interest, and give a telephone number where he or she may be contacted. Each person requesting an opportunity to

speak should give a concise summary of the proposed oral presentation.

DOE will notify, by the date indicated at the beginning of this notice, each person selected to be heard at the hearing. Each person selected to be heard is requested to submit seven copies of his or her statement to the address and by the date given in the beginning of this notice. In the event any person wishing to testify cannot meet this requirement, alternative arrangements can be made with the Office of Hearings and Dockets in advance of the hearing by so indicating in the letter requesting to make an oral presentation.

2. *Conduct of Hearing.* DOE reserves the right to select the persons to be heard at this hearing, to schedule the respective presentations, and to establish the procedures governing the conduct of the hearing. Each presentation shall be limited to 20 minutes.

A DOE official will be designated to preside at the hearing. The hearing will not be a judicial or an evidentiary-type hearing, but will be conducted in accordance with 5 U.S.C. 553 and Section 336 of the Act. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person who wishes to ask a question at the hearing may submit the question in writing to the presiding officer to be asked of any person making a statement at the hearing. The presiding officer will determine whether the question is relevant and whether time limitations permit it to be presented for answer.

Any further procedural rules regarding proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by DOE and made available for inspection at the DOE Freedom of Information Reading Room, Room 1E-152, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday. For information concerning the availability of records at the Freedom of Information Reading Room, call (202) 252-5969. In addition, any person may purchase a copy of the transcript from the reporter.

IV. Environmental Review

Pursuant to Section 7(c)(2) of the Federal Energy Administration Act of 1974, a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment.

Since test procedures under the energy conservation program for consumer products will be used only to standardize the measurement of energy usage and will not affect the quality of distribution of energy usage, prescribing test procedures will not result in any environmental impacts. DOE, therefore, has determined that prescribing test procedures under the energy conservation program for consumer products clearly is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. Consequently, neither an Environmental Impact Statement nor an Environmental Assessment is required for the proposed rule.

V. Review Under Executive Order 12291

The proposed rule has been reviewed in accordance with Executive Order 12291 which directs that all regulations achieve their intended goals without imposing unnecessary burdens on the economy, on individuals, on public or private organizations, or on State and local governments. The Executive Order also requires that regulatory impact analyses be prepared for "major rules." The Executive Order defines "major rule" as any regulation that is 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, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This proposed rule would prescribe test procedures for heat pump water heaters with and without storage tanks and would make changes to the existing test procedures for water heaters to allow for more accurate determinations of energy efficiency and cost. Since the act of prescribing test procedures alone does not impose any burden on any person, industry, or government entity, DOE has determined that the proposed rules do not come within the definition of "major rule."

VI. Regulatory Flexibility Act

The Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601-612), requires that an agency prepare an initial regulatory flexibility analysis to be published at the time the proposed rule is published. This requirement (which appears in Section 603) does not apply if the agency "certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." The proposed rule affects manufacturers of water heaters. As previously discussed, the proposed changes would not have significant economic impacts, but rather would simply improve the test procedures. Therefore, DOE certifies that the proposed rules, if promulgated, would not have a "significant economic impact on a substantial number of small entities."

In consideration of the foregoing, it is proposed to amend Part 430 of Chapter II of Title 10, Code of Federal Regulations, as set forth below.

Issued in Washington, D.C., January 16, 1984.

Pat Collins,

Acting Assistant Secretary, Conservation and Renewable Energy.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Energy conservation, Household appliances.

PART 430—ENERGY CONSERVATION FOR CONSUMER PRODUCTS

1. Section 430.2 is amended by revising subparagraph (5) under the definition for the term "Basic model", as it applies to water heaters, by adding definitions of the terms "electric resistance heating element", and "immersed electric resistance heating element", and by revising the definition of the term "water heater", and by removing the definition of the term "immersed heating element", to read as follows:

§ 430.2 Definitions.

* * * * *

"Basic model" * * *

(5) With respect to water heaters, which have the same primary energy source and which, with the exception of immersed electric resistance heating elements, do not have any differing electric, physical, or functional characteristics that affect energy consumption.

* * * * *

"Electric resistance heating element" means a device which is designed to directly convert electrical energy to heat

energy by employing an electrical conductor which opposes the flow of electric current, resulting in the generation of heat in the conducting material.

* * * * *

"Immersed electric resistance heating element" means an electric resistance heating element which is designed to operate while totally immersed in water in such a manner that the heat generated in the element is imparted directly to the water.

* * * * *

"Water heater" means an appliance that heats water to a thermostatically controlled temperature for delivery on demand for domestic purposes other than for space heating and which must be one of the following:

(a) "Electric storage water heater" means a water heater which utilizes electricity as the energy source for heating the water, in which heating is solely provided by electric resistance heating elements, which has a manufacturer's specified energy input rating of 12 kilowatts or less at a voltage no greater than 250 volts, and which has a storage capacity of not less than 20 gallons nor more than 120 gallons.

(b) "Gas storage water heater" means a water heater which utilizes gas as the energy source for heating the water, which has a manufacturer's specified energy input rating of 75,000 Btu per hour or less, and which has a storage capacity of not less than 20 gallons nor more than 100 gallons.

(c) "Oil storage water heater" means a water heater which utilizes oil as the energy source for heating the water, which has a manufacturer's specified energy input rating of 104,000 Btu per hour or less, and which has a storage capacity of 50 gallons or less.

(d) "Heat pump water heater with storage tank" means a water heater which utilizes electricity as the energy source to operate a mechanical refrigeration unit consisting of a compressor, a condenser, an expansion device and an evaporator to extract thermal energy from the surrounding air and deliver it to the water in the unit, which may or may not be equipped with electric resistance heating elements, which has a manufacturer's specified energy input rating of 12 kilowatts or less at a voltage no greater than 250 volts, and which has a storage capacity of not less than 20 gallons nor more than 120 gallons.

(e) "Heat pump water heater without storage tank" means a water heater which utilizes electricity as the energy source to operate a mechanical refrigeration unit consisting of a compressor, a condenser, an expansion device and an evaporator to extract thermal energy from the surrounding air and deliver it to the water in the unit, which has a manufacturer's specified energy input rating of 12 kilowatts or less at a voltage no greater than 250 volts, and which in intended to be connected to an electric, gas or oil storage water heater which has a storage capacity of not less than 20 gallons nor more than 120 gallons.

* * * * *

2. Section 430.22 is amended by revising paragraph (e) to read as follows:

§ 430.22 [Amended]

* * * * *

(e) *Water heaters.* (1) The estimated annual operating cost for water heaters shall be—

(i) For a gas or oil storage water heater, the product of the representative average use cycle of 365 days per year times the sum of (A) the product of the average daily auxiliary electrical energy consumption in kilowatt-hours per day, determined according to section 4.9.1 of Appendix E for this subpart, times the representative average unit cost of electricity in dollars per kilowatt-hour as provided by the Secretary plus (B) the product of the average daily gas or oil energy consumption in Btu per day, determined according to section 4.9.2 of Appendix E of this subpart, times the representative average unit cost of gas or oil, as appropriate, in dollars per Btu as provided by the Secretary, the resulting product then being rounded off to the nearest dollar per year;

(ii) For an electric storage water heater, the product of the following three factors: (A) The representative average use cycle of 365 days per year, (B) the average daily energy consumption in kilowatt-hours per day, determined according to section 4.9.4 of Appendix E of this subpart, and (C) the representative average unit cost of electricity in dollars per kilowatt-hour as provided by the Secretary, the resulting product then being rounded off to the nearest dollar per year;

(iii) For a heat pump water heater with storage tank, the product of the following three factors: (A) The representative average use cycle of 365 days per year, (B) the average daily energy consumption in kilowatt-hours per day, determined according to section 4.9.5.1 of Appendix E of this subpart, and (C) the representative average unit cost of electricity in dollars per kilowatt-hour as provided by the Secretary, the resulting product then being rounded off to the nearest dollar per year; and

(iv) For a heat pump water heater without storage tank, the product of the following three factors: (A) The representative average use cycle of 365 days per year, (B) the average daily energy consumption in kilowatt-hours per day, determined according to section 4.9.5.2 of Appendix E of this subpart, and (C) the representative average unit cost of electricity in dollars per kilowatt-hour as provided by the Secretary, the resulting product then being rounded off to the nearest dollar per year.

(2) The energy factor for water heaters shall be—

(i) For a gas or oil storage water heater, the quotient of the daily hot water energy consumption, determined according to section 4.4 of Appendix E of this subpart, divided by the average daily energy consumption, determined according to section 4.9.3 of Appendix E of this subpart, the resulting quotient then being rounded off to the nearest 0.01;

(ii) For an electric storage water heater, the quotient of the daily hot water energy consumption, determined acccording to section 4.4 of Appendix E of this subpart, divided by the product of the average daily energy consumption, determined according to section 4.9.4 of Appendix E of this subpart, times 3,413 Btu per kilowatt-hour, the resulting quotient then being rounded off to the nearest 0.01;

(iii) For a heat pump water heater with storage tank, the quotient of the daily hot water energy consumption, determined according to section 4.4 of Appendix E of this subpart, divided by the product of the average daily energy consumption, determined according to section 4.9.5.1 of Appendix E of this subpart, times 3,413 Btu per kilowatt-hour, the resulting quotient then being rounded off to the nearest 0.01; and

(iv) For a heat pump water heater without storage tank, the quotient of the daily hot water energy consumption, determined according to section 4.4 of Appendix E of this subpart, divided by the product of the average daily energy consumption, determined according to section 4.9.5.2 of Appendix E of this subpart, times 3,413 Btu per kilowatt-hour, the resulting quotient then being rounded off to the nearest 0.01.

(3) The coefficient of performance for a heat pump water heater with or without storage tank shall be the recovery efficiency determined according to section 4.2.4 of Appendix E of this subpart, rounded off to the nearest 0.01.

(4) Other useful measures of energy consumption for water heaters shall be those measures of energy consumption

which the Secretary determines are likely to assist consumers in making purchasing decisions and which are derived from the application of Appendix E of this subpart.

* * * * *

3. Appendix E to Subpart B of Part 430 is revised to read as follows:

Appendix E to Subpart B of Part 430—Uniform Test Method for Measuring the Energy Consumption of Water Heaters

1. *Definitions.*

1.1 "Condenser" means that component of a heat pump water heater which is designed to transfer heat energy from the refrigerant in the condenser to the water.

1.2 "Cut-in" means the action by a water heater thermostat to initiate the water heating process.

1.3 "Cut-out" means the action by a water heater thermostat to terminate the water heating process.

1.4 "Design power rating" means the nominal power rating that a water heater manufacturer assigns to a particular design of electric resistance heating element, expressed in kilowatts.

1.5 "Evaporator" means that component of a heat pump water heater which is designed to transfer heat energy from the ambient air to the refrigerant in the evaporator.

1.6 "Thermal compensating dip tub" means a dip tube which when water is withdrawn from the water heater is designed to provide controlled mixing of incoming cold water with stored hot water to achieve nearly immediate tempering of the water drawn from the water heater when the temperature of the stored water exceeds the manufacturer's recommended design temperature, and resulting in no tempering, or almost no tempering, of the water drawn from the water heater when the temperature of the stored water is below this recommended design temperature.

2. *Test Conditions.*

2.1 *Installation.*

2.1.1 *Installation requirements for gas, oil, and electric storage water heaters and for heat pump water heaters with storage tanks.* Install the water heater according to the manufacturer's directions on a ¾ inch thick plywood platform. The inlet and outlet piping shall be four foot vertical runs of bare ¾ inch copper pipe with appropriate copper fittings. If the inlet or outlet pipe connections are horizontal, then the four foot vertical runs shall be connected as close as possible to the horizontal inlet or outlet pipe connections using appropriate copper fittings. In no case shall the vertical pipe runs be closer than one inch from the surface of the water heater at any point along the pipe runs. The copper piping and fittings shall be uninsulated.

For heat pump water heaters with storage tanks, install a water flow meter in the hot water outlet piping downstream of the four foot vertical run which can measure, with an error not greater than ± 0.5 gallon, the volume of water withdrawn from the water heater.

2.1.2 *Installation requirements for heat pump water heaters without storage tanks.* For a heat pump water heater without storage tank, install a standard test electric storage water heater according to section 2.1.1 and connect the heat pump water heater to the standard test electric storage water heater, as specified by the manufacturer using 10 Feet ± 0.5 feet of tubing. Install a water flow meter in the hot water outlet piping of the standard test electric storage water heater downstream of the four foot vertical run which can measure, with an error no greater than ± 0.5 gallon, the volume of water withdrawn from the water heater. The standard test electric storage water heater shall have a rated storage capacity of 52 gallons, as specified by the manufacturer on the water heater nameplate; shall have a standby loss of 0.009 ± 0.0005 per hour as determined in accordance with section 3.4.2; shall be equipped with two immersed electric resistance heating elements, each with a design power rating of 4,500 watts, and shall not be equipped with a thermal compensating dip tube. Disconnect only those immersed electric resistance heating elements specified to be disconnected by the manufacturer of the heat pump water heater in the installation instructions for the unit.

2.2 *Flue requirements for gas and oil storage water heaters.*

2.2.1 *Flue requirements for gas storage water heaters.* For a gas storage water heater having a vertically discharging draft hood outlet, a 5 foot vertical flue pipe extension, having a diameter equal to the largest flue collar size of the draft hood, shall be connected to the draft hood outlet. For a storage water heater having a horizontally discharging draft hood outlet, a 90 degree elbow, having a diameter equal to the largest fuel collar size of the draft hood, shall be connected to the draft hood outlet, a 5 foot length of flue pipe shall be connected to the elbow and oriented to discharge vertically upward. Perform all tests with the natural draft established by this length of flue pipe. Direct vent gas storage water heaters shall be installed with venting equipment as specified in the manufacturer's instructions; however, the vertical length of the flue pipe shall be no greater than 5 feet.

2.2.2 *Flue requirements for oil storage water heaters.* For an oil storage water heater, establish a draft at the flue collar equivalent to at least 0.02 inch of water column during periods of burner firing. For an oil storage water heater having a vertically discharging draft hood outlet, establish the draft by using a sufficient length of flue pipe connected to the water heater flue outlet and directed vertically upward. For an oil storage water heater having a horizontally discharging draft hood outlet, a 90 degree elbow, having a diameter equal to the largest flue collar size of the draft hood, shall be connected to the draft hood outlet. A length of flue pipe sufficient to establish the draft shall be connected to the elbow fitting and oriented to discharge vertically upward. Direct vent oil storage water heaters should be installed with venting equipment as specified in the manufacturer's instructions. When ceiling height limits the use of a sufficient length of vertical flue pipe for an oil storage water heater, a mechanical draft inducer may be used during periods of burner firing to establish the specified draft at the flue collar.

2.3 *Water supply.* For gas, oil, and electric storage water heaters, maintain the water supply to the water heater inlet at a temperature at 70 °F ± 2°F, except as specified in section 3.8.2 for the first hour rating water draw test for units equipped with thermal compensating dip tubes. Maintain the water supply to the water heater inlet at a gauge pressure of between 40 pounds per square inch and the maximum pressure specified by the manufacturer for the water heater under test. If the water supply pressure varies outside of these limits during testing, the water heater shall be isolated by use of a shut-off valve in the water supply line with an expansion tank installed in the water supply line downstream of the shut-off valve. There shall be no shut-off means between the expansion tank and the water heater inlet.

For a heat pump water heater with storage tank, maintain the water supply to the heat pump water heater inlet at a temperature of 55°F±2°F and at a gauge pressure of between 40 pounds per square inch, and the maximum pressure specified by the manufacturer for the water heater under test.

For a heat pump water heater without storage tank, maintain the water supply to the standard test electric storage water heater inlet at a temperature of 55°F±2°F and at a gauge pressure of between 40 pounds per square inch, and the maximum pressure specified by either the manufacturer of the standard test electric storage water heater or the manufacturer of the heat pump water heater without storage tank, whichever is lower.

2.4 *Energy supply.*

2.4.1 *Electrical supply.* For a water heater utilizing electricity, maintain the electrical supply voltage within ±1 percent of the center of the voltage range specified by the water heater manufacturer on the water heater nameplate throughout the entire operating portion of each test.

2.4.2 *Gas supply.*

2.4.2.1 *Natural gas.* For a water heater utilizing natural gas, maintain the gas supply at a normal inlet test pressure immediately ahead of all controls at 7 to 10 inches of water column. If the water heater is equipped with a gas appliance pressure regulator, the regulator outlet pressure at the normal test pressure shall be that recommended by the manufacturer. All burners shall be adjusted to achieve an hourly Btu rating that is within ±2 percent of the hourly Btu rating specified by the manufacturer. Use natural gas with a higher heating value of approximately 1,025 Btu per standard cubic foot. Determine the actual higher heating value (H_N) in Btu per standard cubic foot, for the natural gas to be used in the test, with an error no greater than ±1 percent, and use that value for all calculations included herein. Alternatively, the test can be conducted using "bottled" natural gas of a higher heating value of approximately 1,025 Btu per standard cubic foot as long as the actual higher heating value of the bottled natural gas has been determined with an error no greater than ±1 percent as certified by the supplier.

2.4.2.2 *Propane gas.* For a water heater utilizing propane, maintain the gas supply at a normal inlet test pressure immediately ahead of all controls at 11 to 13 inches of water column. If the water heater is equipped with a gas appliance pressure regulator, the regulator outlet pressure at normal test perssure shall be that recommended by the manufacturer. All burners shall be adjusted to achieve an hourly Btu rating that is within ±2 percent of the hourly Btu rating specified by the manufacturer. Use propane with a higher heating value of approximately 2,500 Btu per standard cubic foot. Determine the actual higher heating value (H_P) in Btu per standard cubic foot, for the propane to be used in the test, with an error no greater than ±1 percent, and use that value for all calculations included herein. Alternatively, the test can be conducted using "bottled" propane of a higher heating value of approximately 2,500 Btu per standard cubic foot as long as the actual higher heating value of the bottled propane has been determined with an error no greater than ±1 percent as certified by the supplier.

2.4.3 *Oil supply.* For a water heater utilizing fuel oil, maintain an uninterrupted supply of fuel oil to the water heater during the entire operating portion of the test cycle. Use fuel oil with a heating value of approximately 138,500 Btu per gallon. Determine the actual heating value (H_O) in Btu per gallon for the fuel oil to be used in the test with an error no greater than ±1 percent, and use that value for all calculations included herein. Alternatively, the tests can be conducted using a tested fuel oil with a certified higher heating value of approximately 138,500 Btu per gallon as long as the actual higher heating value of the test fuel oil has been determined with an error of no greater than ±1 percent as certified by the supplier.

2.5 *Thermocouple installation.* Install six thermocouples inside the water heater tank. Position each thermocouple measuring junction along a vertical line at the level of the center horizontal plane of each of six nonoverlapping sections of approximately equal volume from the top to the bottom of the tank such that each thermocouple is surrounded by water and is as far as possible from any heating element, anodic protective device, condenser, or a water tank or flue wall. The anodic protective device may be removed in order to install the thermocouples and all testing may be carried out with the device removed. Install thermocouples in both the cold-water inlet pipe and the hot-water outlet pipe not more than six inches from the connections to the water heater or, where those connections are inaccessible, at the closest accessible point to those connections. Install in the test room a thermocouple with junction shielded against direct radiation from the water heater and from the direct air currents from the fan of the heat pump and positioned at the vertical mid-point of the water heater at a perpendicular distance of approximately 24 inches from the surface of the water heater jacket. Provide an associated temperature measurement and indicator system to assure that the temperature indicated for the thermocouple location is within ±1°F of the actual temperature at that location.

2.6 Thermostat setting.

2.6.1 *Thermostat setting for gas, oil, and electric storage water heaters.* Starting with a tank of unheated water, initiate normal operation of the water heater. After cut-out, determine whether the maximum value of the mean tank temperature is within the range of 160°F±5°F, except as specified in section 3.8.2 for the first hour rating water draw test for water heaters with thermal compensating dip tubes. If not, turn off the water heater, adjust the thermostat, empty the tank and refill with unheated water, then initiate normal operation of the water heater, and once again determine the maximum mean tank temperature after cut-off. Repeat this sequence until the maximum mean tank temperature after cut-out is within the range of 160°F±5°F, except as specified in section 3.8.2 for the first hour rating water draw test for water heaters with thermal compensating dip tubes, at which time the thermostat is properly set.

For electric storage water heaters with two thermostats, the thermostat which controls the upper electric resistance heating element shall be set first to yield a maximum water temperature of 160°F±5°F acter cut-out, as measured by the topmost tank thermocouple, except as specified in section 3.8.2 for the first hour rating water draw test for water heaters with thermal compensating dip tubes. The thermostat which controls the lower electric resistance heating element shall then be set to yield a maximum mean tank temperature of 160°F±5°F after cut-out, except as specified in section 3.8.2 for the first hour rating water draw test for water heaters with thermal compensating dip tubes.

2.6.2 *Thermostat setting for heat pump water heaters with and without storage tanks.* Starting with a tank of unheated water, initiate normal operation of the water heater. After cut-out, determine whether the maximum value of the mean tank temperature is within the range of 145°F±3°F. If not, turn off the water heater and, in the case of a water heater which is equipped with an adjustable thermostat, adjust the thermostat, empty the tank and refill with unheated water, then initiate normal operation of the water heater and once again determine the maximum mean tank temperature after cut-out. Repeat this sequence until the maximum mean tank temperature after cut-out is within the range of 145°F±3°F, at which time the thermostat is properly set. In the case of a water heater which is equipped with a nonadjustable thermostat, replace the thermostat with one which is set or can be set to achieve a maximum mean tank temperature after cut-out within the range of 145°F±3°F and proceed with setting the thermostat as described for water heaters with adjustable thermostats.

For heat pump water heaters with and without storage tanks which have two thermostats, the thermostat that controls the electric resistance heating element shall be set to yield a miximum tank temperature after cut-out of 145°F±3°F for the top thermocouple, unless specified differently by the heat pump water heater manufacturer, in which case it shall be set in acordance with the heat pump water heater manufacturer's specifications.

2.7 *Energy consumption measurement.* Install one or more instruments which measure, as appropriate, and with an error no greater than ±1 percent, the quantity of electrical energy, natural gas, propane or fuel oil consumed by a water heater. Electrical energy consumption is to be expressed in units of kilowatt-hours. Natural gas and propane consumption shall be expressed in units of standard cubic feet, i.e., measured cubic feet corrected to standard conditions of 60±F temperature and 30 inches of mercury column pressure. Fuel oil consumption is to be expressed in units of gallons. Also, install one or more instruments which measure, as appropriate, and with an error no greater than ±1 percent, the rate of electrical energy, natural gas, propane or fuel oil consumption by a water heater. The rate of electrical energy consumption shall be expressed in units of kilowatts. The rate of natural gas and propane consumption shall be expressed in units of standard cubic feet per hour. The rate of fuel oil consumption shall be expressed in units of gallons per hour.

2.8 *Test room ambient air temperature and humidity.* For gas, oil, and electric storage water heaters, maintain the ambient air temperature of the test room at 75°F±7°F, as measured according to section 3.5.

For heat pump water heaters with and without storage tanks, maintain the ambient air termperature of the test room at 65°F±2°F, as measured according to section 3.5 and the relative humidity of the test room between 40 percent and 60 percent relative humidity.

3. *Test Procedures and measurements.*

3.1 *Tank storage capacity.* Using an appropriate weighting scale, weigh the water heater to be tested when empty (dry) to determine its weight (W_E), in pounds, with an error no greater then ±2 percent. Fill the water heater to be tested with water, eliminating any residual air remaining in the tank. Weigh the water heater when full of water to determine its weight (W_F), in pounds, with an error no greater than ±2 percent.

3.2 *Power input determination.*

3.21 *Power input determination for gas and oil storage water heaters and electric storage water heaters with other than immersed electric resistance heating elements.* Initiate normal operation of the water heater, and by using the appropriate instrumentation specified in section 2.7 and the appropriate fuel heating values of section 2.4, determine the power imput (P) to the main burners (including pilot light power, if any) or electric resistance heating elements of the water heater under test, in Btu per hour or kilowatts, as appropriate. In addition, determine the power input (P_{AR}) to any auxiliary electrical system of a gas or oil storage water heater when the main burners are in operation, in kilowatts; and the power input (P_{AS}) to any auxiliary electric system of a gas or oil storage water heater when the main burners are not in operation, in kilowatts.

3.2.2 *Power input determination for electric storage water heaters with immersed electric resistance heating elements.* The power imput (P) to the immersed electric

resistance heating element of an electric storage water heater with one immersed electric resistance heating element shall be taken to be the design power rating of the immersed electric resistance heating element, in kilowatts. For an electric storage water heater with dual immersed electric resistance heating elements, the power input (P) to the immersed electric resistance heating elements shall be taken to the arithmetic mean of the design power ratings of the immersed electric resistance heating elements, if, in characteristic operation of the water heater, only one immersed electric resistance heating element will be energized at any time; otherwise, the power input (P) shall be taken to be the sum of the design power ratings of the immersed electric resistance heating elements, in kilowatts.

3.2.3 *Power input determination for heat pump water heaters with and without storage tanks.* The power input to heat pump water heaters with and without storage tanks is derived for the results of the simulated use test of section 3.7.

3.3 *Recovery efficiency.*

3.3.1 *Recovery efficiency for gas and oil storage water heaters and electric storage water heaters with other than immersed electric resistance heating element.* With the water heater turned off, fill the tank with water and eliminate any residual air remaining in the tank. If the mean tank temperature is constant and within 70°F±2°F, record the mean tank temperature (T_{TRI}), in degrees F, initiate normal operation of the water heater, and begin measuring the fuel or electrical energy flow to the burners (including pilot light fuel if any) or electric resistance heating elements of the water heater using the appropriate instrumentation specified in section 2.7. After cut-out, determine the maximum mean tank temperature (T_{TRF}), in degrees, F, and record the total fuel flow (Q_R) for a gas or oil storage water heater, or the total electrical energy flow (Z_R) to the electric resistance heating elements of an electric storage water heater, from initiation to cut-out, in cubic feet, gallons or kilowatt-hours, as appropriate.

3.3.2 *Recovery efficiency for electric storage water heaters with immersed electric resistance heating elements.* The recovery efficiency of electric storage water heaters with immersed electric resistance heating elements is derived from the results of the standby loss test to section 3.4.2.

3.3.3 *Recovery efficiency for heat pump water heaters with and without storage tanks.* The recovery efficiency of heat pump water heaters with and without storage tanks is derived from the results of the simulated use test of section 3.7.

3.4 *Standby loss.*

3.4.1 *Standby loss for gas and oil storage water heaters and electric storage water heaters with other than immersed electric resistance heating elements.* Establish normal water heater operation within the maximum mean tank temperature range specified in section 2.6.1 and with all air eliminated from the tank. Begin the standby loss test immediately after a cut-out. At the beginning of the standby loss test record the time, the mean tank temperature (T_{TSI}), in degrees F, the ambient air temperature, and begin measuring the fuel or electrical energy flow to the burners (including pilot light fuel if any) or electric resistance heating elements of the water heater using the appropriate instrumentation specified in section 2.7.

At the end of the first 15 minute interval and at the end of each subsequent 15 minute interval during the period of the test, record the mean tank temperature and the ambient air temperature, in degrees F. Terminate the test at an elapsed time of 48 hours from the start of the test unless an electric resistanee heating element or main burner is on at that time, in which case, terminate the test at the first subsequent cut-out. When the test is terminated, record the total fuel flow (Q_S) for a gas or oil storage water heater, or the total electrical energy flow (Z_S) to the electric resistance heating elements of an electrical storage water heater, over the period of the test, in cubic feet, gallons or kilowatt-hours, as appropriate, the final mean tank temperature (T_{TSF}), in degrees F, the final ambient air temperature, in degrees F, and the elapsed time (t_S) of the standby loss test, in hours, rounded off to the nearest tenth of an hour. Determine the mean of the recorded values of the mean tank temperature (T_{TSM}) and of the ambient air temperature (T_{ASM}) taken at the end of each time interval, in degrees F, including in each case the initial and final values.

3.4.2 *Standby loss for electric storage water heaters with immersed electric resistance heating elements.* All water heaters shall be equipped with immersed electric resistance heating elements that have a design power rating of 4,500 watts unless such a design power rating exceeds the maximum design power rating specified by the manufacturer for the water heater to be tested, in which case the standby loss test will be conducted with the water heater equipped with electric resistance heating elements of a design power rating equal to the manufacturer's specified maximum design power rating. All water heaters capable of operating with dual immersed electric resistance heating elements will be equipped and tested with dual immersed electric resistance heating elements of equal design power rating in accordance with the provisions specified above. Tests shall be conducted in accordance with the same procedures as those specified in section 3.4.1.

3.5 *Ambient air temperature measurement.* Ambient air temperature wherever specified shall be the temperature determined using the test room thermocouple described in section 2.5.

3.6 *Mean tank temperature measurement.* Mean tank temperature, the average temperature of the water in a water heater tank, wherever specified shall be the mean of the temperatures measured using the six water heater tank thermocouples described in section 2.5.

3.7 *Simulated use test for heat pump water heaters with and without storage tanks.* Establish normal water heater operation with the maximum mean tank temperature within the range specified in section 2.6.2 and with all air eliminated from the tank. Any electric resistance heating elements shall be operational according to section 2.1.2 and the thermostats for the electric resistance heating elements shall be set as specified in section 2.6.

The simulated use test is conducted over a 24 hour period and involves withdrawing water from the hot water outlet of the water heater in three separate consecutive water draws. For both the first and second water draws, 21.4 gallons ±0.5 gallon of water shall be withdrawn from the water heater. The third water draw shall be of a sufficient volume to bring the total volume of water withdrawn from the water heater by means of these three water draws to 64.3 gallons ±0.5 gallon. Water shall be withdrawn at a rate of 3.0±0.25 gallons per minute for each of the three water draws. All water volume measurements shall be made using the water flow meter specified in sections 2.1.1 and 2.1.2.

Begin the simulated use test immediately after a cut-out by recording the mean tank temperature (T_{TS}), in degrees F, recording the time, recording the water flow meter reading, commencing electrical energy flow measurement to the heat pump and electric resistance heating elements, if any, and starting the first water draw. Immediately upon the conclusion of the first water draw, record the inlet water temperature, in degrees F. Record also the water flow meter reading. Immediately after the first cut-out following the conclusion of the first water draw, record the mean tank temperature, in degrees F, and begin the second water draw. Record the time when the first cut-in occurs after the start of the second water draw. Immediately upon the conclusion of the second water draw, record the inlet water temperature (T_{ID2}), in degrees F. Record also the water flow meter reading. Immediately after the first cut-out following the conclusion of the second water draw, record the time, record the mean tank temperature (T_{TD2}), in degrees F, and begin the third water draw. Immediately upon the conclusion of the third water draw, record the inlet water temperature, in degrees F. Immediately after the first cut-out following the conclusion of the third water draw, record the mean tank temperature, in degrees F, record the water flow meter reading, and record the total amount of electrical energy consumed by the water heater since the start of the test (Z_R), in kilowatt-hours. Determine the mean of the mean tank temperature recordings (T_{TWD}) and the mean of the inlet water temperature recordings (T_{IWD}), in degrees F. Determine the total amount of water withdrawn from the water heater over all three water draws (V_{WD}), in gallons, from the appropriate recorded water meter readings. Determine the volume of water withdrawn from the water heater over the second water draw (V_{D2}), in gallons, from the appropriate recorded water meter readings. Determine the elapsed time between the cut-in subsequent to the start of the second water draw and the first cut-out following the conclusion of the second water draw (t_{RD2}), in hours, rounded to the nearest 0.01 hour, from the appropriate time recordings.

Conclude the simulated use test after 24 hours have elapsed from the start of the test by shutting off all electrical power to the water heater and recording the time, the

amount of electrical energy consumed by the water heater (C_{SU}), during the test, in kilowatt-hours, and the maximum mean tank temperature after the conclusion of the test (T_{TE}), in degrees F.

3.8 *First hour rating water draw test.*

3.8.1 *First hour rating water draw test for all water heaters except gas, oil, and electric storage water heaters with thermal compensating dip tubes.* Establish normal water heater operation with the maximum mean tank temperature within the range specified in section 2.6 and with all air eliminated from the tank. Begin the first hour rating water draw test immediately after a cut-out by recording the hot water outlet temperature, in degrees F, recording the time, and withdrawing water from the water heater through the hot water outlet at a rate of 3.0 + 0.25 gallons per minute. Interrupt all fuel or electrical energy flow to the water heater to prevent the burner, the electric resistance heating elements, or the heat pump from operating during this test. Collect all of the water withdrawn from the water heater during the test in a suitable container for the purpose of determining its weight at the conclusion of the test.

Alternatively, a water flow meter may be used to measure the volume of water withdrawn from the water heater directly. Beginning 15 seconds after the start of the test and at every subsequent 15 second interval throughout the duration of the water draw, record the outlet water temperature, in degrees F. For the purposes of this test, the maximum recorded temperature shall be referred to as the initial outlet water temperature (T_{OI}). Monitor the functioning of the water heater thermostats and record the time that a thermostat on the water heater acts to operate an electric resistance heating element, the heat pump, or the main burner. Continue the withdrawal of water until the outlet water temperature drops to a value of 20°F below T_{OI}, the initial outlet water temperature, at which time terminate the withdrawal. Determine the weight of the water withdrawn (W_D), in pounds measured with an error no greater than ± 2 percent, or the volume of water withdrawn (V_D), in gallons, measured with an error no greater than ± 2 percent. Determine the mean of the outlet water temperature readings recorded (T_{OM}), in degrees F. Determine the elapsed time of the test prior to a thermostat on the water heater acting to operate the main burner, an electric resistance heating element, or the heat pump, (t_T) in hours measured with an error no greater than ± 0.01 hours. If a thermostat on the water heater does not act to operate an electric resistance heating element, the heat pump, or the main burner within one hour after the start of the test, the test is to be terminated and t_T shall be taken to be one hour.

3.8.2 *First hour rating water draw test for gas, oil, and electric storage water heaters with thermal compensating dip tubes.* For gas, oil, and electric storage water heaters with thermal compensating dip tubes, maintain the water supply to the water heater inlet at a temperature of 55° F ± 2° F, set the thermostat following the procedure specified in section 2.6.1 except that the maximum mean tank temperature wherever specified shall be within the range of 145± F ± 5° F. Conduct the first hour rating water draw test in accordance with the procedure specified in section 3.8.1.

4. *Calculations.*

4.1 *Tank storage capacity.* Calculate the tank storage capacity (V) expressed in gallons and defined as:

$$V=\frac{(W_F-W_E)}{d}$$

where:

W_F = weight of the water heater when full of water, determined in accordance with section 3.1, expressed in pounds

W_E = weight of the water heater when empty, determined in accordance with section 3.1, expressed in pounds

d = 8.25 pounds per gallon, the nominal density of water

4.2 *Recovery efficiency.*

4.2.1 *Recovery efficiency for gas and oil storage water heaters.* For a gas or oil storage water heater, calculate the recovery efficiency (E_R) expressed as a dimensionless quantity and defined as:

$$E_R=\frac{(k)(V)(T_{TRF}-T_{TRI})}{(Q_R)(H)}$$

where:

k = 8.25 Btu per gallon °F, the nominal specific heat of water

V = tank storage capacity, as defined in section 4.1, expressed in gallons

T_{TRF} = final maximum mean tank temperature for the recovery efficiency test, determined in accordance with section 3.3.1, expressed in degrees F

T_{TRI} = initial mean tank temperature for the recovery efficiency test, determined in accordance with section 3.3.1, expressed in degrees F

Q_R = total fuel flow in the recovery test, determined in accordance with section 3.3.1, expressed in cubic feet or gallons, as appropriate

H = higher heating value for the appropriate fuel type (H_N, H_P, or H_O), as determined in accordance with section 2.4, expressed in Btu per cubic foot or Btu per gallon, as appropriate

4.2.2 *Recovery efficiency for electric storage water heaters with other than immersed electric resistance heating elements.* For an electric storage water heater with other than immersed electric resistance heating elements, calculate the recovery efficiency (E_R) expressed as a dimensionless quantity and defined as:

$$E_R=\frac{(k)(V)(T_{TRF}-T_{TRI})}{(3.413)(Z_R)}$$

where:

k = 8.25 Btu per gallon °F, the nominal specific heat of water

V = tank storage capacity, as defined in section 4.1, expressed in gallons

T_{TRF} = final maximum mean tank temperature for the recovery efficiency test, determined in accordance with section 3.3.1, expressed in degrees F

T_{TRI} = initial mean tank temperature for the recovery efficiency test, determined in accordance with section 3.3.1, expressed in degrees F

3,413 = conversion factor to convert energy in terms of kilowatt-hours to energy in terms of Btu

Z_R = total electrical energy flow to the electric resistance heating elements in the recovery test, determined in accordance with section 3.3.1, expressed in kilowatt-hours

4.2.3 *Recovery efficiency for electric storage water heaters with immersed electric resistance heating elements.* For an electric storage water heater with immersed electric resistance heating elements, calculate the recovery efficiency (E_R) expressed as a dimensionless quantity and defined as:

$$E_R=1-\left[\frac{(S)(k)(V)(\Delta T_{TAR})}{(3.413)(P)}\right]$$

where:

S = standby loss, as defined in section 4.3.2, expressed as a ratio per hour

k = 8.25 Btu per gallon °F, the nominal specific heat of water

V = tank storage capacity, as defined in section 4.1, expressed in gallons

ΔT_{TAR} = 45°F, the nominal average difference between the mean tank temperature and the ambient air temperature during the recovery efficiency test

3,413 = conversion factor to convert energy in terms of kilowatt-hours to energy in terms of Btu

P = water heater input power, determined in accordance with section 3.2.2, expressed in kilowatts

4.2.4 *Recovery efficiency for heat pump water heaters with and without storage tanks.* For a heat pump water heater with or without storage tank, calculate the recovery efficiency (E_R) expressed as a dimensionless quantity and defined as:

$$E_R=\frac{(k)(V_{WD})(T_{TWD}-T_{IWD})}{(3.413)(Z_R)}$$

where:

k = 8.25 Btu per gallon °F, the nominal specific heat of water

V_{WD} = volume of water withdrawn from the water heater over all three water draws of the simulated use test, determined in accordance with section 3.7, expressed in gallons

T_{TWD} = mean of the mean tank temperature recordings made over the period of the three water draws of the simulated use test, determined in accordance with section 3.7, expressed in degrees F

T_{IWD} = mean of the inlet water temperature recordings made over the period of the three water draws of the simulated use test, determined in accordance with section 3.7, expressed in degrees F

3,413 = conversion factor to convert energy in terms of kilowatt-hours to energy in terms of Btu

Z_R = total amount of electrical energy consumed by the water heater over the

period of the three water draws of the simulated use test, determined in accordance with section 3.7, expressed in kilowatt-hours

4.3 *Standby loss.*

4.3.1 *Standby loss for gas and oil storage water heaters.* For a gas or oil storage water heater, calculate the standby loss (S) expressed as a ratio per hour and defined as:

$$S=\frac{(Q_S)(H)-\left[\frac{(k)(V)(T_{TSF}-T_{TSI})}{E_R}\right]}{(k)(V)(T_{TSM}-T_{ASM})(t_S)}$$

where:

Q_S = total fuel flow in the standby loss test, determined in accordance with section 3.4.1, expressed in cubic feet or gallons, as appropriate

H = higher heating value for the appropriate fuel type (H_N, H_P, or H_O), as determined in accordance with section 2.4, expressed in Btu per cubic foot or Btu per gallon, as appropriate

k = 8.25 Btu per gallon °F, the nominal specific heat of water

V = tank storage capacity, as defined in section 4.1, expressed in gallons

T_{TSF} = final mean tank temperature for the standby loss test, determined in accordance with section 3.4.1, expressed in degrees F

T_{TSI} = initial mean tank temperature for the standby loss test, determined in accordance with section 3.4.1, expressed in degrees F

E_R = recovery efficiency, as defined in section 4.2.1, expressed as a dimensionless quantity

T_{TSM} = mean of the mean tank temperature recordings made over the period of the standby loss test, determined in accordance with section 3.4.1, expressed in degrees F

T_{ASM} = mean of the ambient air temperature recordings made over the period of the standby loss test, determined in accordance with section 3.4.1, expressed in degrees F

t_S = duration of the standby loss test, determined in accordance with section 3.4.1, expressed in hours

4.3.2 *Standby loss for electric storage water heaters.* For an electric storage water heater, calculate the standby loss (S) expressed as a ratio per hour and defined as:

$$S=\frac{(Z_S)(3.413)-\left[\frac{(k)(V)(T_{TSF}-T_{TSI})}{E_R{}^*}\right]}{(k)(V)(T_{TSM}-T_{ASM})(t_S)}$$

where:

Z_S = total electrical energy flow in the standby loss test, determined in accordance with section 3.4.1 for units with other than immersed electric resistance heating elements, or section 3.4.2 for units with immersed electric resistance heating elements, expressed in kilowatt-hours

3,413 = conversion factor to convert energy in terms of kilowatt-hours to energy in terms of Btu

k = 8.25 Btu per gallon °F, the nominal specific heat of water

V = tank storage capacity, as defined in section 4.1, expressed in gallons

T_{TSF} = final mean tank temperature for the standby loss test, determined in accordance with section 3.4.1 for units with other than immersed electric resistance heating elements, or section 3.4.2 for units with immersed electric resistance heating elements, expressed in degrees F

T_{TSI} = initial mean tank temperature for the standby loss test, determined in accordance with section 3.4.1 for units with other than immersed electric resistance heating elements, or section 3.4.2 for units with immersed electric resistance heating elements, expressed in degrees F

$E_R{}^*$ = E_R as defined in section 4.2.2 for units with other than immersed electric resistance heating elements, or 0.98 for units with immersed electric resistance heating elements, expressed as a dimensionless quantity

T_{TSM} = mean of the mean tank temperature recordings made over the period of the standby loss test, determined in accordance with section 3.4.1 for units with other than immersed electric resistance heating elements, or section 3.4.2 for units with immersed electric resistance heating elements, expressed in degrees F

T_{ASM} = mean of the ambient air temperature recordings made over the peroid of the standby loss test, determined in accordance with section 3.4.1 for units with other than immersed electric resistance heating elements, or section 3.4.2 for units with immersed electric resistance heating elements, expressed in degrees F

t_S = duration of the standby loss test, determined in accordance with section 3.4.1 for units with other than immersed electric resistance heating elements, or section 3.4.2 for units with immersed electric resistance heating elements, expressed in hours

4.4 *Daily hot water enery consumption.* Calculate the daily hot water energy consumption (C_D), the energy content of the nominal daily hot water usage, expressed in Btu per day and defined as:

$$C_D=(k)(U)(\Delta T_{IO})$$

where:

k = 8.25 Btu per gallon °F, the nominal specific heat of water

U = 64.3 gallons per day, the nominal daily hot water usage

ΔT_{IO} = 90°F, the nominal difference in temperature between the stored hot water in a water heater and the water supplied to the water heater.

4.5 *Daily water heating energy consumption.* Calculate the daily water heating energy consumption (C_{WH}) the energy required to heat the nominal amount of hot water used daily, expressed in Btu per day and defined as:

$$C_{WH}=\frac{C_D}{E_R}$$

where:

C_D = daily hot water energy consumption, as defined in section 4.4, expressed in Btu per day.

E_R = recovery efficiency, as defined in section 4.2.1 for gas and oil storage water heaters, section 4.2.2 for electric storage water heaters with other than immersed electric resistance heating elements, section 4.2.3 for electric storage water heaters with immersed electric resistance heating elements, or section 4.2.4 for heat pump water heaters with and without storage tanks, expressed as a dimensionless quanity

4.6 *Average hourly hot water storage energy consumption for gas, oil, and electric storage water heaters.* Calculate the average hourly hot water storage energy consumption of a gas, oil, or electric storage water heater (C_S), the average energy required per hour to maintain stored water temperature, expressed in Btu per hour and defined as:

$$C_S=(S)(k)(V)(\Delta T_{TAS})$$

where:

S = standby loss as defined in section 4.3.1 for gas and oil storage water heaters or section 4.3.2 for electric storage water heaters, expressed as a ratio per hour

k = 8.25 Btu per gallon °F, the nominal specific heat of water

V = tank storage capacity, as defined in section 4.1, expressed in gallons

Δ_{TAS} = 90°F, the nominal difference between the stored hot water heater and the ambient temperature of its surroundings

4.7 *Recovery rate.*

4.7.1 *Recovery rate for gas and oil storage water heaters.* For a gas or oil storage water heater, calculate the recovery rate (R) expressed in gallons per hour and defined as:

$$R=\frac{(P)(E_R)}{(k)(\Delta T_{IO})}$$

where:

P = power input to the burner, determined in accordance with section 3.2.1, expressed in Btu per hour

E_R = recovery efficiency, as defined in section 4.2.1, expressed as a dimensionless quantity

k = 8.25 Btu per gallon °F, the nominal specific heat of water

ΔT_{IO} = 90°F, the nominal difference in temperature between the stored hot water in a water heater and the water supplied to the water heater

4.7.2 Recovery rate for electric storage water heater. For an electric storage water heater, calculate the recovery rate (R) expressed in gallons per hour as defined as:

$$R=\frac{(P^*)\,(E_R)\,(3.413)}{(k)\,(\Delta T_{IO})}$$

where:

P^* = P, power input to the electric resistance heating elements, expressed in kilowatts, determined in accordance with section 3.2.1 for units with other than immersed electric resistance heating elements or section 3.2.2 for units with immersed electric resistance heating elements, with the following exception: For units with dual immersed electric resistance heating elements which, in characteristic operation of the water heater, are not energized simultaneously at any time, P^* shall be taken as the design power rating of the electric resistance heating element in closest proximity to the hot water outlet of the water heater, expressed in kilowatts

E_R = recovery efficiency, as defined in section 4.2.2 for units with other than immersed electric resistance heating elements or section 4.2.3 for units with immersed electric resistance heating elements, expressed as a dimensionless quantity

3.413 = conversion factor to convert energy in terms of kilowatt-hours to energy in terms of Btu

k = 8.25 Btu per gallon °F, the nominal specific heat of water

Δ_{IO} = 90°F, the nominal difference in temperature between the stored hot water in a water heater and the water supplied to the water heater

4.7.3 *Recovery rate for heat pump water heaters with and without storage tanks.* For heat pump water heaters with and without storage tanks, calculate the recovery rate (R) expressed in gallons per hour and defined as:

$$R=\left(\frac{V_{D2}}{t_{RD2}}\right)\left(\frac{T_{TD2}-T_{ID2}}{\Delta T_{IO}}\right)$$

where:

V_{D2} = volume of water withdrawn from the water heater over the second water draw, determined in accordance with section 3.7, expressed in gallons

t_{RD2} = elapsed time between the cut-in subsequent to the start of the second water draw and the first cut-out following the conclusion of the second water draw, determined in accordance with section 3.7, expressed in hours

T_{TD2} = mean tank temperature at the first cut-out following the conclusion of the second water draw, determined in accordance with section 3.7, expressed in degrees F

T_{ID2} = inlet water temperature for the second water draw, determined in accordance with section 3.7, expressed in degrees F

Δ_{IO} = 90°F, the nominal difference in temperature between the stored hot water in a water heater and the water supplied to the water heater

4.8 *First hour rating.*

4.8.1 *First hour rating for all water heaters except heat pump heaters without storage tanks.* For a gas, oil, or electric storage water heater, and for a heat pump water heater with storage tank, calculate the first hour rating (F) expressed in gallons and defined as:

$$F=\left(\frac{W_D}{d}\right)\left(\frac{T_{OM}-T_I}{\Delta T_{IO}}\right)+(R)\,(1-t_T),$$

or

$$F=(V_D)\left(\frac{T_{OM}-T_I}{\Delta T_{IO}}\right)+(R)\,(1-t_T)$$

where:

W_D = weight of the water withdrawn during the first hour rating water draw test, determined in accordance with section 3.8.1 for gas, oil, and electric storage water heaters not equipped with thermal compensating dip tubes and for heat pump water heaters with storage tanks, or section 3.8.2 for gas, oil, and electric storage water heaters with thermal compensating dip tubes, expressed in pounds

d = 8.25 pounds per gallon, the nominal density of water

V_D = volume of the water withdrawn during the first hour rating water draw test, determined in accordance with section 3.8.1 for gas, oil, and electric storage water heaters not equipped with thermal compensating dip tubes and for heat pump water heaters with storage tanks, or section 3.8.2 for gas, oil, and electric storage water heaters with thermal compensating dip tubes, expressed in gallons

T_{OM} = mean of the outlet water temperature recordings made over the period of the first hour rating water draw test, determined in accordance with section 3.8.1 for gas, oil, and electric storage water heaters not equipped with thermal compensating dip tubes and for heat pump water heaters with storage tanks, or section 3.8.2 for gas, oil, and electric storage water heaters with thermal compensating dip tubes, expressed in degrees F

T_I = nominal inlet water temperature for test purposes: 70°F for gas, oil, and electric storage water heaters not equipped with thermal compensating dip tubes; 55°F for gas, oil, and electric storage water heaters equipped with thermal compensating dip tubes and for heat pump water heaters with storage tanks

ΔT_{IO} = 90°F, the nominal difference in temperature between the stored hot water in a water heater and the water supplied to the water heater

R = recovery rate, as defined in section 4.7.1 for gas and oil storage water heaters, section 4.7.2 for electric storage water heaters, or section 4.7.3 for heat pump water heaters with storage tanks, expressed in gallons per hour

t_T = elapsed time from the start of the first hour rating water draw test until a thermostat on the water heater acts to operate the main burner, an electric resistance heating element, or the heat pump, determined in accordance with section 3.8.1 for gas, oil, and electric storage water heaters not equipped with thermal compensating dip tubes and for heat pump waterheaters with storage tanks, or section 3.8.2 for gas, oil, and electric storage water heaters with thermal compensating dip tubes, expressed in hours

4.8.2 *First hour rating for heat pump water heaters without storage tanks.* For a heat pump water heater without storage tank, calculate the first hour rating (F) expressed in gallons and defined as:

$$F=\left(\frac{W_D}{d}\right)\left(\frac{T_{OM}-T_I}{\Delta T_{OI}}\right)+(R)\,(1-t_T)+(0.837)\,(V_R-52)$$

where:

W_D = weight of the water withdrawn during the first hour rating water draw test, determined in accordance with section 3.8.1, expressed in pounds

d = 8.25 pounds per gallon, the nominal density of water

V_D = volume of the water withdrawn during the first hour rating water draw test, determined in accordance with section 3.8.1, expressed in gallons

T_{OM} = mean of the outlet water temperature recordings made over the period of the first hour rating water draw test, determined in accordance with section 3.8.1, expressed in degrees F

T_I = 55°F, the nominal inlet water temperature for test purposes

ΔT_{OI} = 90°F, the nominal difference in temperature between the stored hot water in a water heater and the water supplied to the water heater

R = recovery rate, as defined in section 4.7.3, expressed in gallons per hour

t_T = elapsed time from the start of the first hour rating water draw test until a thermostat on the water heater acts to operate the heat pump or an electric resistance heating element, if so equipped, determined in accordance with section 3.8.1, expressed in hours

0.837 = nominal relationship between the volume of water withdrawn from an electric storage water heater during the first hour rating water draw test and its rated storage capacity, determined by a linear regression analysis of test data, expressed as a dimensionless quantity

V_R = storage capacity of the storage water heater to which the heat pump water heater without storage tank is to be connected, expressed in gallons

52 = rated storage capacity of the standard test electric storage water heater used for test purposes, expressed in gallons

4.9 *Average daily energy consumption.*

4.9.1 *Average daily auxiliary electrical energy consumption for gas and oil storage water heaters.* For a gas or oil storage water heater, calculate the average daily auxiliary electrical energy consumption (C_{AUX}) expressed kilowatt-hours per day and defined as:

$$C_{AUX}=(24)\,(P_{AS})+\frac{(C_{WH})(P_{AR}-P_{AS})}{P}$$

where:
24 = conversion factor to convert time in terms of hours to time in terms of days.
P_{AS} = power input to any auxiliary electrical system during periods when the main burner is not in operation, determined in accordance with section 3.2.1, expressed in kilowatts
C_{WH} = daily water heating energy consumption, as defined in section 4.5, expressed in Btu per day
P_{AR} = power input to any auxiliary electrical system during periods of main burner operation, determined in accordance with section 3.2.1, expressed in kilowatts
P = power input to the main burner, determined in accordance with section 3.2.1, expressed in Btu per hour

4.9.2 *Average daily gas or oil energy consumption for gas and oil storage water heaters.* For a gas or oil storage water heater, calculate the average daily gas or oil energy consumption (C_F) expressed in Btu per day and defined as:

$$C_F=C_{WH}+(C_S)\left(24-\frac{C_{WH}}{P}\right)$$

where:
C_{WH} = daily water heating energy consumption, as defined in section 4.5, expressed in Btu per day
C_S = average hourly hot water storage enery consumption, as defined in section 4.6, expressed in Btu per hour
24 = conversion factor to convert time expressed in hours to time expressed in days
P = power input to the main burner, determined in accordance with section 3.2.1, expressed in Btu per hour

4.9.3 *Average daily energy consumption for gas and oil storage water heaters.* For a gas or oil storage water heater, calculate the average daily energy consumption (C_E) expressed in Btu per day and defined as:

$$C_E=C_F+[3{,}413](C_{AUX})$$

where:
C_F = average daily gas or oil energy consumption as defined in section 4.9.2, expressed in Btu per day
3,413 = conversion factor to convert energy in terms of kilowatt-hours to energy in terms of Btu
C_{AUX} = average daily auxiliary electrical energy consumption, as defined in section 4.9.1, expressed in kilowatt-hours per day

4.9.4 *Average daily energy consumption for electric storage water heaters.* For an electric storage water heater, calculate the average daily energy consumption (C_E) expressed in kilowatt-hours per day and defined as:

$$C_E=\frac{C_{WH}+(C_S)\left[24-\frac{C_{WH}}{(P)\,(3.413)}\right]}{3.413}$$

where:
C_{WH} = daily water heating energy consumption, as defined in section 4.5, expressed in Btu per day
C_S = average hourly hot water storage energy consumption as defined in section 4.6, expressed in Btu per hour
24 = conversion factor to convert time expressed in hours to time expressed in days
P = power input to the electric resistance heating elements, determined in accordance with section 3.2.1 for units with other than immersed electric resistance heating elements, or section 3.2.2 for units with immersed electric resistance heating elements, expressed in kilowatts
3,413 = conversion factor to convert energy in terms of kilowatt-hours to energy in terms of Btu

4.9.5 *Average daily energy consumption for heat pump water heaters with and without storage tanks.*

4.9.5.1 *Average daily energy consumption for heat pump water heaters with storage tanks.* For a heat pump water heater with storage tank, calculate the average daily energy comsumption (C_E) expressed in kilowatt-hours per day and defined as:

$$C_E=C_{SU}+\frac{(k)\,(V)\,(T_{TS}-T_{TE})}{(E_R)\,(3.413)}$$

where:
C_{SU} = amount of electrical energy consumed during the simulated use test, determined in accordance with section 3.7, expressed in kilowatt-hours
k = 8.25 Btu per gallon °F, the nominal specific heat of water
V = tank storage capacity, as defined in section 4.1, expressed in gallons
T_{TS} = mean tank temprature at the start of the simulated use test, determined in accordance with section 3.7, expressed in degrees F
T_{TE} = mean tank temperature at the end of the simulated use test, determined in accordance with section 3.7, expressed in degrees F
E_R = recovery efficiency as defined in section 4.2.4, expressed as a dimensionless quantity
3,413 = conversion factor to convert energy in terms of kilowatt-hours to energy in terms of Btu

4.9.5.2 *Average daily energy consumption for heat pump water heaters without storage tanks.* For a heat pump water heater without storage tank, calculate the average daily energy consumption (C_E) expressed in kilowatt-hours per day and defined as:

$$C_E=Z_R+\left[C_{SU}+\frac{(k)\,(V)\,(T_{TS}-T_{TE})}{(E_R)\,(3.413)}-Z_R\right]\left(\frac{V_R}{52}\right)$$

where:
Z_R = amount of electrical energy consumed over the period of the three water draws of the simulated use test, determined in accordance with section 3.7, expressed in kilowatt-hours
C_{SU} = amount of electrical energy consumed during the simulated use test, determined in accordance with section 3.7, expressed in kilowatt-hours
k = 8.25 Btu per gallon °F, the nominal specific heat of water
V = tank storage capacity, as defined in section 4.1, expressed in gallons
T_{TS} = mean tank temperature at the start of the simulated use test, determined in accordance with section 3.7, expressed in degrees F
T_{TE} = mean tank temperature at the end of the simulated use test, determined in accordance with section 3.7, expressed in degrees.F
E_R = recovery efficiency, as defined in section 4.2.4, expressed as a dimensionless quantity
3,413 = conversion factor to convert energy in terms of kilowatt-hours to energy in terms of Btu
V_R = storage capacity of the storage water heater to which the heat pump water heater without storage tank is to be connected, expressed in gallons
52 = storage capacity of the standard test electric storage water heater used for test purposes, expressed in gallons.

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Part III

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 888

Section 8—Fair Market Rents for New Construction and Substantial Rehabilitation—All Market Areas; Interim Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 888

[Docket No. R-84-1137; FR-1864]

Section 8—Fair Market Rents for New Construction and Substantial Rehabilitation—All Market Areas

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

ACTION: Interim rule.

SUMMARY: This rule amends the Section 8 Fair Market Rents applicable to New Construction and Substantial Rehabilitation for all market areas in compliance with the requirements of Section 8(c)(1) of the U.S. Housing Act of 1937. Revised Section 8 Fair Market Rents (FMRs) must be published at least annually in the **Federal Register**. HUD published the last annual revision of the FMRs for Section 8 New Construction and Substantial Rehabilitation on April 15, 1983 at 48 FR 16424.

The amended Fair Market Rents reflect the changes which have occurred in the general level of market rents for recently completed or newly constructed dwelling units of modest design within each market area since their last Annual or Special (Interim) Revision.

DATES: Effective Date: After the comment deadline date set forth below, notice of the effective date of this rule will be published in the **Federal Register**.

Comments must be received by: March 9, 1984.

ADDRESS: Comments should be sent to the Rules Docket Clerk, Room 10278, Office of the General Counsel, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410. Each person submitting a comment should include his/her name and address and refer to the docket number and title shown in the heading of this rule and give reasons for any recommendation. A copy of each comment submitted will be available for public inspection in the Office of the Rules Docket Clerk during regular business hours. In order to expedite consideration of comments, a copy of each comment should also be sent to the HUD Field Office having jurisdiction for the market area involved.

FOR FURTHER INFORMATION CONTACT: Edward M. Winiarski, Chief Appraiser, Valuation Branch, Technical Support Division, Office of Multifamily Housing Development, 451 7th Street, S.W., Washington, D.C. 20410; (202) 755-5743. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Fair Market Rents are based primarily on the level of rentals paid for recently completed or newly-constructed dwelling units of modest design within each market area, as determined by HUD Field Office staff. They are estimates of rentals that prospective tenants who are not receiving federal rental subsidies would be willing to pay for recently completed or newly-constructed dwelling units of modest design.

The revised Fair Market Rents in Schedule A of Part 888, as adopted by this Interim Rule, have been trended ahead to October 1, 1985, to allow for the period of construction or rehabilitation of the projects involved.

This interim rule includes Fair Market Rents for 0, 1, 2, 3, and 4 or more bedroom units in five structural categories (detached, semi-detached/row, walkup, elevator 2-4 story, and 5 plus story). Construction or rehabilitation of elevator projects for families with children is legally prohibited unless there is no practical alternative. Fair Market Rents for family units in elevator structures have been listed in these schedules for appropriate market areas. However, the determination that there is "no practical alternative" must be made on a project-by-project basis.

Proposals involving combinations of structural types and unit sizes for which Fair Market Rents have not yet been published may not be approved until the applicable Fair Market Rents are published and become effective.

With respect to a particular project, when the Fair Market Rents contained in this rule for the appropriate market area and structure type are lower than the Fair Market Rents in effect before this amendment, use the following policies to determine the Fair Market Rents to apply:

1. In the State Agency Program (under 24 CFR Part 883), the Fair Market Rents in effect on the date the "Application for Assignment of Portion of Set-Aside to Specific Project" is submitted to HUD shall apply, except in those instances where a Proposal or Preliminary Proposal is submitted before the Application. In the latter cases, the Fair Market Rents that are in effect on the date of the submission of the Proposal or Preliminary Proposal shall apply.

2. For New Construction and Substantial Rehabilitation Projects (under 24 CFR Parts 880, 881, and 885) which are not subject to a Notice of Fund Availability (NOFA) nor to a deadline in a NOFA, the Fair Market Rents in effect on the date that the Preliminary Proposal or Section 202 Application for Fund Reservation is submitted shall apply.

3. For New Construction and Substantial Rehabilitation Projects which are subject to deadlines stated in NOFAs, the Fair Market Rents stated in the NOFA shall apply.

For all projects where the Fair Market Rents are revised upward after the date of the processing stage specified above, the revised Fair Market Rents shall apply to all subsequent processing in reviewing Contract Rents.

Interested persons will have a 30-day comment period after publication of this Interim Rule in which to submit comments on the revised Fair Market Rents contained in Schedule A. If evaluation of comments submitted during that period indicates a need to change any of the Fair Market Rents in Schedule A, such Fair Market Rents will be withdrawn or revised, before this Interim Rule is made effective.

In addition, interested persons may submit comments or other information (with adequate documentation) on Fair Market Rents at any time, even after expiration of the 30-day public comment period provided in this rule. Any data submitted will be considered in initiating interim revisions to the Fair Market Rent schedules. In order to expedite consideration of any submission, a copy should be sent to the HUD Field Office having jurisdiction for the market area involved.

HUD regulations in 24 CFR Part 50, which implement Section 102(2)(C) of the National Environmental Policy Act of 1969, contain categorical exclusions from their requirements for the actions, activities and programs specified in § 50.20. Since the amendments made by this rule are within the exclusion set forth in paragraph (1) of § 50.20, no environmental assessment is required for this rule, and no environmental finding has been prepared.

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

ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule was listed as Item No. H–69–83 in the Department's Semiannual Agenda of Regulations published on October 17, 1983 (48 FR 47441), pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. Although this rule will have an effect on developers and owners of Section 8 projects, some of whom may constitute small entities, it is not expected that the economic impact on them will be significant.

The Catalog of Federal Domestic Assistance Program number and title for the activities covered by this rule is 14.156, Lower Income Housing Assistance Program (Section 8).

List of Subjects in 24 CFR Part 888

Rent subsidies.

Accordingly, Schedule A of 24 CFR Part 888 is revised to read as set forth below.

Authority: Section 8(c)(1) of the U.S. Housing Act of 1937, 42 U.S.C. 1437f(c)(1); sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d).

Dated: February 1, 1984.

W. Calvert Brand,

General Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

PART 888—[AMENDED]

Schedule A—Fair Market Rents for New Construction and Substantial Rehabilitation (Including Housing Finance and Development Agencies Program)

These Fair Market Rents have been trended ahead to October 1, 1985, to update the current Fair Market Rent schedules which these revised schedules will replace.

Note.—The Fair Market Rents for: (1) Dwelling units designed for the elderly or handicapped are those for appropriate size units, not to exceed 2 bedrooms for the elderly, multiplied by 1.05; (2) congregate housing dwelling units are the same as for noncongregate units; (3) single room occupancy dwelling units (applicable only for Substantial Rehabilitation projects) are 75 percent of those for zero bedroom units of the same structural type; (4) living units in a group home (each composed of a bedroom plus a proportionate part of common living space which is ordinarily included in a living unit) are those for zero bedroom or one bedroom units of the walkup structural type (or, if the group home contains an elevator, of the elevator 2–4 story structural type). In group homes, one bedroom Fair Market Rents may be applied only when the bedroom space plus the proportionate part of the common space is at least 450 square feet; (5) manufactured homes (unit and space) shall be 95 percent of the rents for detached units of the appropriate bedroom size (except that where a manufactured home Fair Market Rent is given on the schedule for the area, the amount on the schedule shall be the Fair Market Rent); (6) manufactured home spaces in newly-constructed or substantially rehabilitated manufactured home parks shall be the Fair Market Rents for spaces published for the Existing Housing Program under Schedule D, multiplied by 1.25.

All rents computed in accordance with this note shall be rounded down to the nearest whole dollar.

Similarly, all Fair Market Rents increased by up to 10 percent with the approval of the HUD field office manager, or by up to 20 percent with the approval of the HUD Assistant Secretary for Housing should have the result rounded down to the nearest whole dollar.

SCHEDULE A- FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 1

BOSTON, MASSACHUSETTS AREA OFFICE

	MARKET: BOSTON NUMBER OF BEDROOMS					MARKET: WORCESTER NUMBER OF BEDROOMS					MARKET: FALL RIVER NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+
DETACHED			721	925	1005			669	855	950			691	831	845
SEMI-DETACHED/ROW		607	712	841	932		538	662	772	885		535	677	820	831
WALKUP	524	592	709	782	887	481	512	642	728	836	499	517	639	732	767
ELEVATOR 2-4 STY	543	660	762	1046	1150	491	564	675			516	535	653		
ELEVATOR 5+ STY	543	660	762	1065	1174	515	594	710			518	564	682		
MANUFACTURED HOME															
	EFFECTIVE DATE 100183					EFFECTIVE DATE 100183					EFFECTIVE DATE 100183				
	TRENDED DATE 100185					TRENDED DATE 100185					TRENDED DATE 100185				

HARTFORD, CONNECTICUT AREA OFFICE

	MARKET: HARTFORD NUMBER OF BEDROOMS					MARKET: NEW HAVEN NUMBER OF BEDROOMS					MARKET: NEW LONDON NUMBER OF BEDROOMS					MARKET: NEW MILFORD NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+
DETACHED			638	710	731			620	700	749			617	689	719			571	637	654
SEMI-DETACHED/ROW		528	608	689	710		511	575	677	728		458	586	654	697		496	571	637	654
WALKUP	438	508	578	652	673	437	489	554	631	652	409	439	577	648	671	412	478	543	612	633
ELEVATOR 2-4 STY	444	516	582			449	503	589			412	453	599			417	485	547		
ELEVATOR 5+ STY	459	561	646			466	555	656			436	500	617			431	527	607		
MANUFACTURED HOME																				
	EFFECTIVE DATE 100183					EFFECTIVE DATE 100183					EFFECTIVE DATE 100183					EFFECTIVE DATE 100183				
	TRENDED DATE 100185					TRENDED DATE 100185					TRENDED DATE 100185					TRENDED DATE 100185				

	MARKET: WINDHAM NUMBER OF BEDROOMS					MARKET: BRIDGEPORT NUMBER OF BEDROOMS					MARKET: RIDGEFIELD NUMBER OF BEDROOMS					MARKET: NORWICH NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+
DETACHED			530	587	608			619	661	690			718	769	797			571	637	654
SEMI-DETACHED/ROW		454	505	566	589		512	590	639	668		594	684	748	775		504	571	637	654
WALKUP	370	431	483	535	551	425	492	558	620	642	492	572	650	728	749	420	488	554	613	632
ELEVATOR 2-4 STY	403	449	493			431	515	565			500	581	657			426	495	559		
ELEVATOR 5+ STY	419	475	542			448	544	627			516	631	726			441	530	617		
MANUFACTURED HOME																				
	EFFECTIVE DATE 100183					EFFECTIVE DATE 100183					EFFECTIVE DATE 100183					EFFECTIVE DATE 100183				
	TRENDED DATE 100185					TRENDED DATE 100185					TRENDED DATE 100185					TRENDED DATE 100185				

PREPARED ON 113083

BILLING CODE 4210-27-M

SCHEDULE A- FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 1

MANCHESTER, NEW HAMPSHIRE SERVICE OFFICE

	MARKET: MAINE STATEWIDE NUMBER OF BEDROOMS					MARKET: VERMONT STATE NUMBER OF BEDROOMS					MARKET: NEW HAMPSHIRE ST. NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+
DETACHED		525	592	675	783		544	636	717	816		523	585	674	783
SEMI-DETACHED/ROW	413	485	553	636	737	453	508	599	671	758	444	495	557	638	740
WALKUP	370	450	527	598	674	405	474	564	635	700	392	440	505	575	654
ELEVATOR 2-4 STY	414	495	623			460	525	622			414	501	577		
ELEVATOR 5+ STY	460	552	693			510	582	691			460	556	641		
MANUFACTURED HOME															
EFFECTIVE DATE	100183					100183					100183				
TRENDED DATE	100185					100185					100185				

PROVIDENCE, RHODE ISLAND SERVICE OFFICE

	MARKET: PROVIDENCE NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			642	747	836
SEMI-DETACHED/ROW		468	545	606	653
WALKUP	351	457	527	594	640
ELEVATOR 2-4 STY	347	478	612		
ELEVATOR 5+ STY	353	485	618		
MANUFACTURED HOME					
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

REGION 2

BUFFALO, NEW YORK AREA OFFICE

	MARKET: BUFFALO NUMBER OF BEDROOMS					MARKET: ELMIRA NUMBER OF BEDROOMS					MARKET: JAMESTOWN NUMBER OF BEDROOMS					MARKET: ROCHESTER NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+
DETACHED			534	604	681			518	600	665			528	593	665			516	577	640
SEMI-DETACHED/ROW		402	469	551	637		416	473	559	623		415	481	551	630		406	474	551	623
WALKUP	306	362	435	511	544	320	364	428	530	601	319	375	445	511	590	314	365	438	497	560
ELEVATOR 2-4 STY	401	441	584			384	460	541			390	460	565			404	460	551		
ELEVATOR 5+ STY	436	476	619			419	495	576			425	495	599			439	495	589		
MANUFACTURED HOME																				
EFFECTIVE DATE	100183					100183					100183					100183				
TRENDED DATE	100185					100185					100185					100185				

	MARKET: ALBANY NUMBER OF BEDROOMS					MARKET: PLATTSBURGH NUMBER OF BEDROOMS					MARKET: SYRACUSE NUMBER OF BEDROOMS					MARKET: BINGHAMTON NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+
DETACHED			507	613	679			516	608	671			523	602	689			504	608	672
SEMI-DETACHED/ROW		374	448	544	602		435	474	548	611		387	459	552	620		371	448	535	595
WALKUP	319	364	427	502	569	342	375	435	507	578	319	361	440	502	578	317	362	425	499	564
ELEVATOR 2-4 STY	319	392	496			381	451	548			320	401	508			317	394	500		
ELEVATOR 5+ STY	347	429	534			416	486	587			358	437	546			352	419	537		
MANUFACTURED HOME																				
EFFECTIVE DATE	100183					100183					100183					100183				
TRENDED DATE	100185					100185					100185					100185				

NEW YORK, NEW YORK AREA OFFICE

	MARKET: NEW YORK CITY NUMBER OF BEDROOMS					MARKET: SUFFOLK NUMBER OF BEDROOMS					MARKET: WESTCHESTER NUMBER OF BEDROOMS					MARKET: ORANGE NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+
DETACHED								741	899	1001			841	982	1075			618	701	764
SEMI-DETACHED/ROW		610	840	997	1217	561	594	703	735	875		601	704	867	943		451	558	662	724
WALKUP	548	572	779	933	1127	450	524	631	687	759	470	561	671	810	890	315	447	529	620	685
ELEVATOR 2-4 STY	585	752	804	1013	1190	578	679	827			582	666	817	956		506	564	695		
ELEVATOR 5+ STY	763	929	1032	1309	1496	624	696	869			630	747	870			544	622	763		
MANUFACTURED HOME																				
EFFECTIVE DATE	100183					100183					100183					100183				
TRENDED DATE	100185					100185					100185					100185				

	MARKET: ROCKLAND NUMBER OF BEDROOMS					MARKET: NASSAU NUMBER OF BEDROOMS					MARKET: PUTNAM NUMBER OF BEDROOMS					MARKET: POUGHKEEPSIE NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+
DETACHED			832	902	969			888	1013	1113			775	891	969			645	753	860
SEMI-DETACHED/ROW		596	742	864	937		630	812	921	1021		522	665	798	870		471	561	645	708
WALKUP	442	561	700	813	900	487	606	735	844	935	422	495	570	713	828	376	449	559	599	665
ELEVATOR 2-4 STY	500	602	747			501	620	771			593	671	734			571	667	768		
ELEVATOR 5+ STY	547	651	787			507	712	822			634	730	810			598	693	830		
MANUFACTURED HOME																				
EFFECTIVE DATE	100183					100183					100183					100183				
TRENDED DATE	100185					100185					100185					100185				

PREPARED ON 113083

SCHEDULE A- FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 2

NEWARK, NEW JERSEY AREA OFFICE

MARKET: NEWARK

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			1025	1144	1217
SEMI-DETACHED/ROW	580	645	817	947	1031
WALKUP	510	570	731	848	929
ELEVATOR 2-4 STY	589	655	834	971	1049
ELEVATOR 5+ STY	662	742	946	1108	1195
MANUFACTURED HOME					
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

MARKET: NORTH BERGEN

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			1018	1138	1210
SEMI-DETACHED/ROW	636	700	812	941	1024
WALKUP	565	624	724	841	922
ELEVATOR 2-4 STY	643	709	828	965	1042
ELEVATOR 5+ STY	716	797	940	1101	1188
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

MARKET: FREEHOLD

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			942	1061	1134
SEMI-DETACHED/ROW	571	636	739	866	947
WALKUP	501	559	654	765	847
ELEVATOR 2-4 STY	578	644	751	889	966
ELEVATOR 5+ STY	651	732	864	1025	1113
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

MARKET: CAMDEN

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			899	1012	1082
SEMI-DETACHED/ROW		555	678	824	900
WALKUP	410	475	583	722	808
ELEVATOR 2-4 STY	528	592	720	864	939
ELEVATOR 5+ STY	602	679	845	1001	1085
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

MARKET: ATLANTIC CITY

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			866	979	1036
SEMI-DETACHED/ROW		581	661	788	867
WALKUP	462	517	585	700	774
ELEVATOR 2-4 STY	556	619	698	830	904
ELEVATOR 5+ STY	630	707	810	966	1051
MANUFACTURED HOME					
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

MARKET: BURLINGTON

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			899	1012	1082
SEMI-DETACHED/ROW		555	695	824	900
WALKUP	435	490	619	734	808
ELEVATOR 2-4 STY	529	592	732	864	939
ELEVATOR 5+ STY	602	679	845	1001	1085
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

MARKET: GLOUCESTER

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			899	1012	1082
SEMI-DETACHED/ROW		555	688	824	900
WALKUP	428	490	593	732	808
ELEVATOR 2-4 STY	529	592	730	864	939
ELEVATOR 5+ STY	602	679	845	1001	1085
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

MARKET: TRENTON

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			917	1031	1100
SEMI-DETACHED/ROW		624	712	841	918
WALKUP	475	541	637	752	827
ELEVATOR 2-4 STY	593	663	750	881	957
ELEVATOR 5+ STY	678	756	863	1018	1104
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

MARKET: VINELAND

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			788	902	971
SEMI-DETACHED/ROW		512	585	712	790
WALKUP	366	436	508	624	698
ELEVATOR 2-4 STY	488	556	622	753	829
ELEVATOR 5+ STY	568	644	734	890	975
MANUFACTURED HOME					
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

MARKET: ASBURY PARK

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			904	1024	1096
SEMI-DETACHED/ROW	523	587	699	828	911
WALKUP	451	510	610	728	809
ELEVATOR 2-4 STY	530	596	714	851	928
ELEVATOR 5+ STY	602	689	827	987	1075
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

CARIBBEAN AREA OFFICE

MARKET: SAN JUAN

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			497	556	610
SEMI-DETACHED/ROW		419	464	526	564
WALKUP	319	380	448	504	554
ELEVATOR 2-4 STY					
ELEVATOR 5+ STY	367	416	468	537	599
MANUFACTURED HOME					
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

MARKET: MAYAGUEZ

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			471	554	620
SEMI-DETACHED/ROW		418	462	545	619
WALKUP	312	370	416	473	544
ELEVATOR 2-4 STY					
ELEVATOR 5+ STY	350	397	493	567	611
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

MARKET: PONCE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			455	534	579
SEMI-DETACHED/ROW		426	455	534	579
WALKUP	312	370	416	473	544
ELEVATOR 2-4 STY					
ELEVATOR 5+ STY	350	397	493	567	611
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

MARKET: ARECIBO

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			471	554	620
SEMI-DETACHED/ROW		418	462	545	619
WALKUP	312	370	416	473	544
ELEVATOR 2-4 STY					
ELEVATOR 5+ STY	350	397	493	567	611
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

MARKET: ST. CROIX

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			630	688	776
SEMI-DETACHED/ROW		471	553	621	707
WALKUP	338	392	477	536	598
ELEVATOR 2-4 STY					
ELEVATOR 5+ STY					
MANUFACTURED HOME					
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

MARKET: ST. THOMAS

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			630	688	776
SEMI-DETACHED/ROW		471	553	621	707
WALKUP	345	399	486	543	610
ELEVATOR 2-4 STY					
ELEVATOR 5+ STY					
MANUFACTURED HOME					
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

MARKET: OLD SAN JUAN

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW		660	734	800	889
WALKUP	552	606	682	744	804
ELEVATOR 2-4 STY					
ELEVATOR 5+ STY					
MANUFACTURED HOME					
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

PREPARED ON 113083

SCHEDULE A- FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 3

BALTIMORE, MARYLAND AREA OFFICE

MARKET: BALTIMORE
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			666	751	882
SEMI-DETACHED/ROW		463	539	623	827
WALKUP	376	463	532	634	722
ELEVATOR 2-4 STY	390	507	579		
ELEVATOR 5+ STY	431	532	678		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: HAGERSTOWN
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		630	721	847
	430	510	613	792
350	430	504	602	686
356	463	548		
408	492	641		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: SALISBURY
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		566	624	732
	395	460	533	685
305	395	454	527	599
316	433	494		
349	454	578		

EFFECTIVE DATE 100183
TRENDED DATE 100185

CHARLESTON, WEST VIRGINIA SERVICE OFFICE

MARKET: CHARLESTON
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			498	547	608
SEMI-DETACHED/ROW		442	474	588	667
WALKUP	318	395	460	470	531
ELEVATOR 2-4 STY	399	462	521		
ELEVATOR 5+ STY	404	468	527		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: BLUEFIELD
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		474	522	581
	351	447	488	525
299	351	397	443	487
373	443	496		
380	449	503		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: HUNTINGTON
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		452	545	593
	361	442	515	568
232	361	442	491	537
353	419	502		
358	425	507		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: PARKERSBURG
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		423	488	536
	354	398	461	507
287	365	388	437	482
363	437	530		
371	443	536		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: WHEELING
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			465	515	576
SEMI-DETACHED/ROW		342	438	501	553
WALKUP	266	335	423	465	506
ELEVATOR 2-4 STY	349	417	505		
ELEVATOR 5+ STY	354	423	510		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: MARTINSBURG
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		458	515	576
	345	419	491	553
276	336	419	465	525
395	434	483		
401	439	489		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: FAIRMONT
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		491	545	610
	410	463	522	585
305	381	445	491	540
417	458	510		
424	464	516		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: POINT PLEASANT
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		422	486	531
	315	394	458	504
258	317	387	431	479
361	431	483		
366	439	490		

EFFECTIVE DATE 100183
TRENDED DATE 100185

PHILADELPHIA, PENNSYLVANIA AREA OFFICE

MARKET: PHILADELPHIA
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			873	983	1051
SEMI-DETACHED/ROW		539	675	800	874
WALKUP	423	476	601	713	785
ELEVATOR 2-4 STY	514	575	711	839	912
ELEVATOR 5+ STY	585	660	821	972	1054
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: ALLENTOWN
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
	451	561	656	724
385	424	528	616	688
454	479	562		
467	513	629		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: BELLEFONTE
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
	456	558	644	704
363	444	519	614	660
395	461	572		
439	495	611		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: HARRISBURG
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
	460	506	645	704
363	424	490	604	658
412	478	528		
446	517	572		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: LANCASTER
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW		428	526	647	671
WALKUP	354	413	515	620	646
ELEVATOR 2-4 STY	429	496	644		
ELEVATOR 5+ STY	451	518	666		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: YORK
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
	428	526	647	671
354	413	515	620	646
429	496	644		
451	518	666		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: READING
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
	451	539	648	721
359	433	518	612	671
410	484	561		
444	531	622		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: SCRANTON
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
	478	555	631	690
397	439	528	605	671
450	522	589		
478	556	627		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: WELLSBORO
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW		456	558	644	704
WALKUP	363	444	519	614	660
ELEVATOR 2-4 STY	395	461	572		
ELEVATOR 5+ STY	439	495	611		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

PITTSBURGH, PENNSYLVANIA AREA OFFICE

MARKET: PITTSBURGH
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			556	648	680
SEMI-DETACHED/ROW		475	529	618	723
WALKUP	369	439	519	588	688
ELEVATOR 2-4 STY	400	469	531		
ELEVATOR 5+ STY	414	484	565		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: ERIE
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		543	631	738
	471	518	595	696
325	401	466	536	611
393	441	521		
405	455	554		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: ALTOONA
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		523	603	706
	451	495	513	672
330	407	497	571	653
389	456	504		
397	469	537		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: JOHNSTOWN
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		523	606	709
	437	498	577	675
341	412	485	558	636
390	455	509		
399	469	543		

EFFECTIVE DATE 100183
TRENDED DATE 100185

PREPARED ON 113083

SCHEDULE A- FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 3

RICHMOND, VIRGINIA AREA OFFICE

	MARKET: NORTON NUMBER OF BEDROOMS					MARKET: HARRISONBURG NUMBER OF BEDROOMS					MARKET: NEWPORT NEWS NUMBER OF BEDROOMS					MARKET: NORFOLK NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+
DETACHED																				
SEMI-DETACHED/ROW		332	399	494	554		374	436	508	563		369	425	530	576		395	471	530	580
WALKUP	245	303	385	489	527	290	344	427	492	547	291	329	397	474	529	339	382	452	530	573
ELEVATOR 2-4 STY	276	334	416			321	375	458			322	359	427			370	413	483		
ELEVATOR 5+ STY	318	376	497			409	466	580			437	490	598			445	535	651		
MANUFACTURED HOME																				
EFFECTIVE DATE	100183					EFFECTIVE DATE	100183				EFFECTIVE DATE	100183				EFFECTIVE DATE	100183			
TRENDED DATE	100185					TRENDED DATE	100185				TRENDED DATE	100185				TRENDED DATE	100185			

	MARKET: CHARLOTTESVILLE NUMBER OF BEDROOMS					MARKET: RICHMOND NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+
DETACHED										
SEMI-DETACHED/ROW		414	489	578	614		382	443	518	563
WALKUP	340	385	461	512	569	311	364	434	512	558
ELEVATOR 2-4 STY	371	416	492			342	394	465		
ELEVATOR 5+ STY	429	508	625			397	470	621		
MANUFACTURED HOME										
EFFECTIVE DATE	100183					EFFECTIVE DATE	100183			
TRENDED DATE	100185					TRENDED DATE	100185			

WASHINGTON, D.C. AREA OFFICE

	MARKET: WASHINGTON D.C. NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW	458	530	630	685	775
WALKUP	369	483	554	641	716
ELEVATOR 2-4 STY	406	521	644	734	
ELEVATOR 5+ STY	420	539	680	844	
MANUFACTURED HOME					
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

PREPARED ON 113083

SCHEDULE A FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 3

WILMINGTON, DELAWARE VALUATION AND ENDORSEMENT STATION

	MARKET: WILMINGTON, DEL NUMBER OF BEDROOMS					MARKET: DOVER, DEL NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+
DETACHED			581	730	763			556	697	753
SEMI-DETACHED/ROW		424	518	622	682		389	468	576	628
WALKUP	351	406	479	557	597	343	370	421	501	541
ELEVATOR 2-4 STY	357	452	569			349	428	506		
ELEVATOR 5+ STY	411	524	581			370	472	562		
MANUFACTURED HOME										
	EFFECTIVE DATE 100183					EFFECTIVE DATE 100183				
	TRENDED DATE 100185					TRENDED DATE 100185				

ATLANTA, GEORGIA AREA OFFICE

	MARKET: ATLANTA NUMBER OF BEDROOMS					MARKET: ALBANY NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+
DETACHED								452	526	559
SEMI-DETACHED/ROW	411	439	498	600	638	301	341	402	476	520
WALKUP	400	425	486	588	625	292	330	391	464	510
ELEVATOR 2-4 STY	426	451	511			317	355	416		
ELEVATOR 5+ STY	477	508	582			367	405	466		
MANUFACTURED HOME										
	EFFECTIVE DATE 100183					EFFECTIVE DATE 100183				
	TRENDED DATE 100185					TRENDED DATE 100185				

	MARKET: AUGUSTA NUMBER OF BEDROOMS					MARKET: BRUNSWICK NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+
DETACHED			408	479	520			441	533	580
SEMI-DETACHED/ROW	311	344	386	460	494	322	358	417	507	553
WALKUP	301	330	372	445	483	311	347	402	494	539
ELEVATOR 2-4 STY	328	356	398			337	373	429		
ELEVATOR 5+ STY	366	396	457			399	434	481		
MANUFACTURED HOME										
	EFFECTIVE DATE 100183					EFFECTIVE DATE 100183				
	TRENDED DATE 100185					TRENDED DATE 100185				

	MARKET: COLUMBUS NUMBER OF BEDROOMS					MARKET: MACON NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+
DETACHED			416	508	548			425	460	511
SEMI-DETACHED/ROW	300	334	374	479	515	333	354	401	438	492
WALKUP	288	322	362	467	503	319	337	388	424	472
ELEVATOR 2-4 STY	313	348	387			346	365	416		
ELEVATOR 5+ STY	365	401	437			397	424	482		
MANUFACTURED HOME										
	EFFECTIVE DATE 100183					EFFECTIVE DATE 100183				
	TRENDED DATE 100185					TRENDED DATE 100185				

	MARKET: ROME NUMBER OF BEDROOMS					MARKET: SAVANNAH NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+
DETACHED			378	446	480			473	549	586
SEMI-DETACHED/ROW	250	288	329	396	440	332	366	440	499	546
WALKUP	239	277	329	385	429	320	354	428	487	535
ELEVATOR 2-4 STY	264	302	354			347	383	453		
ELEVATOR 5+ STY	314	352	404			405	448	503		
MANUFACTURED HOME										
	EFFECTIVE DATE 100183					EFFECTIVE DATE 100183				
	TRENDED DATE 100185					TRENDED DATE 100185				

	MARKET: VALDOSTA NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			399	456	522
SEMI-DETACHED/ROW	285	315	375	449	511
WALKUP	275	298	366	427	488
ELEVATOR 2-4 STY	304	329	397		
ELEVATOR 5+ STY	360	390	481		
MANUFACTURED HOME					
	EFFECTIVE DATE 100183				
	TRENDED DATE 100185				

PREPARED ON 122283

SCHEDULE A: FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 4

BIRMINGHAM, ALABAMA AREA OFFICE

MARKET BIRMINGHAM
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			550	703	779
SEMI-DETACHED/ROW		341	405	490	525
WALKUP	301	335	393	472	508
ELEVATOR 2-4 STY	312	353	416		
ELEVATOR 5+ STY	324	370	440		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET DOTHAN
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		464	594	667
	329	383	447	487
293	323	367	430	470
304	340	390		
316	358	414		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET FLORENCE
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		516	660	742
	325	386	469	507
283	320	374	451	494
295	337	397		
307	354	421		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET HUNTSVILLE
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		514	650	741
	357	426	503	547
298	352	421	490	539
341	379	457		
352	397	480		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET MOBILE
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			498	636	713
SEMI-DETACHED/ROW		345	411	492	528
WALKUP	295	339	403	473	515
ELEVATOR 2-4 STY	320	357	426		
ELEVATOR 5+ STY	332	374	449		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET MONTGOMERY
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		480	611	685
	329	418	495	547
300	324	400	490	536
312	341	423		
323	358	447		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET TUSCALOOSA
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3	-4+
		516	657	734
	351	407	506	540
311	346	395	489	526
331	363	418		
343	380	441		

EFFECTIVE DATE 100183
TRENDED DATE 100185

COLUMBIA, SOUTH CAROLINA AREA OFFICE

MARKET GREENVILLE
NUMBER OF BEDROOMS

STRUCTURE TYPE	0-	1	-2	3-	4+
DETACHED	415	460	520	595	650
SEMI-DETACHED/ROW	390	440	500	575	630
WALKUP	395	425	480	560	605
ELEVATOR 2-4 STY	429	492	577		
ELEVATOR 5+ STY	452	515	590		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET GREENWOOD
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
411	456	507	540	591
387	436	487	522	573
382	421	468	509	551
419	474	565		
441	498	575		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET MYRTLE BEACH
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
444	477	551	632	679
424	457	530	611	659
408	441	509	591	633
441	504	606		
464	527	629		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET ORANGEBURG
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
362	406	471	525	574
341	389	454	508	557
336	380	441	495	540
413	457	527		
421	465	536		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET ROCKHILL
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0	-1-	2	-3-	-4+
DETACHED	420	457	515	580	634
SEMI-DETACHED/ROW	399	436	498	561	614
WALKUP	384	421	481	546	595
ELEVATOR 2-4 STY	419	474	572		
ELEVATOR 5+ STY	441	498	595		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET COLUMBIA
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
415	465	532	595	650
390	445	515	575	630
385	435	492	560	610
429	492	577		
452	515	600		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET AIKEN
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
408	457	515	535	585
383	436	498	517	568
379	421	481	504	550
419	474	572		
441	498	589		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET ANDERSON
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
394	437	485	530	580
370	418	466	513	562
366	404	448	500	541
429	488	540		
452	498	549		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET BEAUFORT
NUMBER OF BEDROOMS

STRUCTURE TYPE	0-	1	2	3-	4+
DETACHED	444	477	551	632	679
SEMI-DETACHED/ROW	424	457	530	611	659
WALKUP	408	441	509	591	633
ELEVATOR 2-4 STY	441	504	606		
ELEVATOR 5+ STY	464	527	629		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET CHARLESTON
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
444	475	551	632	679
420	455	530	611	659
408	441	509	591	633
441	504	606		
464	527	629		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET FLORENCE
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
397	445	503	540	591
374	426	485	522	573
369	417	471	509	555
419	474	564		
441	498	573		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET SPARTANBURG
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
401	444	498	525	574
377	425	479	508	557
372	411	460	495	536
429	492	555		
452	507	565		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET NORTH AUGUSTA
NUMBER OF BEDROOMS

STRUCTURE TYPE	0-	1	2	3	4+
DETACHED	408	457	515	535	585
SEMI-DETACHED/ROW	383	436	498	517	568
WALKUP	379	421	481	504	550
ELEVATOR 2-4 STY	419	474	572		
ELEVATOR 5+ STY	441	498	589		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

PREPARED ON 113083

SCHEDULE A FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 4

GREENSBORO, NORTH CAROLINA AREA OFFICE

MARKET GREENSBORO

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	-0	-1	2	3	-4+
DETACHED			446	509	603
SEMI DETACHED/ROW		360	431	479	575
WALKUP	309	360	431	474	571
ELEVATOR 2-4 STY	329	392	455		
ELEVATOR 5+ STY	468	503	609		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET ASHEVILLE

NUMBER OF BEDROOMS				
-0	-1-	-2-	-3-	-4+
		426	519	601
	344	396	499	570
293	344	396	494	570
326	376	428		
426	479	566		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET CHARLOTTE

NUMBER OF BEDROOMS				
-0-	-1-	2	-3-	4+
		487	563	631
	381	452	523	604
336	381	452	523	604
363	413	484		
470	504	604		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET DURHAM

NUMBER OF BEDROOMS				
-0	-1-	-2-	-3-	-4+
		476	547	642
	358	442	536	613
336	358	442	531	608
367	390	472		
467	509	618		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET GREENVILLE

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0	-1-	2-	-3-	4+
DETACHED			414	476	566
SEMI DETACHED/ROW		333	400	451	521
WALKUP	268	329	395	451	521
ELEVATOR 2-4 STY	298	349	415		
ELEVATOR 5+ STY	401	466	558		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET RALEIGH

NUMBER OF BEDROOMS				
-0-	1-	-2-	-3-	-4+
		480	571	667
	404	471	524	602
336	399	466	519	597
363	419	486		
509	572	679		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET WINSTON-SALEM

NUMBER OF BEDROOMS				
-0-	-1-	-2-	-3	-4+
		434	517	615
	351	405	485	564
286	349	405	480	559
312	369	433		
448	479	574		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET FAYETTEVILLE

NUMBER OF BEDROOMS				
-0	-1-	-2-	-3-	-4+
		413	483	553
	326	383	445	512
285	325	383	445	512
313	356	415		
393	441	524		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET WILMINGTON

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0	1	2	3	4+
DETACHED			427	504	573
SEMI DETACHED/ROW		336	405	461	528
WALKUP	290	336	405	461	528
ELEVATOR 2-4 STY	319	356	425		
ELEVATOR 5+ STY	418	464	557		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET ELIZABETH CITY

NUMBER OF BEDROOMS				
-0	1-	-2	-3-	-4+
		442	524	632
	310	392	477	577
262	305	387	472	572
294	362	446		
448	525	650		

EFFECTIVE DATE 100183
TRENDED DATE 100185

JACKSON, MISSISSIPPI AREA OFFICE

MARKET: JACKSON

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
DETACHED			469	566	641
SEMI-DETACHED/ROW	372	372	464	548	617
WALKUP	326	372	421	498	556
ELEVATOR 2-4 STY	464	520	604		
ELEVATOR 5+ STY	478	536	624		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: CORINTH

NUMBER OF BEDROOMS				
-0-	-1-	-2-	-3-	-4+
		384	486	561
268	314	373	469	543
255	304	368	463	525
400	461	560		
415	477	581		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: GREENVILLE

NUMBER OF BEDROOMS				
-0-	-1-	-2-	-3-	-4+
		465	492	565
364	380	440	477	555
329	360	420	444	511
471	515	602		
485	532	622		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: GREENWOOD

NUMBER OF BEDROOMS				
-0-	-1-	-2-	-3-	-4+
		438	467	550
343	372	425	447	525
295	345	400	415	476
427	484	575		
441	500	595		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: GULFPORT

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
DETACHED			436	511	585
SEMI-DETACHED/ROW	360	374	431	504	535
WALKUP	298	345	392	479	535
ELEVATOR 2-4 STY	442	520	613		
ELEVATOR 5+ STY	456	540	635		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: HATTIESBURG

NUMBER OF BEDROOMS				
-0-	-1-	-2-	-3-	-4+
		421	505	594
342	344	407	488	556
263	322	394	471	526
402	468	577		
416	484	597		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: SOUTHAVEN

NUMBER OF BEDROOMS				
-0-	-1-	-2-	-3-	-4+
		458	530	603
310	383	436	517	594
298	378	436	505	581
428	515	604		
447	531	624		

EFFECTIVE DATE 100183
TRENDED DATE 100185

PREPARED ON 122383

SCHEDULE A- FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 4

JACKSONVILLE, FLORIDA AREA OFFICE

MARKET: JACKSONVILLE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			590	665	740
SEMI-DETACHED/ROW	378	434	524	590	652
WALKUP	339	384	477	557	627
ELEVATOR 2-4 STY	400	448	557		
ELEVATOR 5+ STY	458	508	633		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: PENSACOLA

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			552	635	691
SEMI-DETACHED/ROW	390	447	533	603	664
WALKUP	345	393	465	522	581
ELEVATOR 2-4 STY	405	457	537		
ELEVATOR 5+ STY	456	517	604		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: KEY WEST

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			667	737	811
SEMI-DETACHED/ROW	529	579	654	727	799
WALKUP	434	486	596	669	742
ELEVATOR 2-4 STY	508	563	691		
ELEVATOR 5+ STY	576	634	782		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: MIAMI

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			667	737	811
SEMI-DETACHED/ROW	529	579	654	727	799
WALKUP	434	486	596	669	742
ELEVATOR 2-4 STY	508	563	691		
ELEVATOR 5+ STY	576	634	782		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: TAMPA

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			645	710	796
SEMI-DETACHED/ROW	386	441	530	599	669
WALKUP	353	407	490	557	620
ELEVATOR 2-4 STY	432	489	593		
ELEVATOR 5+ STY	509	567	673		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: ORLANDO

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			645	725	799
SEMI-DETACHED/ROW	374	429	528	589	657
WALKUP	350	405	479	543	611
ELEVATOR 2-4 STY	429	488	595		
ELEVATOR 5+ STY	498	555	657		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

LOUISVILLE, KENTUCKY AREA OFFICE

MARKET: LOUISVILLE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			516	585	656
SEMI-DETACHED/ROW		431	494	555	620
WALKUP	356	388	455	528	575
ELEVATOR 2-4 STY	387	419	485		
ELEVATOR 5+ STY	464	508	606		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: ASHLAND

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			489	556	624
SEMI-DETACHED/ROW		404	466	529	596
WALKUP	360	395	449	513	574
ELEVATOR 2-4 STY	393	425	484		
ELEVATOR 5+ STY	472	515	611		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: COVINGTON

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			491	587	675
SEMI-DETACHED/ROW		404	466	537	618
WALKUP	360	395	449	513	574
ELEVATOR 2-4 STY	393	425	484		
ELEVATOR 5+ STY	477	515	618		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: OWENSBORO

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			515	580	646
SEMI-DETACHED/ROW		397	480	555	620
WALKUP	327	366	439	525	572
ELEVATOR 2-4 STY	387	406	485		
ELEVATOR 5+ STY	439	493	606		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: PADUCAH

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			514	581	649
SEMI-DETACHED/ROW		397	480	556	622
WALKUP	327	366	439	524	571
ELEVATOR 2-4 STY	387	419	485		
ELEVATOR 5+ STY	451	495	591		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: PIKEVILLE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			539	615	674
SEMI-DETACHED/ROW		423	504	570	627
WALKUP	360	400	461	528	576
ELEVATOR 2-4 STY	403	432	518		
ELEVATOR 5+ STY	465	509	618		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

PREPARED ON 113083

SCHEDULE A FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 4

KNOXVILLE, TENNESSEE AREA OFFICE

	MARKET KNOXVILLE NUMBER OF BEDROOMS				
STRUCTURE TYPE	0	1-	2-	3-	4+
DETACHED			442	520	550
SEMI DETACHED/ROW		370	427	500	545
WALKUP	335	360	417	485	535
ELEVATOR 2-4 STY	360	385	442		
ELEVATOR 5+ STY	385	405	468		
MANUFACTURED HOME					
	EFFECTIVE DATE 100183				
	TRENDED DATE 100185				

	MARKET CHATTANOOGA NUMBER OF BEDROOMS				
	0	1-	2-	3-	4+
			435	515	550
		390	425	500	535
	355	380	410	490	525
	380	400	435		
	400	425	460		
	EFFECTIVE DATE 100183				
	TRENDED DATE 100185				

	MARKET JOHNSON CITY NUMBER OF BEDROOMS				
	0-	1-	2-	3-	4+
			435	505	540
		356	425	495	530
	322	338	410	480	510
	351	368	440		
	373	396	465		
	EFFECTIVE DATE 100183				
	TRENDED DATE 100185				

	MARKET KINGSPORT NUMBER OF BEDROOMS				
	0-	1-	2-	3-	4+
			435	505	540
		356	425	495	530
	322	338	410	480	515
	351	365	440		
	370	396	465		
	EFFECTIVE DATE 100183				
	TRENDED DATE 100185				

	MARKET OAKRIDGE NUMBER OF BEDROOMS				
STRUCTURE TYPE	0-	1-	2	3	4+
DETACHED			442	520	550
SEMI DETACHED/ROW		370	427	500	545
WALKUP	335	360	417	485	535
ELEVATOR 2-4 STY	360	385	442		
ELEVATOR 5+ STY	385	405	468		
MANUFACTURED HOME					
	EFFECTIVE DATE 100183				
	TRENDED DATE 100185				

NASHVILLE, TENNESSEE SERVICE OFFICE

	MARKET: NASHVILLE NUMBER OF BEDROOMS				
STRUCTURE TYPE	0-	1-	2-	3-	4+
DETACHED			452	527	566
SEMI-DETACHED/ROW	346	384	436	515	555
WALKUP	316	366	429	509	550
ELEVATOR 2-4 STY	326	384	436		
ELEVATOR 5+ STY	333	398	452		
MANUFACTURED HOME					
	EFFECTIVE DATE 100183				
	TRENDED DATE 100185				

	MARKET: CLARKSVILLE NUMBER OF BEDROOMS				
	0-	1-	2-	3-	4+
			415	487	527
	336	338	396	474	515
	288	328	391	469	509
	293	345	396		
	299	356	414		
	EFFECTIVE DATE 100183				
	TRENDED DATE 100185				

	MARKET: COLUMBIA NUMBER OF BEDROOMS				
	0-	1-	2-	3-	4+
			415	473	518
	305	305	361	466	498
	254	299	351	452	492
	260	316	358		
	270	338	391		
	EFFECTIVE DATE 100183				
	TRENDED DATE 100185				

	MARKET: MEMPHIS NUMBER OF BEDROOMS				
	0-	1-	2-	3-	4+
			406	465	543
	338	340	388	437	495
	262	293	342	412	443
	305	366	431		
	345	405	470		
	EFFECTIVE DATE 100183				
	TRENDED DATE 100185				

	MARKET: JACKSON NUMBER OF BEDROOMS				
STRUCTURE TYPE	0-	1-	2-	3-	4+
DETACHED			388	452	533
SEMI-DETACHED/ROW	296	310	364	420	488
WALKUP	255	293	354	409	466
ELEVATOR 2-4 STY	312	335	421		
ELEVATOR 5+ STY	325	371	458		
MANUFACTURED HOME					
	EFFECTIVE DATE 100183				
	TRENDED DATE 100185				

	MARKET: UNION CITY NUMBER OF BEDROOMS				
	0-	1-	2-	3-	4+
			370	431	508
	295	295	348	400	465
	244	280	337	391	444
	297	354	449		
	325	393	458		
	EFFECTIVE DATE 100183				
	TRENDED DATE 100185				

PREPARED ON 122283

SCHEDULE A FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 5

CHICAGO, ILLINOIS AREA OFFICE

MARKET: CHICAGO

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			719	854	985
SEMI-DETACHED/ROW	520	590	660	775	859
WALKUP	441	509	608	729	765
ELEVATOR 2-4 STY	471	554	653	776	777
ELEVATOR 5+ STY	510	638	759	787	833
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: BELLEVILLE

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		610	691	769
402	446	537	606	700
357	424	490	553	611
381	450	524		
449	493	572		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: MOLINE

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		647	772	853
418	450	558	678	763
381	444	536	642	674
444	471	570		
472	515	618		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: SPRINGFIELD

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		667	746	827
397	441	526	616	701
351	413	489	559	620
394	455	528		
440	494	578		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: EAST ST. LOUIS

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			528	607	683
SEMI-DETACHED/ROW	371	423	480	564	643
WALKUP	330	381	458	515	572
ELEVATOR 2-4 STY	351	406	490		
ELEVATOR 5+ STY	424	481	581		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

CINCINNATI, OHIO SERVICE OFFICE

MARKET: CINCINNATI

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			641	793	826
SEMI-DETACHED/ROW		455	518	621	683
WALKUP	319	375	472	537	620
ELEVATOR 2-4 STY	351	468	558		
ELEVATOR 5+ STY	488	574	653		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: DAYTON

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		563	730	807
	392	455	545	614
325	382	447	511	571
357	474	566		
494	580	627		

EFFECTIVE DATE 100183
TRENDED DATE 100185

PREPARED ON 113083

SCHEDULE A- FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 5

CLEVELAND, OHIO SERVICE OFFICE

MARKET CLEVELAND

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			723	783	845
SEMI-DETACHED/ROW		481	550	621	667
WALKUP	345	415	482	559	606
ELEVATOR 2-4 STY	354	420	527		
ELEVATOR 5+ STY	417	428	536		
MANUFACTURED HOME					
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

MARKET AKRON

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			700	774	829
SEMI-DETACHED/ROW		471	546	624	657
WALKUP	340	392	477	559	602
ELEVATOR 2-4 STY	342	397	530		
ELEVATOR 5+ STY	345	405	539		
MANUFACTURED HOME					
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

MARKET FINDLAY

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			602	688	753
SEMI-DETACHED/ROW		431	487	595	633
WALKUP	331	364	429	532	574
ELEVATOR 2-4 STY	344	391	481		
ELEVATOR 5+ STY	356	411	515		
MANUFACTURED HOME					
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

MARKET LORAIN

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			614	702	766
SEMI-DETACHED/ROW		416	494	568	631
WALKUP	308	340	407	500	540
ELEVATOR 2-4 STY	328	345	410		
ELEVATOR 5+ STY	345	350	427		
MANUFACTURED HOME					
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

MARKET MANSFIELD

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2	-3-	-4+
DETACHED			583	660	726
SEMI-DETACHED/ROW		419	476	551	613
WALKUP	325	358	395	503	535
ELEVATOR 2-4 STY	335	368	441		
ELEVATOR 5+ STY	341	392	450		
MANUFACTURED HOME					
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

MARKET TOLEDO

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			644	728	792
SEMI-DETACHED/ROW		467	523	599	661
WALKUP	355	389	438	533	563
ELEVATOR 2-4 STY	361	393	454		
ELEVATOR 5+ STY	396	401	463		
MANUFACTURED HOME					
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

MARKET YOUNGSTOWN

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			618	698	745
SEMI-DETACHED/ROW		463	494	569	604
WALKUP	340	370	426	510	552
ELEVATOR 2-4 STY	355	374	442		
ELEVATOR 5+ STY	363	382	451		
MANUFACTURED HOME					
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

COLUMBUS, OHIO AREA OFFICE

MARKET COLUMBUS

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			657	741	773
SEMI-DETACHED/ROW		373	449	500	553
WALKUP	293	364	425	485	551
ELEVATOR 2-4 STY	327	405	484		
ELEVATOR 5+ STY	466	558	667		
MANUFACTURED HOME					
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

MARKET ATHENS

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			639	710	737
SEMI-DETACHED/ROW		349	443	483	545
WALKUP	289	358	414	479	545
ELEVATOR 2-4 STY	321	399	473		
ELEVATOR 5+ STY	460	566	684		
MANUFACTURED HOME					
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

MARKET LIMA

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			639	710	737
SEMI-DETACHED/ROW		349	443	483	545
WALKUP	289	358	414	479	545
ELEVATOR 2-4 STY	321	399	473		
ELEVATOR 5+ STY	460	566	684		
MANUFACTURED HOME					
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

MARKET NEWARK

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			639	710	737
SEMI-DETACHED/ROW		349	443	483	545
WALKUP	289	358	414	479	545
ELEVATOR 2-4 STY	321	399	473		
ELEVATOR 5+ STY	460	566	684		
MANUFACTURED HOME					
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

MARKET SPRINGFIELD

STRUCTURE TYPE	NUMBER OF BEDROOMS -0	-1-	-2-	-3-	-4+
DETACHED			639	710	737
SEMI-DETACHED/ROW		349	443	483	545
WALKUP	289	358	414	479	545
ELEVATOR 2-4 STY	321	399	473		
ELEVATOR 5+ STY	460	566	684		
MANUFACTURED HOME					
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

MARKET SIDNEY

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			639	710	737
SEMI-DETACHED/ROW		349	443	483	545
WALKUP	289	358	414	479	545
ELEVATOR 2-4 STY	321	399	473		
ELEVATOR 5+ STY	460	566	684		
MANUFACTURED HOME					
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

MARKET ZANESVILLE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			639	710	737
SEMI-DETACHED/ROW		349	443	483	545
WALKUP	289	358	414	479	545
ELEVATOR 2-4 STY	321	399	473		
ELEVATOR 5+ STY	460	566	684		
MANUFACTURED HOME					
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

PREPARED ON 113083

SCHEDULE A- FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 5

DETROIT, MICHIGAN AREA OFFICE

MARKET: DETROIT
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			593	668	704
SEMI-DETACHED/ROW		368	482	578	636
WALKUP	300	368	453	496	554
ELEVATOR 2-4 STY	337	397	474		
ELEVATOR 5+ STY	336	432	490		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: FLINT
NUMBER OF BEDROOMS

	-0-	-1-	-2-	-3-	-4+
			486	553	590
		327	441	498	554
	276	318	382	498	554
	285	349	388		
	288	361	424		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: SAGINAW
NUMBER OF BEDROOMS

	-0-	-1-	-2-	-3-	-4+
			486	553	590
		327	441	498	554
	276	318	382	498	554
	285	349	388		
	288	361	424		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: ANN ARBOR
NUMBER OF BEDROOMS

	-0-	-1-	-2-	-3-	-4+
			593	668	704
		368	482	578	636
	300	368	453	496	554
	337	397	474		
	336	432	490		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: YPSILANTI
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			593	668	704
SEMI-DETACHED/ROW		368	482	578	636
WALKUP	300	368	453	496	554
ELEVATOR 2-4 STY	337	397	474		
ELEVATOR 5+ STY	336	432	490		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

GRAND RAPIDS, MICHIGAN SERVICE OFFICE

MARKET: MT PLEASANT
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			542	642	684
SEMI-DETACHED/ROW		400	461	570	616
WALKUP	246	326	364	452	486
ELEVATOR 2-4 STY	254	342	380		
ELEVATOR 5+ STY	409	466	539		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: GRAND RAPIDS
NUMBER OF BEDROOMS

	-0-	-1-	-2-	-3-	-4+
			538	636	667
		376	464	549	593
	273	340	432	473	506
	290	358	450		
	394	459	509		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: BENTON HARBOR
NUMBER OF BEDROOMS

	-0-	-1-	-2-	-3-	-4+
			517	614	646
		379	472	567	599
	265	307	379	464	493
	281	323	395		
	382	438	501		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: BATTLE CREEK
NUMBER OF BEDROOMS

	-0-	-1-	-2-	-3-	-4+
			563	662	697
		419	513	615	660
	264	347	417	523	552
	281	363	433		
	404	468	525		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: LANSING
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			540	664	703
SEMI-DETACHED/ROW		378	452	558	600
WALKUP	291	341	413	498	528
ELEVATOR 2-4 STY	307	358	429		
ELEVATOR 5+ STY	401	478	520		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: MUSKEGON
NUMBER OF BEDROOMS

	-0-	-1-	-2-	-3-	-4+
			546	644	676
		425	504	592	629
	301	351	415	501	502
	319	369	432		
	401	468	520		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: TRAVERSE CITY
NUMBER OF BEDROOMS

	-0-	1-	-2-	-3-	-4+
			584	683	715
		443	513	630	665
	281	365	411	504	541
	296	382	427		
	443	512	567		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: MARQUETTE
NUMBER OF BEDROOMS

	-0-	-1-	-2-	-3-	-4+
			507	607	639
		369	463	557	589
	209	292	376	467	502
	225	307	392		
	408	477	491		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: JACKSON
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			540	644	693
SEMI-DETACHED/ROW		366	451	546	588
WALKUP	284	352	402	494	520
ELEVATOR 2-4 STY	290	368	419		
ELEVATOR 5+ STY	420	479	542		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

PREPARED ON 113083

SCHEDULE A- FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 5

INDIANAPOLIS, INDIANA AREA OFFICE

MARKET: INDIANAPOLIS
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			557	623	694
SEMI-DETACHED/ROW		395	471	546	592
WALKUP	324	364	434	497	533
ELEVATOR 2-4 STY	358	387	461		
ELEVATOR 5+ STY	443	491	575		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: BLOOMINGTON
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		527	592	662
	374	446	506	572
308	350	413	468	519
342	372	440		
427	475	555		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: EVANSVILLE
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		513	576	643
	384	453	519	578
305	347	413	468	517
341	369	440		
414	464	538		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: FORT WAYNE
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		526	588	657
	377	450	500	559
305	345	409	459	506
338	367	436		
425	471	550		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: HAMMOND
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			571	637	691
SEMI-DETACHED/ROW		435	507	570	645
WALKUP	355	404	468	535	571
ELEVATOR 2-4 STY	396	426	495		
ELEVATOR 5+ STY	465	523	593		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: LAFAYETTE
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		548	614	686
	390	456	521	588
317	358	422	476	525
350	380	449		
440	489	566		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: SOUTH BEND
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		542	609	681
	403	468	534	602
315	358	420	474	523
352	381	448		
431	488	564		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: TERRE HAUTE
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		544	613	687
	388	465	526	592
313	357	428	489	543
348	379	455		
427	478	561		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: GARY
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			571	625	689
SEMI-DETACHED/ROW		432	498	570	645
WALKUP	355	404	468	535	571
ELEVATOR 2-4 STY	396	426	495		
ELEVATOR 5+ STY	448	497	566		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MILWAUKEE, WISCONSIN AREA OFFICE

MARKET: MADISON
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			614	698	736
SEMI-DETACHED/ROW		452	526	636	677
WALKUP	345	393	469	574	
ELEVATOR 2-4 STY	361	411	489		
ELEVATOR 5+ STY	491	533	639		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: REEDSVILLE
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		583	661	703
	431	493	605	651
322	373	439	547	
339	390	456		
466	516	613		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: SUPERIOR
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		606	698	748
	449	509	615	666
333	388	451	569	
350	405	468		
472	539	635		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: MILWAUKEE
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		673	727	804
	521	577	696	741
379	431	514	632	
396	448	531		
523	587	704		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: EAU CLAIRE
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			536	641	686
SEMI-DETACHED/ROW		426	487	594	637
WALKUP	327	372	438	543	
ELEVATOR 2-4 STY	346	392	458		
ELEVATOR 5+ STY	465	509	605		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: GREEN BAY
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		553	645	686
	405	476	585	629
300	348	421	524	
319	365	438		
442	482	593		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: WAUSAU
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		528	642	671
	415	471	582	626
309	357	417	519	
326	374	434		
449	501	591		

EFFECTIVE DATE 100183
TRENDED DATE 100185

PREPARED ON 113083

SCHEDULE A- FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 5

MINNEAPOLIS-ST. PAUL, MINNESOTA AREA OFFICE

MARKET: MINNEAPOLIS

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW		393	526	604	675
WALKUP	321	368	439	561	581
ELEVATOR 2-4 STY	356	422	529		
ELEVATOR 5+ STY	363	479	604		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: DULUTH

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW		348	458	531	595
WALKUP	299	326	413	498	528
ELEVATOR 2-4 STY	316	371	468		
ELEVATOR 5+ STY	322	386	489		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: MANKATO

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW		406	503	572	640
WALKUP	315	352	438	505	534
ELEVATOR 2-4 STY	348	386	452		
ELEVATOR 5+ STY	375	495	586		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: ROCHESTER

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW		422	507	588	657
WALKUP	322	359	442	509	539
ELEVATOR 2-4 STY	351	389	459		
ELEVATOR 5+ STY	390	514	582		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: ST. CLOUD

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW		333	438	508	569
WALKUP	277	312	395	476	505
ELEVATOR 2-4 STY	300	342	413		
ELEVATOR 5+ STY	308	406	503		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: WORTHINGTON

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW		305	410	475	532
WALKUP	261	296	369	445	472
ELEVATOR 2-4 STY	277	324	390		
ELEVATOR 5+ STY	282	372	470		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

DALLAS, TEXAS AREA OFFICE

MARKET: DALLAS

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			551	643	686
SEMI-DETACHED/ROW	364	401	507	598	649
WALKUP	313	376	482	556	632
ELEVATOR 2-4 STY	330	415	523		
ELEVATOR 5+ STY	463	525	675		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: SHERMAN

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			425	510	578
SEMI-DETACHED/ROW	255	298	388	457	525
WALKUP	242	287	368	425	495
ELEVATOR 2-4 STY	253	317	399		
ELEVATOR 5+ STY	354	423	553		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: TYLER

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			491	571	636
SEMI-DETACHED/ROW	334	363	459	535	593
WALKUP	275	340	433	502	562
ELEVATOR 2-4 STY	298	374	472		
ELEVATOR 5+ STY	418	502	632		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: WACO

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			442	523	587
SEMI-DETACHED/ROW	284	319	402	474	545
WALKUP	251	306	382	440	513
ELEVATOR 2-4 STY	261	328	415		
ELEVATOR 5+ STY	367	440	575		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: MARSHALL

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			491	571	636
SEMI-DETACHED/ROW	334	363	459	535	593
WALKUP	275	340	433	502	562
ELEVATOR 2-4 STY	298	374	472		
ELEVATOR 5+ STY	418	502	632		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: FORT WORTH

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			499	642	697
SEMI-DETACHED/ROW	327	362	457	528	628
WALKUP	285	342	433	500	582
ELEVATOR 2-4 STY	297	372	470		
ELEVATOR 5+ STY	417	500	652		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: WICHITA FALLS

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			455	537	605
SEMI-DETACHED/ROW	301	343	422	497	557
WALKUP	272	332	415	478	550
ELEVATOR 2-4 STY	284	357	450		
ELEVATOR 5+ STY	399	478	612		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: SAN ANGELO

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			505	600	667
SEMI-DETACHED/ROW	315	350	440	519	605
WALKUP	275	332	418	483	562
ELEVATOR 2-4 STY	287	360	454		
ELEVATOR 5+ STY	402	483	642		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: ABILENE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			524	638	706
SEMI-DETACHED/ROW	359	360	456	537	626
WALKUP	284	337	436	500	581
ELEVATOR 2-4 STY	296	372	468		
ELEVATOR 5+ STY	416	500	661		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: LUBBOCK

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			471	552	619
SEMI-DETACHED/ROW	306	341	430	507	573
WALKUP	268	329	408	471	548
ELEVATOR 2-4 STY	280	352	443		
ELEVATOR 5+ STY	393	470	586		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: AMARILLO

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			457	539	606
SEMI-DETACHED/ROW	299	335	423	498	575
WALKUP	263	331	401	463	540
ELEVATOR 2-4 STY	276	346	435		
ELEVATOR 5+ STY	386	463	578		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: EL PASO

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			458	530	594
SEMI-DETACHED/ROW	294	330	417	491	555
WALKUP	259	325	395	456	532
ELEVATOR 2-4 STY	270	340	429		
ELEVATOR 5+ STY	380	456	568		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: MIDLAND

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			559	689	752
SEMI-DETACHED/ROW	386	387	488	575	672
WALKUP	305	358	441	534	623
ELEVATOR 2-4 STY	347	398	502		
ELEVATOR 5+ STY	444	534	711		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: ODESSA

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			559	689	752
SEMI-DETACHED/ROW	386	387	488	575	672
WALKUP	305	358	441	534	623
ELEVATOR 2-4 STY	347	398	502		
ELEVATOR 5+ STY	444	534	711		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: ALBUQUERQUE NM

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			479	559	624
SEMI-DETACHED/ROW	307	342	434	510	591
WALKUP	269	315	409	474	553
ELEVATOR 2-4 STY	283	354	444		
ELEVATOR 5+ STY	396	462	612		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: ISLETA NM

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			479	559	624
SEMI-DETACHED/ROW	307	342	434	510	591
WALKUP	269	315	409	474	553
ELEVATOR 2-4 STY	283	354	444		
ELEVATOR 5+ STY	396	462	612		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

PREPARED ON 113083

SCHEDULE A- FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 6

DALLAS, TEXAS AREA OFFICE

MARKET: ALAMOGORDO NM

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			376	439	490
SEMI-DETACHED/ROW	214	282	359	418	464
WALKUP	230	268	345	400	435
ELEVATOR 2-4 STY	249	294	372		
ELEVATOR 5+ STY	320	363	480		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: MESCALERO NM

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			376	439	490
SEMI-DETACHED/ROW	214	282	359	418	464
WALKUP	230	268	345	400	435
ELEVATOR 2-4 STY	249	294	372		
ELEVATOR 5+ STY	320	363	480		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: ARTESIA NM

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			423	522	583
SEMI-DETACHED/ROW	282	321	370	435	508
WALKUP	236	288	349	402	469
ELEVATOR 2-4 STY	257	300	379		
ELEVATOR 5+ STY	336	402	536		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: CARLSBAD NM

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			423	522	583
SEMI-DETACHED/ROW	282	321	370	435	508
WALKUP	236	288	349	402	469
ELEVATOR 2-4 STY	257	300	379		
ELEVATOR 5+ STY	336	402	536		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: FORT SUMNER NM

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			360	420	469
SEMI-DETACHED/ROW	228	270	340	400	444
WALKUP	220	256	320	369	417
ELEVATOR 2-4 STY	242	280	353		
ELEVATOR 5+ STY	307	347	460		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: GALLUP NM

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			479	559	624
SEMI-DETACHED/ROW	307	345	434	510	591
WALKUP	269	315	409	474	553
ELEVATOR 2-4 STY	283	354	444		
ELEVATOR 5+ STY	396	462	612		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: LAGUNA NM

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			479	559	624
SEMI-DETACHED/ROW	307	345	434	510	591
WALKUP	269	315	409	474	553
ELEVATOR 2-4 STY	283	354	444		
ELEVATOR 5+ STY	396	462	612		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: HOBBS NM

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			507	615	686
SEMI-DETACHED/ROW	327	349	441	521	607
WALKUP	275	328	419	484	564
ELEVATOR 2-4 STY	287	359	455		
ELEVATOR 5+ STY	402	484	644		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: LAS CRUCES NM

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			376	439	490
SEMI-DETACHED/ROW	214	282	359	418	464
WALKUP	230	268	345	400	435
ELEVATOR 2-4 STY	249	294	372		
ELEVATOR 5+ STY	320	363	480		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: LAS VEGAS NM

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			488	569	635
SEMI-DETACHED/ROW	320	337	425	503	587
WALKUP	264	316	404	467	545
ELEVATOR 2-4 STY	277	348	438		
ELEVATOR 5+ STY	390	467	622		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: LOS ALAMOS NM

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			488	569	635
SEMI-DETACHED/ROW	320	337	425	503	587
WALKUP	264	316	404	467	545
ELEVATOR 2-4 STY	277	348	438		
ELEVATOR 5+ STY	390	467	622		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: RATON NM

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			488	569	635
SEMI-DETACHED/ROW	320	337	425	503	587
WALKUP	264	316	404	467	545
ELEVATOR 2-4 STY	277	348	438		
ELEVATOR 5+ STY	390	467	622		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: SOCORRO NM

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			479	559	624
SEMI-DETACHED/ROW	307	342	434	510	591
WALKUP	269	315	409	474	553
ELEVATOR 2-4 STY	283	354	444		
ELEVATOR 5+ STY	396	462	612		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: RUIDOSO NM

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			376	439	490
SEMI-DETACHED/ROW	214	282	359	418	464
WALKUP	230	268	345	400	435
ELEVATOR 2-4 STY	249	294	372		
ELEVATOR 5+ STY	320	363	480		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: SANTA FE NM

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			488	569	635
SEMI-DETACHED/ROW	320	337	425	503	587
WALKUP	264	316	404	467	545
ELEVATOR 2-4 STY	277	348	438		
ELEVATOR 5+ STY	390	467	622		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: POJOAQUE NM

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			488	569	635
SEMI-DETACHED/ROW	320	337	425	503	587
WALKUP	264	316	404	467	545
ELEVATOR 2-4 STY	277	348	438		
ELEVATOR 5+ STY	390	467	622		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

DALLAS, TEXAS AREA OFFICE

MARKET: SILVER CITY NM

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			376	439	490
SEMI-DETACHED/ROW	214	282	359	418	464
WALKUP	230	268	345	400	435
ELEVATOR 2-4 STY	249	294	372		
ELEVATOR 5+ STY	320	363	480		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: TRUTH OR CONSEQ NM

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			376	439	490
SEMI-DETACHED/ROW	214	282	359	418	464
WALKUP	230	268	345	400	435
ELEVATOR 2-4 STY	249	294	372		
ELEVATOR 5+ STY	320	363	480		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: TIERRA AMARI NM

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			488	569	635
SEMI-DETACHED/ROW	320	342	434	510	596
WALKUP	269	321	409	474	553
ELEVATOR 2-4 STY	283	354	444		
ELEVATOR 5+ STY	396	470	623		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: DULCE NM

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			488	569	635
SEMI-DETACHED/ROW	320	342	434	510	596
WALKUP	269	321	409	474	553
ELEVATOR 2-4 STY	283	354	444		
ELEVATOR 5+ STY	396	470	623		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: JEMEZ NM

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			479	559	624
SEMI-DETACHED/ROW	307	342	434	510	591
WALKUP	269	315	409	474	553
ELEVATOR 2-4 STY	283	354	444		
ELEVATOR 5+ STY	396	462	612		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: TAOS NM

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			488	569	635
SEMI-DETACHED/ROW	320	337	425	503	587
WALKUP	264	316	404	467	545
ELEVATOR 2-4 STY	277	348	438		
ELEVATOR 5+ STY	390	467	622		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: PENASCO NM

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			488	569	635
SEMI-DETACHED/ROW	320	337	425	503	587
WALKUP	264	316	404	467	545
ELEVATOR 2-4 STY	277	348	438		
ELEVATOR 5+ STY	390	467	622		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: FARMINGTON NM

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			465	542	605
SEMI-DETACHED/ROW	305	348	443	517	573
WALKUP	284	331	427	494	537
ELEVATOR 2-4 STY	303	364	460		
ELEVATOR 5+ STY	396	448	594		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: CLOVIS NM

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			360	420	469
SEMI-DETACHED/ROW	228	270	340	400	444
WALKUP	220	256	320	369	417
ELEVATOR 2-4 STY	242	280	353		
ELEVATOR 5+ STY	307	347	460		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

PREPARED ON 113083

SCHEDULE A: FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 6

HOUSTON, TEXAS SERVICE OFFICE

MARKET: HOUSTON

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			596	728	843
SEMI-DETACHED/ROW	350	413	536	673	767
WALKUP	330	395	500	618	683
ELEVATOR 2-4 STY	397	500	599		
ELEVATOR 5+ STY	503	587	679		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: BEAUMONT

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			556	674	778
SEMI-DETACHED/ROW	334	395	467	587	696
WALKUP	315	364	448	555	675
ELEVATOR 2-4 STY	377	437	537		
ELEVATOR 5+ STY	498	529	642		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: BRYAN

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			516	682	791
SEMI-DETACHED/ROW	330	399	492	646	724
WALKUP	311	369	475	564	669
ELEVATOR 2-4 STY	363	438	546		
ELEVATOR 5+ STY	480	576	720		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: LUFKIN

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			492	577	668
SEMI-DETACHED/ROW	311	382	469	546	612
WALKUP	293	344	424	496	585
ELEVATOR 2-4 STY	347	420	521		
ELEVATOR 5+ STY	460	500	614		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: EL CAMPO

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			507	594	688
SEMI-DETACHED/ROW	318	350	467	562	631
WALKUP	300	341	441	535	614
ELEVATOR 2-4 STY	349	409	531		
ELEVATOR 5+ STY	425	501	619		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: TEXAS CITY

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			589	671	777
SEMI-DETACHED/ROW	335	403	504	636	712
WALKUP	316	396	504	606	693
ELEVATOR 2-4 STY	400	474	604		
ELEVATOR 5+ STY	503	587	679		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

LITTLE ROCK, ARKANSAS AREA OFFICE

MARKET: FAYETTEVILLE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			473	567	620
SEMI-DETACHED/ROW	327	391	456	548	597
WALKUP	307	359	430	517	562
ELEVATOR 2-4 STY	330	385	462		
ELEVATOR 5+ STY	395	461	540		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: LITTLE ROCK

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			494	578	655
SEMI-DETACHED/ROW	340	395	475	550	611
WALKUP	311	385	434	540	595
ELEVATOR 2-4 STY	334	414	469		
ELEVATOR 5+ STY	398	464	550		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: TEXARKANA

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			455	569	644
SEMI-DETACHED/ROW	315	354	438	531	591
WALKUP	299	344	424	522	571
ELEVATOR 2-4 STY	326	371	458		
ELEVATOR 5+ STY	395	461	540		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: FORT SMITH

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			438	530	604
SEMI-DETACHED/ROW	294	332	421	486	544
WALKUP	279	321	394	473	519
ELEVATOR 2-4 STY	304	349	427		
ELEVATOR 5+ STY	401	463	553		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: JONESBORO

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			442	543	613
SEMI-DETACHED/ROW	307	351	431	526	590
WALKUP	285	337	406	496	541
ELEVATOR 2-4 STY	315	366	451		
ELEVATOR 5+ STY	389	455	536		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

PREPARED ON 113083

SCHEDULE A FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 6

NEW ORLEANS, LOUISIANA AREA OFFICE

MARKET: NEW ORLEANS

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			522	635	725
SEMI-DETACHED/ROW		403	486	594	699
WALKUP	303	378	458	563	653
ELEVATOR 2-4 STY	315	396	489		
ELEVATOR 5+ STY	481	573	643		
MANUFACTURED HOME					
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

MARKET: LAKE CHARLES

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			478	571	661
SEMI-DETACHED/ROW		377	463	552	634
WALKUP	296	347	428	510	572
ELEVATOR 2-4 STY	313	364	445		
ELEVATOR 5+ STY	444	500	622		
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

MARKET: LAFAYETTE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			531	677	763
SEMI-DETACHED/ROW		404	508	659	734
WALKUP	293	379	479	630	683
ELEVATOR 2-4 STY	312	397	496		
ELEVATOR 5+ STY	473	550	701		
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

MARKET: BATON ROUGE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			464	574	665
SEMI-DETACHED/ROW		375	448	555	638
WALKUP	281	332	398	496	554
ELEVATOR 2-4 STY	298	349	415		
ELEVATOR 5+ STY	434	493	597		
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

MARKET: HOUMA

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			491	583	670
SEMI-DETACHED/ROW		403	477	565	644
WALKUP	328	382	454	539	601
ELEVATOR 2-4 STY	345	400	471		
ELEVATOR 5+ STY	472	528	654		
MANUFACTURED HOME					
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

MARKET: SHREVEPORT

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			456	542	630
SEMI-DETACHED/ROW		337	434	531	602
WALKUP	263	309	403	495	546
ELEVATOR 2-4 STY	344	371	422		
ELEVATOR 5+ STY	399	455	582		
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

MARKET: ALEXANDRIA

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			406	483	552
SEMI-DETACHED/ROW		322	400	471	534
WALKUP	261	305	387	456	504
ELEVATOR 2-4 STY	307	349	404		
ELEVATOR 5+ STY	393	445	558		
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

MARKET: MONROE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			416	523	598
SEMI-DETACHED/ROW		321	388	495	580
WALKUP	264	309	381	494	558
ELEVATOR 2-4 STY	288	366	399		
ELEVATOR 5+ STY	398	450	559		
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

OKLAHOMA CITY, OKLAHOMA AREA OFFICE

MARKET: OKLAHOMA CITY

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			459	559	625
SEMI-DETACHED/ROW		375	444	546	613
WALKUP	297	321	383	481	531
ELEVATOR 2-4 STY	309	342	405		
ELEVATOR 5+ STY	315	371	439		
MANUFACTURED HOME					
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

MARKET: ADA

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			485	572	624
SEMI-DETACHED/ROW		370	471	558	610
WALKUP	290	316	408	491	528
ELEVATOR 2-4 STY	323	355	435		
ELEVATOR 5+ STY	335	370	478		
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

MARKET: ARDMORE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			483	569	621
SEMI-DETACHED/ROW		364	468	555	607
WALKUP	282	311	408	491	528
ELEVATOR 2-4 STY	307	336	431		
ELEVATOR 5+ STY	335	370	478		
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

MARKET: ENID

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			497	560	624
SEMI-DETACHED/ROW		396	476	547	610
WALKUP	253	315	384	452	499
ELEVATOR 2-4 STY	284	338	418		
ELEVATOR 5+ STY	307	399	486		
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

MARKET: GUYMON

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			442	528	593
SEMI-DETACHED/ROW		350	428	512	576
WALKUP	263	292	364	439	485
ELEVATOR 2-4 STY	275	309	402		
ELEVATOR 5+ STY	318	352	434		
MANUFACTURED HOME					
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

MARKET: LAWTON

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			530	557	638
SEMI-DETACHED/ROW		428	517	545	625
WALKUP	324	374	458	472	535
ELEVATOR 2-4 STY	341	413	502		
ELEVATOR 5+ STY	388	434	527		
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

MARKET: SHAWNEE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			425	467	515
SEMI-DETACHED/ROW		347	414	455	500
WALKUP	260	289	350	381	417
ELEVATOR 2-4 STY	270	305	387		
ELEVATOR 5+ STY	314	349	419		
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

MARKET: STILLWATER

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			439	506	570
SEMI-DETACHED/ROW		363	426	493	552
WALKUP	258	306	363	422	466
ELEVATOR 2-4 STY	279	325	398		
ELEVATOR 5+ STY	313	368	433		
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

MARKET: WOODWARD

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			470	566	616
SEMI-DETACHED/ROW		365	459	545	603
WALKUP	283	311	395	470	511
ELEVATOR 2-4 STY	295	327	435		
ELEVATOR 5+ STY	336	370	464		
MANUFACTURED HOME					
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

MARKET: BARTLESVILLE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			427	502	557
SEMI-DETACHED/ROW		341	415	488	543
WALKUP	282	307	357	428	467
ELEVATOR 2-4 STY	291	314	366		
ELEVATOR 5+ STY	299	330	415		
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

MARKET: MC ALESTER

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			424	492	542
SEMI-DETACHED/ROW		310	412	479	529
WALKUP	218	246	341	399	441
ELEVATOR 2-4 STY	229	262	359		
ELEVATOR 5+ STY	272	305	405		
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

MARKET: MUSKOGEE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			386	445	504
SEMI-DETACHED/ROW		342	372	433	490
WALKUP	242	279	310	384	416
ELEVATOR 2-4 STY	259	295	322		
ELEVATOR 5+ STY	305	337	368		
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

MARKET: TULSA

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			491	560	636
SEMI-DETACHED/ROW		384	453	526	579
WALKUP	299	343	417	483	538
ELEVATOR 2-4 STY	307	364	439		
ELEVATOR 5+ STY	320	415	552		
MANUFACTURED HOME					
EFFECTIVE DATE	100183				
TRENDED DATE	100185				

PREPARED ON 113083

SCHEDULE A FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 6

SAN ANTONIO, TEXAS AREA OFFICE

MARKET SAN ANTONIO
NUMBER OF BEDROOMS

STRUCTURE TYPE	0-	-1-	2	3	-4+
DETACHED			600	727	826
SEMI-DETACHED/ROW	344	407	528	629	731
WALKUP	296	348	441	517	633
ELEVATOR 2 4 STY	362	425	562		
ELEVATOR 5+ STY	495	593	816		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET AUSTIN
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		626	750	834
363	439	562	679	798
314	375	466	563	668
385	457	589		
525	632	850		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET CORPUS CHRISTY
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		602	749	872
376	461	567	673	793
325	396	468	562	670
398	473	590		
540	649	860		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET EAGLE PASS
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		567	738	786
341	418	524	659	752
291	347	417	519	622
371	429	542		
512	611	802		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET HARLINGEN
NUMBER OF BEDROOMS

STRUCTURE TYPE	0	1	2	3	-4+
DETACHED			577	709	842
SEMI-DETACHED/ROW	334	412	526	655	784
WALKUP	293	337	469	507	610
ELEVATOR 2 4 STY	349	410	535		
ELEVATOR 5+ STY	497	601	808		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET LAREDO
NUMBER OF BEDROOMS

0	-1-	-2-	-3-	-4+
		555	724	786
333	408	511	644	752
283	337	404	504	603
363	420	530		
504	602	802		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET VICTORIA
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		603	749	872
400	489	576	673	793
349	424	502	612	718
422	501	624		
563	677	871		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET DEL RIO
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		563	734	786
338	415	520	655	752
288	344	413	515	610
368	426	538		
509	608	810		

EFFECTIVE DATE 100183
TRENDED DATE 100185

REGION 7

DES MOINES, IOWA SERVICE OFFICE

MARKET DES MOINES
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			567	655	756
SEMI-DETACHED/ROW		409	491	552	632
WALKUP	314	360	419	471	522
ELEVATOR 2-4 STY	378	419	495		
ELEVATOR 5+ STY	407	454	539		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET BETTENDORF
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		576	664	767
	425	500	561	642
321	359	429	482	535
385	427	503		
415	463	549		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET CEDAR RAPIDS
NUMBER OF BEDROOMS

-0-	1-	-2-	-3-	-4+
		576	664	768
	406	482	550	633
314	343	418	479	543
384	426	502		
415	462	548		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET COUNCIL BLUFF
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		518	600	694
	391	467	526	598
293	337	397	443	491
371	421	484		
403	456	539		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET DUBUQUE
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			576	664	768
SEMI-DETACHED/ROW		417	500	560	642
WALKUP	316	316	401	491	545
ELEVATOR 2-4 STY	381	424	499		
ELEVATOR 5+ STY	410	460	545		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET MASON CITY
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		554	639	729
	417	500	561	642
296	341	400	461	526
378	421	496		
410	460	545		

EFFECTIVE DATE 100183
TRENDED DATE 100195

MARKET SIOUX CITY
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		561	639	738
	415	498	559	640
297	332	402	462	536
381	424	499		
410	460	545		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET DAVENPORT
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		576	664	767
	425	500	561	642
321	359	429	482	535
385	427	503		
415	463	549		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET WATERLOO
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			577	664	768
SEMI-DETACHED/ROW		417	499	560	642
WALKUP	316	316	401	491	545
ELEVATOR 2-4 STY	381	424	499		
ELEVATOR 5+ STY	410	460	545		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

PREPARED ON 113083

SCHEDULE A FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 7

KANSAS CITY, MISSOURI AREA OFFICE

MARKET KANSAS CITY

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	-0	-1-	2	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW	349	388	443	559	607
WALKUP	312	357	415	508	539
ELEVATOR 2-4 STY	325	373	466		
ELEVATOR 5+ STY	423	478	623		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET JOPLIN

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	-0	-1-	-2-	-3	-4+
DETACHED					
SEMI-DETACHED/ROW	286	324	420	498	540
WALKUP	238	284	364	468	508
ELEVATOR 2-4 STY	300	345	430		
ELEVATOR 5+ STY	391	440	574		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET ST. JOSEPH

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	3-	-4+
DETACHED					
SEMI-DETACHED/ROW	298	344	432	531	577
WALKUP	295	340	406	497	538
ELEVATOR 2-4 STY	309	355	443		
ELEVATOR 5+ STY	402	455	592		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET SEDALIA

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW	315	364	405	507	544
WALKUP	290	335	389	453	494
ELEVATOR 2-4 STY	314	360	450		
ELEVATOR 5+ STY	408	461	601		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET SPRINGFIELD

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	-0-	-1-	2-	-3-	4+
DETACHED					
SEMI-DETACHED/ROW	268	291	390	471	515
WALKUP	225	271	367	462	504
ELEVATOR 2-4 STY	267	307	384		
ELEVATOR 5+ STY	349	394	512		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET TOPEKA

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW	300	355	431	529	584
WALKUP	283	304	398	482	550
ELEVATOR 2-4 STY	327	378	469		
ELEVATOR 5+ STY	391	440	575		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET GARDEN CITY

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	-0-	-1-	-2	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW	348	348	416	521	574
WALKUP	279	327	416	472	524
ELEVATOR 2-4 STY	319	368	460		
ELEVATOR 5+ STY	380	428	560		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET PITTSBURG

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW	330	336	403	506	545
WALKUP	259	298	356	448	492
ELEVATOR 2-4 STY	313	363	453		
ELEVATOR 5+ STY	373	421	551		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET SALINA

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0	1	2	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW	312	348	412	521	574
WALKUP	268	304	379	454	515
ELEVATOR 2-4 STY	319	372	460		
ELEVATOR 5+ STY	380	428	560		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET WICHITA

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0	1-	-2-	-3-	4+
DETACHED					
SEMI-DETACHED/ROW	328	392	459	548	591
WALKUP	279	333	429	507	555
ELEVATOR 2-4 STY	325	375	469		
ELEVATOR 5+ STY	387	436	570		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

REGION 7

OMAHA, NEBRASKA AREA OFFICE

MARKET OMAHA

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW		353	450	512	564
WALKUP	273	330	406	502	531
ELEVATOR 2-4 STY	280	370	445		
ELEVATOR 5+ STY	307	383	461		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET GRAND ISLAND

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW		349	441	506	558
WALKUP	273	329	406	502	547
ELEVATOR 2-4 STY	280	366	445		
ELEVATOR 5+ STY	310	383	461		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET LINCOLN

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW		345	436	500	551
WALKUP	272	330	406	496	546
ELEVATOR 2-4 STY	280	372	445		
ELEVATOR 5+ STY	319	383	461		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET NORFOLK

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW		349	441	506	558
WALKUP	273	329	406	502	547
ELEVATOR 2-4 STY	280	366	445		
ELEVATOR 5+ STY	310	383	461		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET NORTH PLATTE

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW		322	407	467	515
WALKUP	256	319	382	466	512
ELEVATOR 2-4 STY	267	338	426		
ELEVATOR 5+ STY	287	362	445		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET SCOTTS BLUFF

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW		343	434	498	548
WALKUP	272	334	406	496	545
ELEVATOR 2-4 STY	284	360	454		
ELEVATOR 5+ STY	305	386	473		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

PREPARED ON 113083

SCHEDULE A FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 7

ST. LOUIS, MISSOURI AREA OFFICE

MARKET ST LOUIS

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3	-4+
DETACHED			572	673	724
SEMI-DETACHED/ROW		461	545	645	710
WALKUP	339	429	511	579	638
ELEVATOR 2-4 STY	368	462	552		
ELEVATOR 5+ STY	410	533	719		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET CAPE GIRARDEAU

	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			438	515	553
		332	420	516	564
	253	318	391	474	493
	280	350	422		
	309	381	565		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET COLUMBIA

	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			456	547	590
		348	434	536	585
	276	347	424	519	572
	299	376	458		
	333	425	613		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: KIRKSVILLE

	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			438	538	579
		337	417	526	574
	253	320	403	488	538
	275	345	435		
	306	408	582		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET ROLLA

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	-0-	-1	-2-	3-	-4+
DETACHED			429	523	563
SEMI-DETACHED/ROW		325	415	505	559
WALKUP	242	306	386	466	510
ELEVATOR 2-4 STY	263	330	416		
ELEVATOR 5+ STY	293	383	557		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

REGION 8

DENVER, COLORADO REGIONAL AREA OFFICE

MARKET DENVER, CO

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
DETACHED			595	643	702
SEMI-DETACHED/ROW	396	443	532	601	634
WALKUP	332	400	473	582	624
ELEVATOR 2-4 STY	332	400	510		
ELEVATOR 5+ STY	342	417	527		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET GRAND JUNCT.CO

	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			554	602	642
	388	427	510	563	614
	344	396	473	541	580
	361	409	482		
	375	423	489		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET ASPEN/VAIL

	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			546	624	661
	352	422	482	573	616
	315	380	458	533	579
	359	431	469		
	370	440	478		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET FARGO, ND

	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			521	618	665
	351	387	487	574	626
	325	362	437	559	607
	343	409	488		
	354	417	559		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET BISMARK, ND

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
DETACHED			521	586	625
SEMI-DETACHED/ROW	315	384	492	531	576
WALKUP	291	378	450	516	570
ELEVATOR 2-4 STY	351	390	491		
ELEVATOR 5+ STY	385	423	540		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET DICKENSON, ND

	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			521	623	657
	310	369	470	577	623
	277	364	426	552	600
	351	410	487		
	379	414	537		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET HELENA, MT

	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			424	500	537
	291	354	414	491	528
	283	344	404	491	520
	300	364	426		
	313	378	438		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: BILLINGS, MT

	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			506	575	611
	324	378	494	565	602
	296	357	456	553	593
	328	387	500		
	340	400	513		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: GREAT FALLS,MT

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
DETACHED			449	517	555
SEMI-DETACHED/ROW	294	354	439	505	546
WALKUP	286	344	430	497	536
ELEVATOR 2-4 STY	307	358	451		
ELEVATOR 5+ STY	321	372	464		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: MISSOULA, MT

	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			435	512	552
	317	373	426	504	543
	303	365	407	483	521
	330	383	469		
	342	395	479		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET SALT LAKE CITY

	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			502	631	693
	329	369	443	569	623
	255	357	420	528	579
	318	418	471		
	351	448	523		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET CEDAR CITY, UT

	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			447	490	533
	317	340	400	448	491
	246	333	382	443	463
	312	375	433		
	328	417	478		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: VERNAL, UT

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
DETACHED			538	629	691
SEMI-DETACHED/ROW	329	406	503	622	688
WALKUP	268	368	427	506	571
ELEVATOR 2-4 STY	328	429	465		
ELEVATOR 5+ STY	368	459	512		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: SIOUX FALLS,SD

	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			466	504	546
	300	341	440	475	519
	282	330	404	462	500
	312	365	430		
	316	353	435		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET PIERRE, SD

	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			475	516	561
	235	293	385	495	540
	230	278	344	468	523
	276	331	430		
	300	336	437		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET RAPID CITY, SD

	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			499	605	644
	310	378	481	575	625
	303	356	439	561	595
	316	370	467		
	321	378	472		

EFFECTIVE DATE 100183
TRENDED DATE 100185

PREPARED ON 113083

SCHEDULE A- FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 8

DENVER, COLORADO REGIONAL AREA OFFICE

	MARKET: CASPER, WY NUMBER OF BEDROOMS					MARKET: CHEYENNE, WY NUMBER OF BEDROOMS					MARKET: CODY, WY NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	4+
DETACHED			681	717	762			526	571	621			670	738	816
SEMI-DETACHED/ROW	450	497	585	682	759	320	364	447	559	608	371	497	585	682	777
WALKUP	395	459	540	625	747	265	326	402	555	604	361	459	540	625	743
ELEVATOR 2-4 STY	422	495	591			294	364	455			408	495	591		
ELEVATOR 5+ STY	432	506	605			304	375	469			432	506	605		
MANUFACTURED HOME															
	EFFECTIVE DATE 100183					EFFECTIVE DATE 100183					EFFECTIVE DATE 100183				
	TRENDED DATE 100185					TRENDED DATE 100185					TRENDED DATE 100185				

REGION 9

HONOLULU, HAWAII AREA OFFICE

	MARKET: HONOLULU NUMBER OF BEDROOMS					MARKET: GUAM NUMBER OF BEDROOMS					MARKET: KAUAI NUMBER OF BEDROOMS					MARKET: MAUI NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+
DETACHED			630	1012	1075			585	674	732			*647	691	756			697	822	882
SEMI-DETACHED/ROW		490	588	651	714		456	538	626	685		525	637	679	744		586	679	810	872
WALKUP	398	467	517	644	704	280	346	431	532		345	400	524	655	717	358	466	585	712	772
ELEVATOR 2-4 STY	429	500	550								376	433	555			391	498	616		
ELEVATOR 5+ STY	444	609	809																	
MANUFACTURED HOME																				
	EFFECTIVE DATE 100183					EFFECTIVE DATE 100183					EFFECTIVE DATE 100183					EFFECTIVE DATE 100183				
	TRENDED DATE 100185					TRENDED DATE 100185					TRENDED DATE 100185					TRENDED DATE 100185				

	MARKET: HILO NUMBER OF BEDROOMS					MARKET: KONA NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+
DETACHED			542	618	672			656	775	838
SEMI-DETACHED/ROW		425	531	606	661		538	644	764	828
WALKUP	315	370	445	576	638	398	455	524	654	715
ELEVATOR 2-4 STY	348	401	478			429	486	555		
ELEVATOR 5+ STY										
MANUFACTURED HOME										
	EFFECTIVE DATE 100183					EFFECTIVE DATE 100183				
	TRENDED DATE 100185					TRENDED DATE 100185				

PREPARED ON 113083

SCHEDULE A FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 9

LOS ANGELES, CALIFORNIA AREA OFFICE

MARKET: LOS ANGELES

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0-	1-	2-	3-	4+
DETACHED			759	854	968
SEMI-DETACHED/ROW		598	689	781	896
WALKUP	457	527	635	757	844
ELEVATOR 2-4 STY	501	567	685	785	853
ELEVATOR 5+ STY	621	704	957		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: BAKERSFIELD

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0-	1-	2-	3-	4+
DETACHED			589	696	796
SEMI-DETACHED/ROW		423	557	660	738
WALKUP	325	399	534	636	691
ELEVATOR 2-4 STY	341	417	553		
ELEVATOR 5+ STY	487	571	747		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: SANTA BARBARA

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0-	1-	2-	3-	4+
DETACHED			942	1000	1022
SEMI-DETACHED/ROW		859	918	972	991
WALKUP	418	466	601	681	739
ELEVATOR 2-4 STY	434	487	622	701	759
ELEVATOR 5+ STY	565	630	806		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: VENTURA

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0-	1-	2-	3-	4+
DETACHED			721	808	890
SEMI-DETACHED/ROW		520	578	705	768
WALKUP	447	489	548	671	717
ELEVATOR 2-4 STY	467	509	569		
ELEVATOR 5+ STY	608	661	762		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: PASO ROBLES

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0-	1-	2-	3-	4+
DETACHED			682	761	827
SEMI-DETACHED/ROW		459	570	685	762
WALKUP	392	431	531	632	683
ELEVATOR 2-4 STY	400	450	552	659	721
ELEVATOR 5+ STY	543	606	750		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: LANCASTER

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0-	1-	2-	3-	4+
DETACHED			562	647	754
SEMI-DETACHED/ROW		440	531	614	717
WALKUP	344	414	508	587	669
ELEVATOR 2-4 STY	367	437	531		
ELEVATOR 5+ STY	517	591	733		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: OXNARD

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0-	1-	2-	3-	4+
DETACHED			721	808	890
SEMI-DETACHED/ROW		520	578	705	768
WALKUP	447	489	548	671	717
ELEVATOR 2-4 STY	467	509	569		
ELEVATOR 5+ STY	608	661	762		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: SANTA ANA

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0-	1-	2-	3-	4+
DETACHED			742	898	977
SEMI-DETACHED/ROW		629	729	881	957
WALKUP	503	591	679	814	863
ELEVATOR 2-4 STY	505	608	700		
ELEVATOR 5+ STY	644	759	891		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: SAN DIEGO

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0-	1-	2	3-	4+
DETACHED			621	737	815
SEMI-DETACHED/ROW		501	598	677	794
WALKUP	404	461	558	654	701
ELEVATOR 2-4 STY	437	504	608		
ELEVATOR 5+ STY	523	610	746		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: EL CAJON

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0-	1-	2-	3-	4+
DETACHED			621	737	815
SEMI-DETACHED/ROW		501	598	677	794
WALKUP	404	461	558	654	701
ELEVATOR 2-4 STY	437	504	608		
ELEVATOR 5+ STY	523	610	746		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: SANTA MARIA

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0-	1-	2-	3-	4+
DETACHED			678	737	841
SEMI-DETACHED/ROW		594	654	710	810
WALKUP	373	422	489	543	598
ELEVATOR 2-4 STY	394	442	509	564	619
ELEVATOR 5+ STY	529	591	699		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: SAN BERNARDINO

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0-	1-	2-	3-	4+
DETACHED			565	680	766
SEMI-DETACHED/ROW		465	554	644	750
WALKUP	395	445	523	619	688
ELEVATOR 2-4 STY	422	464	542		
ELEVATOR 5+ STY	569	615	736		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

PHOENIX, ARIZONA SERVICE OFFICE

MARKET: PHOENIX

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0-	1-	2-	3-	4+
DETACHED			549	663	743
SEMI-DETACHED/ROW	393	451	539	639	685
WALKUP	375	435	514	601	641
ELEVATOR 2-4 STY	403	463	542		
ELEVATOR 5+ STY	494	564	677		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: CASA GRANDE

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0-	1-	2-	3-	4+
DETACHED			507	577	661
SEMI-DETACHED/ROW	353	394	457	527	618
WALKUP	333	378	437	490	543
ELEVATOR 2-4 STY	355	398	458		
ELEVATOR 5+ STY					
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: FLAGSTAFF

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0-	1-	2-	3-	4+
DETACHED			585	668	748
SEMI-DETACHED/ROW	398	443	540	620	704
WALKUP	375	426	529	603	666
ELEVATOR 2-4 STY	402	453	556		
ELEVATOR 5+ STY	517	572	675		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: KEAMS CANYON

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0-	1-	2-	3-	4+
DETACHED			488	543	609
SEMI-DETACHED/ROW	285	349	449	526	555
WALKUP	244	310	408	484	538
ELEVATOR 2-4 STY	271	337	435		
ELEVATOR 5+ STY					
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: TUCSON

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0-	1-	2-	3-	4+
DETACHED			498	600	653
SEMI-DETACHED/ROW	329	381	464	536	631
WALKUP	310	359	459	522	589
ELEVATOR 2-4 STY	338	387	487		
ELEVATOR 5+ STY	490	552	702		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: YUMA

STRUCTURE TYPE	NUMBER OF BEDROOMS				
	0-	1-	2-	3-	4+
DETACHED			573	637	722
SEMI-DETACHED/ROW	391	455	532	597	683
WALKUP	360	410	527	587	646
ELEVATOR 2-4 STY	388	438	555		
ELEVATOR 5+ STY					
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

PREPARED ON 113083

SCHEDULE A FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 9

SACRAMENTO, CALIFORNIA SERVICE OFFICE

MARKET SACRAMENTO
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			540	565	648
SEMI-DETACHED/ROW		445	508	559	614
WALKUP	351	410	474	552	614
ELEVATOR 2-4 STY	452	509	572		
ELEVATOR 5+ STY	550	618	698		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET REDDING
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		494	517	593
	427	465	511	562
311	363	417	459	576
459	511	530		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET PLACERVILLE
NUMBER OF BEDROOMS

-0-	-1-	2-	-3-	-4+
		566	593	680
	467	533	587	645
361	424	487	580	645
464	521	589		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET YREKA
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		554	580	665
	457	521	574	630
365	421	499	566	630
487	540	594		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET S LAKE TAHOE
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			651	692	794
SEMI-DETACHED/ROW		545	622	685	752
WALKUP	401	474	560	616	676
ELEVATOR 2-4 STY	521	600	691		
ELEVATOR 5+ STY					
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

SAN FRANCISCO, CALIFORNIA AREA OFFICE

MARKET: SAN FRANCISCO
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			1227	1540	1631
SEMI-DETACHED/ROW		762	987	1221	1379
WALKUP	523	604	790	963	1057
ELEVATOR 2-4 STY	575	694	887		
ELEVATOR 5+ STY	731	848	1073		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET FRESNO
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		524	745	831
	370	477	626	706
312	365	449	573	655
391	465	579		
584	694	859		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET MODESTO
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		445	602	633
	339	412	517	563
321	339	407	517	558
414	465	582		
585	624	761		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: SAN JOSE
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		878	1023	1082
	515	628	761	837
425	510	606	723	788
455	529	613		
645	738	854		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: OAKLAND
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			800	943	980
SEMI-DETACHED/ROW		589	749	857	946
WALKUP	484	563	698	790	875
ELEVATOR 2-4 STY	520	569	767		
ELEVATOR 5+ STY	710	776	1009		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: MARIN
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		800	943	980
	589	749	857	946
484	563	698	790	875
520	569	767		
710	776	1009		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: EUREKA
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		530	682	758
	352	439	646	724
253	352	423	625	695
322	426	554		
625	748	908		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: SANTA ROSA
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		736	912	988
	463	570	730	790
398	463	570	730	790
512	593	750		
731	848	1071		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: SANTA CRUZ
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			650	808	887
SEMI-DETACHED/ROW		439	597	761	838
WALKUP	369	439	561	723	788
ELEVATOR 2-4 STY	455	562	677		
ELEVATOR 5+ STY	591	706	822		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: RENO
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		625	743	787
	435	539	673	740
380	435	539	650	710
489	564	713		
740	817	1013		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: LAS VEGAS
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		661	732	794
	423	552	693	755
361	423	552	648	703
459	540	715		
713	809	969		

EFFECTIVE DATE 100183
TRENDED DATE 100185

PREPARED ON 113083

SCHEDULE A FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 10

ANCHORAGE, ALASKA AREA OFFICE

MARKET: ANCHORAGE

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			708	783	809
SEMI-DETACHED/ROW		608	678	739	764
WALKUP	423	498	584	691	716
ELEVATOR 2-4 STY	554	652	729		
ELEVATOR 5+ STY	563	663	741		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: FAIRBANKS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			697	760	827
SEMI-DETACHED/ROW		597	669	752	811
WALKUP	517	569	643	723	796
ELEVATOR 2-4 STY	622	738	794		
ELEVATOR 5+ STY	632	753	804		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: JUNEAU

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			738	841	874
SEMI-DETACHED/ROW		592	716	801	841
WALKUP	474	530	659	763	809
ELEVATOR 2-4 STY	532	600	688		
ELEVATOR 5+ STY	558	629	716		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: KETCHIKAN

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			648	738	821
SEMI-DETACHED/ROW		526	618	703	782
WALKUP	407	478	561	640	710
ELEVATOR 2-4 STY	487	556	652		
ELEVATOR 5+ STY	511	566	670		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: BARTER IS. N

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			1043	1148	1263
SEMI-DETACHED/ROW		920	1013	1115	1226
WALKUP	811	893	958	1083	1191
ELEVATOR 2-4 STY					
ELEVATOR 5+ STY					
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: COASTAL AREA

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			1043	1148	1263
SEMI-DETACHED/ROW		920	1013	1115	1226
WALKUP	811	893	958	1083	1191
ELEVATOR 2-4 STY					
ELEVATOR 5+ STY					
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

PORTLAND, OREGON AREA OFFICE

MARKET: PORTLAND

STRUCTURE TYPE	0-	-1-	-2-	-3-	-4+
DETACHED			440	543	589
SEMI-DETACHED/ROW	282	350	399	485	531
WALKUP	270	336	386	445	518
ELEVATOR 2-4 STY	281	349	408		
ELEVATOR 5+ STY	339	402	543		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: BEND

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			336	432	482
SEMI-DETACHED/ROW		263	304	399	445
WALKUP	192	247	286	385	424
ELEVATOR 2-4 STY	203	265	302		
ELEVATOR 5+ STY					
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: COOS BAY

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			335	393	437
SEMI-DETACHED/ROW		260	306	374	416
WALKUP	204	248	296	361	404
ELEVATOR 2-4 STY	215	260	312		
ELEVATOR 5+ STY					
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: MEDFORD

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			383	448	501
SEMI-DETACHED/ROW		301	353	401	484
WALKUP	241	289	329	383	417
ELEVATOR 2-4 STY	255	300	340		
ELEVATOR 5+ STY					
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: ONTARIO

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			374	441	489
SEMI-DETACHED/ROW		271	346	396	436
WALKUP	217	259	312	383	415
ELEVATOR 2-4 STY	229	270	325		
ELEVATOR 5+ STY					
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: WEST SALEM

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			302	383	423
SEMI-DETACHED/ROW		229	277	357	395
WALKUP	182	225	272	347	387
ELEVATOR 2-4 STY	199	243	290		
ELEVATOR 5+ STY	276	341	408		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: PENDLETON

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			378	437	491
SEMI-DETACHED/ROW		278	348	389	436
WALKUP	217	266	330	371	408
ELEVATOR 2-4 STY	230	277	343		
ELEVATOR 5+ STY					
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: BOISE

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			429	493	525
SEMI-DETACHED/ROW		290	351	414	454
WALKUP	231	277	341	405	443
ELEVATOR 2-4 STY	289	307	364		
ELEVATOR 5+ STY	305	382	477		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: IDAHO FALLS

STRUCTURE TYPE	-0-	-1-	-2-	3-	4+
DETACHED			355	450	497
SEMI-DETACHED/ROW		267	338	417	443
WALKUP	209	251	316	389	419
ELEVATOR 2-4 STY	221	261	329		
ELEVATOR 5+ STY					
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: MCCALL

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			315	355	395
SEMI-DETACHED/ROW		241	281	328	368
WALKUP	178	221	261	315	355
ELEVATOR 2-4 STY					
ELEVATOR 5+ STY					
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: POCATELLO

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			351	422	456
SEMI-DETACHED/ROW		238	311	375	408
WALKUP	175	220	294	372	397
ELEVATOR 2-4 STY	186	232	317		
ELEVATOR 5+ STY					
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: TWIN FALLS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			365	460	493
SEMI-DETACHED/ROW		254	358	419	462
WALKUP	191	237	321	380	409
ELEVATOR 2-4 STY	204	248	337		
ELEVATOR 5+ STY					
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: LEWISTON

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			343	463	505
SEMI-DETACHED/ROW		243	303	374	415
WALKUP	193	232	293	364	404
ELEVATOR 2-4 STY	207	250	317		
ELEVATOR 5+ STY					
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: COEUR D'ALEN

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			316	402	469
SEMI-DETACHED/ROW		239	296	353	409
WALKUP	187	224	272	337	371
ELEVATOR 2-4 STY	217	251	290		
ELEVATOR 5+ STY					
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: EUGENE

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			353	436	481
SEMI-DETACHED/ROW		246	320	372	410
WALKUP	220	226	288	354	385
ELEVATOR 2-4 STY	233	239	305		
ELEVATOR 5+ STY	315	332	431		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

PREPARED ON 113083

SCHEDULE A- FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 10

SEATTLE, WASHINGTON AREA OFFICE

MARKET: SEATTLE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			554	616	736
SEMI-DETACHED/ROW		393	468	553	655
WALKUP	313	396	496	525	539
ELEVATOR 2-4 STY	362	406	537		
ELEVATOR 5+ STY	422	493	560		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: BELLINGHAM

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		422	528	569
	310	380	462	509
232	296	366	446	496
248	312	382		
378	443	553		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: OLYMPIA

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		423	520	638
	334	381	469	610
233	297	365	450	518
245	313	381		
379	445	554		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: YAKIMA

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		396	500	622
	320	373	471	564
218	288	336	436	493
233	303	352		
369	449	556		

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: SPOKANE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			417	517	638
SEMI-DETACHED/ROW		299	393	473	562
WALKUP	224	273	337	419	474
ELEVATOR 2-4 STY	239	305	353		
ELEVATOR 5+ STY	370	423	535		
MANUFACTURED HOME					

EFFECTIVE DATE 100183
TRENDED DATE 100185

MARKET: KENNEWICK

NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
		483	549	670
	296	363	435	484
245	281	345	418	467
284	320	384		
370	417	492		

EFFECTIVE DATE 100183
TRENDED DATE 100185

PREPARED ON 113083

[FR Doc. 84-3355 Filed 2-7-84; 8:45 am]
BILLING CODE 4210-27-C

federal register

Wednesday
February 8, 1984

Part IV

Department of Education

34 CFR Part 661

Business and International Education Program; Proposed Rulemaking and Notice

DEPARTMENT OF EDUCATION

34 CFR Part 661

Business and International Education Program

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary of Education proposes regulations for the Business and International Education Program. The regulations are needed to implement the provisions of the Higher Education Amendments of 1980. The regulations would provide the procedures and the criteria the Secretary would use to make awards under this program.

DATES: Comments must be received on or before March 26, 1984.

ADDRESSES: Mr. Kenneth D. Whitehead, Director, Office of International Education Programs, 400 Maryland Avenue SW., (Room 3919, ROB–3), Washington, D.C. 20202. Telephone (202) 245–9691.

FOR FURTHER INFORMATION CONTACT: Mr. Stanley B. Patterson, Chief, International Studies Branch, 400 Maryland Avenue SW., (Room 3916 ROB–3), Washington, D.C. 20202. Telephone (202) 245–2794.

SUPPLEMENTARY INFORMATION: These proposed regulations govern the program of assistance authorized under Title VI–B, of the Higher Education Act of 1965, as amended (HEA)—20 U.S.C. 1130–1130b. The purpose of the program is (1) to promote the Nation's capacity for international understanding and economic enterprise through the provision of suitable international education and training for business personnel in various stages of professional development; and (2) to promote institutional and non-institutional educational and training activities that will contribute to the ability of United States businesses to prosper in an international economy.

In order to receive assistance under this program applicants must meet the matching requirements indicated under section 661.40 of the regulations.

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

The Secretary certifies that these proposed regulations will not have a significant impact on a substantial number of small entities. These proposed regulations simplify and clarify statutory provisions. They will not have a significant economic impact on any small entities participating in the program.

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 submitted on or before the 45th day after publication of this document will be considered before the Secretary issues final regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 3919, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C. 20202, 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 of 1980 and their overall requirement of reducing regulatory burden, public comment is invited on whether there may be further opportunities to reduce any regulatory burdens found in these regulations.

Comments concerning information collection requirements only should be addressed to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, 17th and Pennsylvania Avenue, NW., Washington, D.C. 20503. Attention: Desk Officer for the U.S. Department of Education. All other comments regarding these proposed regulations should be sent to the Department of Education at the address given at the beginning of this preamble.

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 in 34 CFR Part 661

Colleges and universities, Contracts, Education, Educational study programs, Grant programs.

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 Number 84.153, Business and International Education Program)

Dated: February 2, 1984.

T. H. Bell,

Secretary of Education.

The Secretary of Education proposes to amend Title 34 of the Code of Federal Regulations to add a new Part 661 to read as follows:

PART 661—BUSINESS AND INTERNATIONAL EDUCATION PROGRAM

Subpart A—General

Sec.

661.1 What is the Business and International Education Program?
661.2 Who is eligible to apply for a grant under the Business and International Education Program?
661.3 What regulations apply to the Business and International Education Program?
661.4 What definitions apply to the Business and International Education Program?

Subpart B—What Kinds of Activities Does the Secretary Assist Under This Program?

661.10 What activities does the Secretary assist under this program?

Subpart C—How Does One Apply for a Grant?

661.20 What must an application include?

Subpart D—How Does the Secretary Make a Grant?

661.30 How Does the Secretary evaluate an application?
661.31 What selection criteria does the Secretary use?
661.32 What priorities may the Secretary establish?

Subpart E—What Conditions Must Be Met by a Grantee?

661.40 What are the matching requirements?

Authority: Sections 611–613 of the Higher Education Act of 1965, as amended, 20 U.S.C. 1130–1130b, unless otherwise noted.

Subpart A—General

§ 661.1 What is the Business and International Education Program?

The Business and International Education Program is designed to promote linkages between institutions of higher education and American

businesses engaged in international economic activities. The purpose of each project assisted under this Part is to both enhance the international academic programs of institutions of higher education, and provide appropriate services to the business community that will enable it to expand its capacity to sell its goods and services outside the United States.

(20 U.S.C. 1130)

§ 661.2 Who is eligible to apply for a grant under the Business and International Education Program?

Under this program the Secretary considers applications from institutions of higher education that have entered into agreements with business enterprises, trade organizations or associations engaged in international economic activity—or a combination or consortium of these enterprises, organizations or associations—for the purposes of pursuing the activities authorized under this program.

(20 U.S.C. 1130a)

§ 661.3 What regulations apply to the Business and International Education Program?

The following regulations apply to this program:

(a) The regulations in 34 CFR Part 655;

(b) The Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78); and

(c) The regulations in this Part 661.

(20 U.S.C. 1130–1130a)

§ 661.4 What definitions apply to the Business and International Education Program?

Definitions in EDGAR and in the International Education Programs General Provisions Regulations. The following terms used in this part are defined in 34 CFR Part 77 and 34 CFR 655.4(b):

Applicant	Grant
Application	Grantee
Award	Nonprofit
Budget	Profit
Contract	Private
EDGAR	Public
Equipment	Secretary
Facilities	Supplies
Fiscal Year	

(20 U.S.C. 1130–1130a)

Subpart B—What Kinds of Activities Does the Secretary Assist Under this Program?

§ 661.10 What activities does the Secretary assist under this program?

The activities that the Secretary may assist institutions of higher education to conduct under this program, include but are not limited to—

(a) Innovation and improvement of international education curricula to serve the needs of the business community, including the development of new programs for nontraditional, midcareer, or part-time students;

(b) Development of programs to inform the public of increasing international economic interdependence and the role of American business within the international economic system;

(c) Internationalization of curricula at junior and community colleges, and at undergraduate and graduate schools of business;

(d) Development of area studies programs and interdisciplinary international programs;

(e) Establishment of export education programs through cooperative arrangements with regional and world trade centers and councils, and with bilateral and multilateral trade associations;

(f) Research for and development of teaching materials relating to international education, including language materials, and facilities appropriate to business-oriented students;

(g) Establishment of student and faculty fellowships and internships for training and education in international business activities;

(h) Development of opportunities for business and other professional school junior faculty to acquire or strengthen international skills and perspectives; and

(i) Development of research programs on issues of common interest to institutions of higher education and private sector organizations and associations engaged in or promoting international economic activity.

(20 U.S.C. 1130a)

Subpart C—How Does One Apply for a Grant?

§ 661.20 What must an application include?

An institution that applies for a grant under this program shall include the following:

(a)(1) A copy of the agreement between the applicant and the other party or parties described in § 661.2 for the purpose of carrying out the activities for which the applicant seeks assistance.

(2) The agreement shall be signed by all parties and it must describe the manner in which the business enterprise, trade association, or organization will assist in carrying out the activities proposed in the application.

(b) An assurance that the applicant will use the funds to supplement and not to supplant activities conducted by the applicant as described in § 661.10.

(20 U.S.C. 1130a)

Subpart D—How Does the Secretary Make a Grant?

§ 661.30 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application for a grant under this program on the basis of the criteria in § 661.31.

(b) The Secretary awards up to 100 possible points for these criteria. The maximum possible points for each criterion are shown in parentheses.

(20 U.S.C. 1130a)

§ 661.31 What selection criteria does the Secretary use?

The Secretary uses the following criteria to evaluate applications for a grant under this program.

(a) *Plan of operation.* (Maximum 30 points.) (See 34 CFR 655.31(a).)

(b) *Qualifications of the key personnel.* (Maximum 10 points.) (See 34 CFR 655.31(b).)

(c) *Budget and cost effectiveness.* (Maximum 15 points.) (See 34 CFR 655.31(c).)

(d) *Evaluation plan.* (Maximum 15 points.) (See 34 CFR 655.31 (d).)

(e) *Adequacy of resources.* (Maximum 10 points.) (See 34 CFR 655.31(e).)

(f) *Need for the project.* (Maximum 20 points.)

The Secretary reviews each application for information that shows the need for the project, and the extent to which the proposed project will promote linkages between institutions of higher education and the business community involved in international economic activities.

(20 U.S.C. 1130a)

§ 661.32 What priorities may the Secretary establish?

(a) The Secretary may each year establish priorities for funding from the activities described in § 661.10.

(b) The Secretary announces any priorities in the application notice published in the **Federal Register.**

(20 U.S.C. 1130a)

Subpart E—What Conditions Must be Met by a Grantee?

§ 661.40 What are the matching requirements?

The grantee pays a minimum of 50 percent of the cost of the project for each fiscal year.

(20 U.S.C. 1130a)

[FR Doc. 84-3413 Filed 2-7-84; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

Business and International Education Program; Application Notice for New Awards for Fiscal Year 1984

Applications are invited for new awards under the Business and International Education Program.

Authority for this program is contained in sections 611, 612, and 613 of Part B of Title VI of the Higher Education Act of 1965, as amended (HEA), 20 U.S.C. 1130–1130b.

The Secretary is authorized to make matching grants under this program to qualified institutions of higher education.

The purposes of the awards are: (1) To increase and to promote the Nation's capacity for international understanding and economic enterprise through the provisions of suitable international education and training for business personnel in various stages of professional development; and (2) to promote institutional and noninstitutional education and training activities that will contribute to the ability of the United States business to prosper in an international economy.

Closing Date for Transmittal of Applications: An application for a grant award must be mailed or hand delivered by April 16, 1984.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.153 (Business and International Education Program), 400 Maryland Ave., S.W., Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(a) 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 lable, invoice, or receipt from a commercial carrier.

(4) Any other proof 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 a private metered postmark or a private mail receipt as proof of mailing. 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. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand delivered 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. 20202.

The Application Control Center will accept a hand-delivered application between 8:00 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 after 4:30 p.m. on the closing date.

Program Information: Under the Business and International Education Program, the Secretary is authorized to make grants to institutions of higher education to pay up to 50 percent of the cost of programs designed to promote linkages between institutions and the American business community engaged in international economic activities.

The purposes of each grant is to enhance the international academic programs of institutions of higher education, and provide appropriate services to the business community which will enable it to expand its capacity to engage in commerce abroad.

Under section 612 (b) of the HEA, the Secretary may support the following activities:

(1) Innovation and improvement in international education curricula to serve the needs of the business community, including development of new programs for nontraditional, midcareer, or part-time students;

(2) Development of programs to inform the public of increasing international economic interdependence and the role of American business within the international economic system;

(3) Internationalization of curricula at the junior and community college level, and at undergraduate and graduate schools of business;

(4) Development of area studies programs and interdisciplinary international programs;

(5) Establishment of export education programs through cooperative arrangements with regional and world trade centers and councils, and with bilaterial and multilateral trade associations;

(6) Research for and development of specialized teaching materials, including language materials, and facilities appropriate to business-oriented students;

(7) Establishment of student and faculty fellowships and internships for training and education in international business activities;

(8) Development of opportunities for junior business and other professional school faculty to acquire or strengthen international skills and perspectives; and

(9) Development of research programs on issues of common interest to institutions of higher education and private sector organizations and associations engaged in or promoting international economic activity.

Section 612(c) of the HEA requires that an institutional grantee enter into an agreement with a business enterprise, trade organization or association engaged in international economic activity, or a combination or consortium of such enterprises, organizations or associations, for the purpose of establishing, developing, improving, or expanding activities eligible for assistance under this program. Section 612 (c) further requires each institutional application for a grant to be accompanied by a copy of one of these agreements.

The Secretary strongly encourages applicants to select those authorized activities which are most useful in developing, enhancing or promoting excellence in export trade programs.

Available Funds: The Department of Education Appropriation Act, 1984, Pub. L. 98–139, authorizes $25.8 million for new awards under the International Education and Foreign Language Studies (IEFLS) Programs. Business and International Education was allocated $2 million of the $25.8 million appropriation for FY 1984.

The Secretary is not setting an average grant award or a range of grant awards. Furthermore, because grants will be for one year duration, applicants are encouraged to request funds for those activities which have the greatest possibility of support from other sources after the first year of the project.

Application Forms: Application forms and program information packages are expected to be ready by February 22, 1984.

Application packages may be obtained by contacting the International Studies Branch, Division of International Services and Improvement, U.S. Department of Education, (ROB–3, Room 3916) 400 Maryland Avenue SW., Washington, D.C. 20202. Telephone (202) 245–2794.

Applications must be prepared and submitted in accordance with regulations, instructions, and forms included in the program information

package. The Secretary suggests that the narrative portion of the application not exceed 20 pages in length. The Secretary further urges that applicants not submit information that is not requested.

The program information package is intended to aid applicants in applying for assistance under this competition. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations governing the competition.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78), and

(b) Regulations governing the Business and International Education Program, as proposed in a Notice of Proposed Rulemaking published in this issue of the **Federal Register** (to be codified in 34 CFR Part 661). Applications are being requested and will initially be evaluated on the basis of the Notice of Proposed Rulemaking. If any substantive changes are made when the final regulations are published, applicants will be given an opportunity to revise their applications.

FOR FURTHER INFORMATION CONTACT: For further information, contact Dr. Stanley B. Patterson, Chief, International Studies Branch, International Education Programs, U.S. Department of Education, (Room 3916, Regional Office Building 3), 7th and D Streets SW., Washington, D.C. 20202. Telephone: (202) 245-2794.

(20 U.S.C. 1130-1130b)

Dated: February 2, 1984.

T. H. Bell,

Secretary of Education.

(Catalog of Federal Domestic Assistance Number: 84.153—Business and International Education Program)

[FR Doc. 84-3415 Filed 2-7-84; 8:45 am]

BILLING CODE 4000-01-M

federal register

Wednesday
February 8, 1984

Part V

Department of Energy

Federal Energy Regulatory Commission

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978; Notice

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Vol. 1059]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: February 2, 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 FEBRUARY 2, 1984

KENTUCKY DEPARTMENT OF MINES & MINERALS

-KENTUCKY WEST VIRGINIA GAS CO RECEIVED: 01/09/84 JA: KY

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8415470	506313	1613300000		107-DV		A B POTTER #6851	KENTUCKY EAST	5.8	
8415539	506382	1613300000		107-DV		A B POTTER #6898	KENTUCKY EAST	5.1	
8415430	506273	1611500000		107-DV		A J RICE -#6959	KENTUCKY EAST	2.9	
8415477	506320	1611500000		107-DV		A J RICE #6872	KENTUCKY EAST	2.1	
8415484	506327	1611500000		107-DV		A J RICE #6979	KENTUCKY EAST	9.0	
8415543	506386	1613300000		107-DV		AARON ANDERSON #6904	KENTUCKY EAST	7.6	
8415440	506283	1619300000		107-DV		ADA SPARKMAN #7144	KENTUCKY EAST	2.5	
8415472	506315	1611900000		107-DV		ALEX FRANCIS #6858 D	KENTUCKY EAST	1.0	
8415572	506415	1613300000		107-DV		ALEX STAMPER #7086	KENTUCKY EAST	0.7	
8415575	506418	1613300000		107-DV		ALEX STAMPER #7093	KENTUCKY EAST	1.8	
8415406	506249	1611900000		107-DV		ANDERSON COMBS #6712D	KENTUCKY EAST	6.8	
8415442	506285	1619300000		107-DV		B T FIELDS #7156	KENTUCKY EAST	5.8	
8415446	506289	1619300000		107-DV		B T FIELDS #7173	KENTUCKY EAST	5.1	
8415499	506342	1607100000		107-DV		BEN BALDRIDGE #7018	KENTUCKY EAST	10.4	
8415570	506413	1607100000		107-DV		BEN BALDRIDGE #7081	KENTUCKY EAST	7.5	
8415456	506299	1619300000		107-DV		BENJAMIN CAUDILL #6828	KENTUCKY EAST	2.9	
8415462	506305	1619300000		107-DV		BENJAMIN CAUDILL #6839	KENTUCKY EAST	7.2	
8415512	506355	1619300000		107-DV		BENJAMIN COMBS #6789	KENTUCKY EAST	2.3	
8415554	506397	1611900000		107-DV		BENJAMIN SMITH #7026	KENTUCKY EAST	9.7	
8415372	506215	1619300000		107-DV		C C HALL - #6740	KENTUCKY EAST	6.1	
8415379	506222	1619300000		107-DV		C C HALL -#6754	KENTUCKY EAST	7.9	
8415506	506349	1619300000		107-DV		C G BOWMAN #6777	KENTUCKY EAST	16.2	
8415524	506367	1611900000		107-DV		C P PATRICK #6814	KENTUCKY EAST	1.0	
8415387	506230	1615900000		107-DV		C W PREECE - #5383D	KENTUCKY EAST	5.6	
8415434	506277	1613300000		107-DV		CLINT ISON -#7111	KENTUCKY EAST	4.0	
8415541	506384	1619300000		107-DV		D Y COMBS & J M HALL #6901	KENTUCKY EAST	2.5	
8415549	506392	1619300000		107-DV		D Y COMBS & JAMES M HALL #6913	KENTUCKY EAST	1.8	
8415382	506225	1619300000		107-DV		DAN CORNETT - #6766	KENTUCKY EAST	6.8	
8415380	506223	1619300000		107-DV		DAN CORNETT -#6757	KENTUCKY EAST	9.5	
8415503	506346	1619300000		107-DV		DAN CORNETT #6773	KENTUCKY EAST	5.4	
8415408	506251	1613300000		107-DV		DAVID D CAUDILL #6715	KENTUCKY EAST	1.8	
8415421	506264	1613300000		107-DV		DAVID S FIELDS #6938	KENTUCKY EAST	1.8	
8415437	506280	1619300000		107-DV		DOCK FIELDS -#7129	KENTUCKY EAST	3.1	
8415364	506207	1619300000		107-DV		E C CORNETT - #6729	KENTUCKY EAST	7.2	
8415373	506216	1619300000		107-DV		E L CORNETT - #6742	KENTUCKY EAST	10.0	
8415550	506393	1619300000		107-DV		ELHANNON CORNETT #6914	KENTUCKY EAST	7.9	
8415426	506269	1619300000		107-DV		ELI BRASHEARS #6954	KENTUCKY EAST	10.8	
8415521	506364	1619300000		107-DV		ELIJAH SUMNER #6810	KENTUCKY EAST	6.6	
8415486	506329	1619300000		107-DV		ELIJAH SUMNER #6988	KENTUCKY EAST	5.1	
8415491	506334	1619300000		107-DV		ELIJAH SUMNER #7002	KENTUCKY EAST	9.0	
8415480	506323	1611900000		107-DV		ELIZA SMITH #6973	KENTUCKY EAST	5.4	
8415564	506407	1619300000		107-DV		FUGATE HEIRS #7067	KENTUCKY EAST	0.7	
8415428	506271	1613100000		107-DV		G M CAUDILL -#6957	KENTUCKY EAST	2.9	
8415478	506321	1613100000		107-DV		G M CAUDILL #6971	KENTUCKY EAST	3.2	
8415479	506322	1611500000		107-DV		G W WELLS #6972	KENTUCKY EAST	2.5	

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8415393	506236	1611900000		107-DV		GEO HAGINS - #6690D	KENTUCKY EAST	6.2	
8415542	506385	1619300000		107-DV		GEORGE COMBS #6902	KENTUCKY EAST	1.0	
8415540	506383	1611900000		107-DV		GEORGE TERRY #6900	KENTUCKY EAST	2.4	
8415465	506308	1619500000		107-DV		GEORGE W MITCHELL #6843	KENTUCKY EAST	5.4	
8415504	506347	1619300000		107-DV		GILBERT COMBS #6774	KENTUCKY EAST	4.3	
8415386	506229	1607100000		107-DV		GOLDIE COLLINSWORTH - #260	KENTUCKY EAST	12.0	
8415494	506337	1613300000		107-DV		GRANT ISOM #7007	KENTUCKY EAST	1.0	
8415559	506402	1607100000		107-DV		GRANVILLE STRATTON - 7054	KENTUCKY EAST	10.4	
8415443	506286	1613300000		107-DV		H B BRANSON #7160	KENTUCKY EAST	8.4	
8415490	506333	1619300000		107-DV		H G PRATT #6999	KENTUCKY EAST	2.1	
8415516	506359	1619300000		107-DV		HANEY FRANCIS #6799	KENTUCKY EAST	4.7	
8415573	506416	1611500000		107-DV		HENRY C WELLS HEIRS #7087	KENTUCKY EAST	2.8	
8415510	506353	1613300000		107-DV		I D WHITTAKER #6786	KENTUCKY EAST	2.6	
8415453	506296	1613300000		107-DV		I D WHITTAKER #6822	KENTUCKY EAST	4.5	
8415384	506227	1619300000		107-DV		IRA COMBS - #6769	KENTUCKY EAST	11.2	
8415505	506348	1619300000		107-DV		IRA COMBS #6775	KENTUCKY EAST	5.4	
8415466	506309	1613300000		107-DV		ISAAC POTTER JR #6846	KENTUCKY EAST	6.8	
8415533	506376	1613300000		107-DV		ISAAC POTTER JR #6886	KENTUCKY EAST	4.3	
8415388	506231	1619300000		107-DV		J F COMBS- #6269	KENTUCKY EAST	13.2	
8415514	506357	1619300000		107-DV		J H HALL #6794	KENTUCKY EAST	13.0	
8415525	506368	1619300000		107-DV		J H HALL #6818	KENTUCKY EAST	10.5	
8415468	506311	1619300000		107-DV		J H HALL #6848	KENTUCKY EAST	4.7	
8415481	506324	1607100000		107-DV		J M PORTER #6974	KENTUCKY EAST	1.0	
8415488	506331	1607100000		107-DV		J M PORTER #6992	KENTUCKY EAST	0.7	
8415399	506242	1607100000		107-DV		J M RICHARDSON - #6701	KENTUCKY EAST	4.0	
8415448	506291	1619300000		107-DV		J M SHEPHERD #7182	KENTUCKY EAST	12.1	
8415553	506396	1619300000		107-DV		J P DIXON #7025	KENTUCKY EAST	3.2	
8415361	506204	1611900000		107-DV		J W STACY - # 6721	KENTUCKY EAST	6.5	
8415447	506290	1619300000		107-DV		JACKSON COMBS #7176	KENTUCKY EAST	6.1	
8415527	506370	1613300000		107-DV		JAMES BLACK #6821	KENTUCKY EAST	1.3	
8415461	506304	1613300000		107-DV		JAMES C DIXON #6838	KENTUCKY EAST	2.8	
8415366	506209	1619300000		107-DV		JAMES C STACY - #6731	KENTUCKY EAST	5.4	
8415419	506262	1619300000		107-DV		JAMES D PRATT #6936	KENTUCKY EAST	7.2	
8415438	506281	1619300000		107-DV		JAMES D PRATT- #7135	KENTUCKY EAST	4.3	
8415391	506234	1619300000		107-DV		JAMES DOBSON- #6687	KENTUCKY EAST	12.5	
8415523	506366	1619500000		107-DV		JAMES K JOHNSON #6812	KENTUCKY EAST	7.6	
8415537	506380	1619300000		107-DV		JAMES M HALL #6893	KENTUCKY EAST	4.3	
8415487	506330	1619300000		107-DV		JAMES M HALL #6989	KENTUCKY EAST	1.0	
8415498	506341	1619300000		107-DV		JAMES M HALL #7017	KENTUCKY EAST	0.7	
8415495	506338	1613300000		107-DV		JAMES Q HOLBROOK #7009	KENTUCKY EAST	5.1	
8415562	506405	1619300000		107-DV		JAMES RIDDLE #7062	KENTUCKY EAST	1.4	
8415563	506406	1607100000		107-DV		JAMES W AUXIER #7064	KENTUCKY EAST	4.3	
8415375	506218	1619300000		107-DV		JASPER J MULLINS - #6746	KENTUCKY EAST	1.7	
8415417	506260	1613300000		107-DV		JEFFERSON ISON #6934	KENTUCKY EAST	10.8	
8415501	506344	1613300000		107-DV		JEFFERSON ISON #7021	KENTUCKY EAST	5.4	
8415445	506288	1613300000		107-DV		JEFFERSON ISON #7165	KENTUCKY EAST	4.7	
8415436	506279	1613300000		107-DV		JEPTHA WATTS -#7122	KENTUCKY EAST	5.9	
8415377	506220	1619300000		107-DV		JOE FELTNER - #6752	KENTUCKY EAST	2.5	
8415485	506328	1619300000		107-DV		JOEL PRATT #6987	KENTUCKY EAST	1.1	
8415511	506354	1619300000		107-DV		JOHN BABCOCK #6788	KENTUCKY EAST	2.7	
8415518	506361	1619300000		107-DV		JOHN BABCOCK #6803	KENTUCKY EAST	8.3	
8415519	506362	1619300000		107-DV		JOHN BABCOCK #6804	KENTUCKY EAST	[illegible]	
8415368	506211	1611900000		107-DV		JOHN BEGLEY - #6733	KENTUCKY EAST	3.8	
8415449	506292	1613300000		107-DV		JOHN BRASHEAR #6963	KENTUCKY EAST	5.4	
8415567	506410	1613300000		107-DV		JOHN BRASHEAR #7072	KENTUCKY EAST	11.5	
8415574	506417	1613300000		107-DV		JOHN BRASHEAR #7089	KENTUCKY EAST	8.6	
8415439	506282	1613300000		107-DV		JOHN BRASHEAR #7142	KENTUCKY EAST	12.3	
8415558	506401	1613300000		107-DV		JOHN C ELDRIDGE #7043	KENTUCKY EAST	1.0	
8415566	506409	1613300000		107-DV		JOHN C ELDRIDGE #7069	KENTUCKY EAST	1.0	
8415538	506381	1619300000		107-DV		JOHN H HALL #6896	KENTUCKY EAST	1.0	
8415415	506258	1619300000		107-DV		JOHN H HALL #6931	KENTUCKY EAST	1.0	
8415513	506356	1607100000		107-DV		JOHN HAMILTON #6790	KENTUCKY EAST	16.3	
8415534	506377	1619300000		107-DV		JOHN J BRASHEARS #6887	KENTUCKY EAST	1.0	
8415362	506205	1619300000		107-DV		JOHN J GODSEY - #6723	KENTUCKY EAST	9.8	
8415402	506245	1619300000		107-DV		JOHN J GODSEY #6705	KENTUCKY EAST	2.1	
8415407	506250	1619300000		107-DV		JOHN J GODSEY #6713	KENTUCKY EAST	7.2	
8415517	506360	1619300000		107-DV		JOHN J GODSEY #6800	KENTUCKY EAST	3.2	
8415474	506317	1619300000		107-DV		JOHN J GODSEY #6861	KENTUCKY EAST	11.2	
8415536	506379	1619300000		107-DV		JOHN J GODSEY #6890	KENTUCKY EAST	7.9	
8415577	506420	1613300000		107-DV		JOHN J LEWIS #7101	KENTUCKY EAST	1.5	
8415530	506373	1619300000		107-DV		JOHN M BRASHEAR #6881	KENTUCKY EAST	5.1	
8415568	506411	1619300000		107-DV		JOHN M GODSEY #7077	KENTUCKY EAST	6.8	
8415571	506414	1607100000		107-DV		JOHN O GEORGE #7083	KENTUCKY EAST	7.4	
8415545	506388	1613300000		107-DV		JOHN POTTER #6907	KENTUCKY EAST	3.6	
8415459	506302	1619300000		107-DV		JOHN PRATT #6836	KENTUCKY EAST	2.9	
8415531	506374	1619300000		107-DV		JOHN PRATT #6882	KENTUCKY EAST	3.6	
8415569	506412	1619300000		107-DV		JOHN SHEPHERD #7078	KENTUCKY EAST	1.4	
8415411	506254	1613300000		107-DV		JOHN W LUSK #6924	KENTUCKY EAST	2.4	
8415381	506224	1613300000		107-DV		JOSEPH HALL - 6763	KENTUCKY EAST	16.3	
8415383	506226	1619300000		107-DV		LACY COMBS - #6767	KENTUCKY EAST	4.3	
8415507	506350	1611900000		107-DV		LEVI COLLINS #6778	KENTUCKY EAST	8.8	
8415423	506266	1607100000		107-DV		LOUISA BURCHETT #6946	KENTUCKY EAST	2.6	
8415492	506335	1613300000		107-DV		M C BENTLEY #7004	KENTUCKY EAST	19.5	
8415376	506219	1619300000		107-DV		M C GRIGSBY -#6749	KENTUCKY EAST	2.9	
8415371	506214	1611900000		107-DV		M D STACY - #6738	KENTUCKY EAST	2.5	
8415489	506332	1607100000		107-DV		M M NESBIT #6994	KENTUCKY EAST	6.1	
8415493	506336	1607100000		107-DV		M M NESBIT #7005	KENTUCKY EAST	1.1	
8415496	506339	1607100000		107-DV		M M NESBIT #7011	KENTUCKY EAST	6.8	
8415464	506307	1619300000		107-DV		MARION CORNETT #6842	KENTUCKY EAST	2.1	
8415548	506391	1611900000		107-DV		MARTIN P PATRICK #6912	KENTUCKY EAST	1.0	
8415451	506294	1611900000		107-DV		MARTIN P PATRICK #6969	KENTUCKY EAST	1.2	
8415431	506274	1619300000		107-DV		MCINTYRE & LUSK -#6962	KENTUCKY EAST	10.0	
8415547	506390	1619300000		107-DV		MCINTYRE & LUSK #6909	KENTUCKY EAST	5.1	
8415424	506267	1619300000		107-DV		MCINTYRE & LUSK #6951	KENTUCKY EAST	11.3	
8415502	506345	1619300000		107-DV		MCINTYRE & LUSK #7024	KENTUCKY EAST	10.1	
8415551	506394	1613300000		107-DV		MINERAL FUEL CO #6917	KENTUCKY EAST	6.1	
8415552	506395	1613300000		107-DV		MINERAL FUEL CO #6920	KENTUCKY EAST	3.5	
8415416	506259	1613300000		107-DV		MINERAL FUEL CO #6932	KENTUCKY EAST	7.2	
8415560	506403	1613300000		107-DV		MINERAL FUEL CO #7057	KENTUCKY EAST	5.1	
8415520	506363	1619300000		107-DV		MORGAN CORNETT #6805	KENTUCKY EAST	4.0	
8415367	506210	1619300000		107-DV		NANNIE STACY - #6732	KENTUCKY EAST	10.0	
8415509	506352	1611500000		107-DV		R E ROBERTSON #6785	KENTUCKY EAST	4.7	
8415522	506365	1619300000		107-DV		R M MCINTIRE #6811	KENTUCKY EAST	2.5	
8415528	506371	1619300000		107-DV		R M MCINTIRE #6875	KENTUCKY EAST	1.1	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8415497	506340	1619300000		107-DV		R M MCINTIRE #7013	KENTUCKY EAST	3.6	
8415390	506233	1619300000		107-DV		R O DAVIS - #6684	KENTUCKY EAST	4.3	
8415396	506239	1619300000		107-DV		R O DAVIS - #6696	KENTUCKY EAST	2.5	
8415418	506261	1619300000		107-DV		R O DAVIS #6935	KENTUCKY EAST	9.0	
8415508	506351	1619300000		107-DV		RICHARD COMBS #6780	KENTUCKY EAST	1.4	
8415401	506244	1611900000		107-DV		RILEY COMBS #6704D	KENTUCKY EAST	8.6	
8415394	506237	1619300000		107-DV		ROBERT C REAM #6694D	KENTUCKY EAST	5.8	
8415412	506255	1619300000		107-DV		ROBERT CAUDILL #6925	KENTUCKY EAST	6.5	
8415435	506278	1619300000		107-DV		ROBERT CORNETT -#7113	KENTUCKY EAST	2.5	
8415576	506419	1619300000		107-DV		ROBERT CORNETT #7100	KENTUCKY EAST	5.4	
8415414	506257	1619300000		107-DV		ROBERT GAYHEART #6929	KENTUCKY EAST	5.8	
8415476	506319	1607100000		107-DV		ROBERT MITCHELL #6871	KENTUCKY EAST	15.2	
8415365	506208	1619300000		107-DV		S M NAPIER - #6730	KENTUCKY EAST	1.0	
8415378	506221	1619300000		107-DV		S M NAPIER #6753	KENTUCKY EAST	2.9	
8415400	506243	1611900000		107-DV		SAM CAMPBELL - #6703	KENTUCKY EAST	2.4	
8415529	506372	1619300000		107-DV		SAMPSON ENGLE #6876	KENTUCKY EAST	9.4	
8415397	506240	1619300000		107-DV		SAMPSON SMITH - #6697	KENTUCKY EAST	5.4	
8415370	506213	1619300000		107-DV		SAMPSON SMITH - #6735	KENTUCKY EAST	8.2	
8415410	506253	1619300000		107-DV		SAMPSON SMITH #6720	KENTUCKY EAST	9.4	
8415473	506316	1619300000		107-DV		SAMUEL BRASHEARS #6859	KENTUCKY EAST	6.1	
8415546	506389	1619300000		107-DV		SAMUEL BRASHEARS #6908	KENTUCKY EAST	6.8	
8415422	506265	1613300000		107-DV		SAMUEL P COLLIER #6943	KENTUCKY EAST	3.6	
8415369	506212	1607100000		107-DV		SEWARD ARNEIT - #6734	KENTUCKY EAST	3.2	
8415398	506241	1611900000		107-DV		SIMON HAGANS - #6700D	KENTUCKY EAST	11.6	
8415433	506276	1611900000		107-DV		SUSAN HAYS - #7107	KENTUCKY EAST	17.1	
8415463	506306	1619300000		107-DV		SYLVESTER STACY #6841	KENTUCKY EAST	2.1	
8415413	506256	1619300000		107-DV		T G WOODS #6926	KENTUCKY EAST	12.6	
8415444	506287	1619300000		107-DV		T G WOODS #7163	KENTUCKY EAST	2.9	
8415475	506318	1613300000		107-DV		THOMAS HALL #6868	KENTUCKY EAST	6.0	
8415535	506378	1613300000		107-DV		THOMAS HALL #6888	KENTUCKY EAST	2.5	
8415450	506293	1613300000		107-DV		THOMAS HALL #6966	KENTUCKY EAST	1.1	
8415425	506268	1619300000		107-DV		THOMAS JENT #6952	KENTUCKY EAST	8.3	
8415392	506235	1611900000		107-DV		W A COMBS - #6689	KENTUCKY EAST	1.5	
8415403	506246	1611900000		107-DV		W A COMBS #6706	KENTUCKY EAST	9.2	
8415457	506300	1619300000		107-DV		W B ENGLE #6829	KENTUCKY EAST	1.0	
8415441	506284	1619300000		107-DV		W C FIELDS #7152	KENTUCKY EAST	3.5	
8415429	506272	1613300000		107-DV		W F BENTLEY -#6958	KENTUCKY EAST	1.0	
8415526	506369	1619300000		107-DV		W H MILLER #6820	KENTUCKY EAST	2.0	
8415454	506297	1619300000		107-DV		W H MILLER #6826	KENTUCKY EAST	5.0	
8415455	506298	1619300000		107-DV		W H MILLER #6827	KENTUCKY EAST	3.6	
8415556	506399	1619300000		107-DV		W H MILLER #7037	KENTUCKY EAST	14.9	
8415555	506398	1613300000		107-DV		W J CAUDILL #7033	KENTUCKY EAST	13.0	
8415557	506400	1613300000		107-DV		W J CAUDILL #7041	KENTUCKY EAST	2.1	
8415561	506404	1613300000		107-DV		W J CAUDILL #7059	KENTUCKY EAST	4.9	
8415395	506238	1611900000		107-DV		W J NOBLE - #6695	KENTUCKY EAST	6.1	
8415427	506270	1619300000		107-DV		W M CORNETT -#6955	KENTUCKY EAST	10.8	
8415420	506263	1619300000		107-DV		W M CORNETT #6937	KENTUCKY EAST	6.8	
8415482	506325	1619300000		107-DV		W M CORNETT #6975	KENTUCKY EAST	8.7	
8415483	506326	1619300000		107-DV		W M CORNETT #6978	KENTUCKY EAST	1.4	
8415500	506343	1619300000		107-DV		W M CORNETT #7020	KENTUCKY EAST	6.5	
8415405	506248	1619300000		107-DV		W R COMBS #6710D	KENTUCKY EAST	12.1	
8415409	506252	1619300000		107-DV		W R COMBS #6719D	KENTUCKY EAST	11.1	
8415404	506247	1607100000		107-DV		W R HALL SR #6707	KENTUCKY EAST	3.2	
8415467	506310	1611900000		107-DV		W RILEY COMBS #6847	KENTUCKY EAST	2.5	
8415374	506217	1613300000		107-DV		WILBURN HAMPTON #6745	KENTUCKY EAST	3.7	
8415471	506314	1619300000		107-DV		WILLIAM C BRASHEAR #6856D	KENTUCKY EAST	1.8	
8415532	506375	1619300000		107-DV		WILLIAM C BRASHEAR #6885	KENTUCKY EAST	1.0	
8415363	506206	1613300000		107-DV		WILLIAM J DIXON - #6726	KENTUCKY EAST	0.7	
8415385	506228	1613300000		107-DV		WILLIAM J DIXON - #6770	KENTUCKY EAST	0.5	
8415515	506358	1613300000		107-DV		WILLIAM J DIXON #6798	KENTUCKY EAST	0.8	
8415452	506295	1619300000		107-DV		WILLIAM M CORNETT #6970D	KENTUCKY EAST	2.5	
8415469	506312	1613300000		107-DV		WILLIAM MCINTYRE #6850	KENTUCKY EAST	5.6	
8415544	506387	1613300000		107-DV		WILLIAM MCINTYRE #6905	KENTUCKY EAST	4.9	
8415458	506301	1619300000		107-DV		WILLIE YOUNG #6833	KENTUCKY EAST	3.2	
8415565	506408	1613300000		107-DP		WILSON WHITTAKER #7068	KENTUCKY EAST	1.0	
8415389	506232	1611900000		107-DV		WM GAYHART - #6683	KENTUCKY EAST	3.9	
8415460	506303	1611900000		107-DV		ZACHARIA PATRICK #6837	KENTUCKY EAST	1.0	
8415432	506275	1607100000		107-DV		ZACHARIAH BALDRIDGE -#7105	KENTUCKY EAST	8.5	
	LOUISIANA OFFICE OF CONSERVATION								
-CRYSTAL OIL AND LAND COMPANY				RECEIVED:	01/09/84	JA: LA			
8415310	83-1710	1701724117		103		CLEMENTS #2 CV RA SU33	NORTH MISSIONARY LAKE	36.5	ARKANSAS LOUISIAN
8415311	83-1709	1701724763		103		CLEMENTS #9 CV RA SU2	NORTH MISSIONARY LAKE	18.3	ARKANSAS LOUISIAN
-J P OWEN AND COMPANY INC				RECEIVED:	01/09/84	JA: LA			
8415314	83-868	1702321814		102-4		STATE LEASE 6698 #1	JOHNSONS BAYOU FIELD	385.0	LOUISIANA INTRAST
-JOHN O CLAY EXPLORATION INC				RECEIVED:	01/09/84	JA: LA			
8415309	83-1711	1712721076		103		LOUISIANA PACIFIC #1	CROSSROADS	50.0	LOUISIANA INTRAST
-SOURCE PETROLEUM INC				RECEIVED:	01/09/84	JA: LA			
8415312	83-1708	1700320267		103		MARY G OSTERLAND #1 VUB	BUNCHY CREEK	0.0	TEXAS EASTERN TRA
-TEXACO INC				RECEIVED:	01/09/84	JA: LA			
8415308	83-1713	1770700028		103		SL 340 MOUND POINT WELL #100	MOUND POINT	4246.0	NATURAL GAS PIPEL
-TXO PRODUCTION CORP				RECEIVED:	01/09/84	JA: LA			
8415313	83-1628	1703121391		102-4		BURFORD-SHOWS #1	BETHANY-LONGSTREET	31.0	ARKANSAS-LOUISIAN
	NEW MEXICO DEPARTMENT OF ENERGY & MINERALS								
-EL PASO NATURAL GAS COMPANY				RECEIVED:	01/09/84	JA: NM			
8415317		3003920683		108		SAN JUAN 28-7 UNIT #171 (PC & CH)	SOUTH BLANCO - PICTUR	15.0	EL PASO NATURAL G
-MITCHELL ENERGY CORPORATION				RECEIVED:	01/09/84	JA: NM			
8415342		3001500000		103		FLAG "TD" STATE COM #1 LG-945	TURKEY TRACK MORROW	0.0	TRANSWESTERN PIPE
-SHELL OIL CO				RECEIVED:	01/09/84	JA: NM			
8415316		3002500000		108		N HOBBS (G-SA) UNIT SEC 25 #241	HOBBS (G-SA)	0.4	PHILLIPS PETROLE
8415315		3002500000		108		STATE I #2	VACUUM-GLORIETTA	6.9	PHILLIPS PETROLE
-YATES PETROLEUM CORPORATION				RECEIVED:	01/09/84	JA: NM			
8415335		3001524394		103		EAGLE CREEK "BL" #4	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8415336		3001524310		103		EAGLE CREEK SAN ANDRES	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8415346		3001520479		103		GISSLER "AV" #16	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8415319		3001523233		103		GISSLER "AV" #17	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8415343		3001523234		103		GISSLER "AV" #18	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8415329		3001523235		103		GISSLER "AV" #19	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8415341		3001523401		103		GISSLER "AV" #20	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8415345		3001523400		103		GISSLER "AV" #21	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8415327		3001523480		103		GISSLER "AV" #22	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8415326		3001523481		103		GISSLER "AV" #23	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8415334		3001523527		103		GISSLER "AV" #24	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8415333		3001523632		103		GISSLER "AV" #25	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8415330		3001523633		103		GISSLER "AV" #26	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8415318		3001524216		103		GISSLER "AV" #27	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8415325		3001524219		103		GISSLER "AV" #28	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8415332		3001524220		103		GISSLER "AV" #29	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8415338		3001524317		103		GISSLER "AV" #30	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8415337		3001524318		103		GISSLER "AV" #31	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8415322		3001524319		103		GISSLER "AV" #32	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8415321		3001524320		103		GISSLER "AV" #33	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8415320		3001524436		103		GISSLER "AV" #34	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8415344		3001524537		103		GISSLER "AV" #35	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8415339		3001524533		103		GISSLER "AV" #36	EAGLE CREEK S/A	0.0	TRANSWESTERN PIPE
8415331		3001524539		103		GISSLER "AV" #37	EAGLE CREEK S/A	0.0	TRANSWESTERN PIPE
8415328		3001524540		103		GISSLER "AV" #38	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8415340		3001521372		103		JOHNSON "FE" #3	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8415323		3001524434		103		JOHNSON "FE" #4	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8415348		3001521372		103		MITCHELL "IN" #3	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8415324		3001524313		103		MITCHELL "IN" #4	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8415347		3001524398		103		MITCHELL "IN" #5	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
UTAH DIVISION OF OIL,GAS, & MINING									
-PALMER OIL & GAS COMPANY				RECEIVED: 01/09/84		JA: UT			
8415349	K-101-2	4301930500		103		STATE #32-11	EAST SAN ARROYO	213.0	NATURAL GAS PIPEL
WEST VIRGINIA DEPARTMENT OF MINES									
-PHILLIPS PETROLEUM COMPANY				RECEIVED: 01/11/84		JA: WV			
8415360		4707700187		108		JASPER B#1	VALLEY DIST	0.0	CONSOLIDATED GAS
** DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, ALBUQUERQUE,NM									
-BEACH EXPLORATION INC				RECEIVED: 01/09/84		JA: NM 4			
8415304	RNM-00011-83	3002528130		103		ARCO-FEDERAL #1	SAWYER (SAN ANDRES)	456.3	WARREN PETROLEUM
-DEPCO INC				RECEIVED: 01/09/84		JA: NM 4			
8415302	RNM-0088-83	3000561929		102-2	107-TF	ROSE FEDERAL #9	PECOS SLOPES ABO	365.0	TRANSWESTERN PIPE
-EL PASO EXPLORATION CO				RECEIVED: 01/09/84		JA: NM 4			
8415307	NM-0545-83PB	3002500000		108-PB		CARLSON FEDERAL #1	JUSTIS	0.0	EL PASO NATURAL G
-GULF OIL CORPORATION				RECEIVED: 01/09/84		JA: NM 4			
8415305	NM-0547-83	3002522433		108		C E LAMUNYON #27	TEAGUE BLINEBRY	5.9	EL PASO NATURAL G
-MESA PETROLEUM CO				RECEIVED: 01/09/84		JA: NM 4			
8415303	RNM-0072-83	3000561811		102-2	107-TF	DEBBIE FEDERAL #3	WEST PECOS SLOPE ABO	612.0	TRANSWESTERN PIPE
8415306	NM1651-82	3001523229		108		DEPCO FEDERAL #1	DIAMOND MOUND	19.0	NORTHERN NATURAL
-READ & STEVENS INC				RECEIVED: 01/09/84		JA: NM 4			
8415301	RNM-0013-83	3000561597		102-4		ROSE FEDERAL #4	BUFFALO VALLEY PENN	35.0	TRANSWESTERN PIPE
** DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, CASPER,WY									
-CLAYTON INVESTMENT				RECEIVED: 01/09/84		JA: UT 5			
8415354	026-83	4301930908		103		NICOLE #1	GREATER CISCO AREA	108.0	NORTHWEST PIPELIN
-GULF OIL CORPORATION				RECEIVED: 01/09/84		JA: UT 5			
8415358	029-83	4304730676		103		UTE TRIBAL 1-32A1E	WASATCH (WASATCH)	27.0	GARY OPERATING CO
-HIKO BELL MINING & OIL CO				RECEIVED: 01/09/84		JA: UT 5			
8415357	028-83	4304715674		102-4		BONANZA #3	BONANZA	0.0	MOUNTAIN FUEL SUP
-J C THOMPSON				RECEIVED: 01/09/84		JA: UT 5			
8415359	064-83	4301915672		108		SEGUNDO #2	WESTWATER	3.0	NORTHWEST PIPELIN
-TERRA RESOURCES INC				RECEIVED: 01/09/84		JA: UT 5			
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-TXO PRODUCTION CORP				RECEIVED: 01/09/84		JA: UT 5			
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8415353	003-83	4304730963		107-TF		DUNCAN FEDERAL #1	FENCE CANYON	225.0	NORTHWEST PIPELIN
8415352	002-83	4301930780		107-TF		PTASYNSKI FEDERAL #1	EAST CANYON	151.0	NORTHWEST PIPELIN
-BELCO PETROLEUM CORPORATION				RECEIVED: 01/09/84		JA: WY 5			
8415350	W5-3T	4902320492		103	107-TF	STEAD CANYON 9-11	STEAD CANYON UNIT	0.0	NORTHWEST PIPELIN

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