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Federal Register

Monday
February 13, 1984

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Environmental Protection Agency

Animal Drugs
Food and Drug Administration

Bridges
Coast Guard

Excise Taxes
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Federal Emergency Management Agency

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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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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 424

[Amdt. No. 4]

Rice Crop Insurance Regulations

Correction

In FR Doc. 84–3016 beginning on page 4191 in the issue for Friday, February 3, 1984, make the following changes.

1. On page 4195, first column, amendatory items 4 and 5, which now amend § 416.7 and the Appendix to Part 416, should actually read as follows:

"4. Section 424.7 is further amended by removing the "Appendix A to § 424.7—Additional Terms and Conditions'." and

"5. Appendix A to Part 424 is revised to read as follows:"

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 176

[Docket Nos. 78F-0398 and 79F-0129]

Indirect Food Additives: Paper and Paperboard Components; Acrylamide and N-(Hydroxymethyl) Acrylamide; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a document that amended the food additive regulations to provide for the safe use of acrylamide and *N*-(hydroxymethyl) acrylamide as components of paper and paperboard. This document corrects a typographical error.

EFFECTIVE DATE: February 13, 1984.

FOR FURTHER INFORMATION CONTACT: George Pauli, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In FR Doc. 80–21290 appearing on page 48125 in the issue for Friday, July 18, 1980, the following correction is made: In the second column under § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* in paragraph (b)(2) in the ninth line, "2-hydroxymethyl" is corrected to read "2-hydroxyethyl".

Dated: February 6, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84–3798 Filed 2–10–84; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Parts 522 and 556

Animal Drugs, Feeds, and Related Products; Ivermectin Injection

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Merck Sharp & Dohme Research Laboratories providing for use of IVOMEC ™ (ivermectin) injection for cattle for treatment and control of certain nematode, lungworm, grub, lice, and mite infections. The regulations are also amended to establish the tolerance and safe concentrations for drug residues in edible cattle tissue.

EFFECTIVE DATE: February 13, 1984.

FOR FURTHER INFORMATION CONTACT: Adriano R. Gabuten, Bureau of Veterinary Medicine (HFV–135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4913.

SUPPLEMENTARY INFORMATION: Merck Sharp & Dohme Research Laboratories, Division of Merck & Co., Inc., P.O. Box 2000, Rahway, NJ 07065, filed NADA 128–409 providing for subcutaneous use of IVOMEC ™ (ivermectin) injection for cattle for treatment and control of infections of certain gastrointestinal nematodes, lungworms, grubs, lice, and mites. The drug has been previously approved for intramuscular use in horses (21 CFR 522.1192). The agency has validated and approved, for regulatory purposes, an analytical method for 22,23-dihydro-avermectin $B_{1}a$, the marker substance for total residues of ivermectin in beef cattle.

The NADA is approved and the regulations are amended to reflect the approval and to establish a tolerance for 22,23-dihydro-avermectin $B_{1}a$ and safe concentrations for total residues of ivermectin in edible cattle tissue. The tolerance is established for the marker residue concentration in the target tissue selected to monitor for total drug residues in the target animals. The safe concentration is the concentration of total residues considered safe in edible tissues. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The Bureau's finding of no significant impact and the evidence supporting this finding, contained in an environmental impact analysis report (pursuant to 21 CFR 25.1(j)), may be seen in the Dockets Management Branch (address above).

List of Subjects

21 CFR Part 522

Animal drugs, Injectable.

21 CFR Part 556

Animal drugs, Foods, Residues.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under

authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 522 and 556 are amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. Part 522 is amended by revising § 522.1192, to read as follows:

§ 522.1192 Ivermectin injection.

(a) *Specifications*—(1) *Horses.* Each milliliter of sterile aqueous solution contains 20 milligrams of ivermectin (2 percent).

(2) *Cattle.* Each milliliter of sterile aqueous solution contains 10 milligrams of ivermectin (1 percent).

(b) *Sponsor.* See No. 000006 in § 510.600(c) of this chapter.

(c) *Related tolerances.* See § 556.344 of this chapter.

(d) *Conditions of use*—(1) *Horses*—(i) *Amount.* 20 milligrams per 100 kilograms (220 pounds) of body weight.

(ii) *Indications for use.* It is used in horses for the treatment and control of large strongyles (adult) (*Strongylus vulgaris, Strongylus edentatus, Triodontophorus* spp.), small strongyles (adult and fourth stage larvae) (*Cyathostomum* spp., *Cylicocyclus* spp., *Cylicostephanus* spp.), pinworms (adult and fourth-stage larvae) (*Oxyuris equi*), large roundworms (adult) (*Parascaris equorum*), hairworms (adult) (*Trichostrongylus axei*), large mouth stomach worms (adult) (*Habronema muscae*), neck threadworms (*microfilariae*) (*Onchocerca* spp.), and stomach bots (*Gastrophilus* spp.).

(iii) *Limitations.* For intramuscular use only. Do not use intravenously. Not for use in horses intended for food. Effects of this drug on pregnant mares have not been determined. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(2) *Cattle*—(i) *Amount.* 10 milligrams per 50 kilograms (110 pounds) body weight (200 micrograms per kilogram).

(ii) *Indications for use.* It is used in cattle for the treatment and control of gastrointestinal nematodes (adults and fourth-stage larvae) (*Haemonchus placei, Ostertagia ostertagi* (including inhibited larvae), *O. lyrata, Trichostrongylus axei, T. colubriformis, Cooperia oncophora, C. punctata, C. pectinata, Oesophagostomum radiatum, Nematodirus helvetianus* (adults only), *N. spathiger* (adults only)), lungworms (adults and fourth-stage larvae) (*Dictyocaulus viviparus*), grubs (first, second, and third instars) (*Hypoderma bovis, H. lineatum*), lice (*Linognathus vituli, Haematopinus eurysternus*), mites (*Psoroptes ovis* (syn. *P. communis* var. *bovis*), *Sarcoptes scabiei* var. *bovis*).

(iii) *Limitations.* For subcutaneous use only. Not for intramuscular use. Do not treat cattle within 35 days of slaughter. Because a withdrawal time in milk has not been established, do not use in female dairy cattle of breeding age. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

2. Part 556 is amended by adding new § 556.344, to read as follows:

§ 556.344 Ivermectin.

The marker residue used to monitor the total residues of ivermectin in cattle is 22,23-dihydro-avermectin B_1a. The target tissue selected is liver. A tolerance is established for 22,23-dihydro-avermectin B_1a in cattle of 15 parts per billion in liver. A marker residue concentration of 15 parts per billion in liver corresponds to a concentration for total residues of ivermectin of 50 parts per billion in liver. The safe concentrations for total residues of ivermectin in uncooked edible tissues of cattle are 25 parts per billion in muscle, 50 parts per billion in liver, 75 parts per billion in kidney, and 100 parts per billion in fat.

Effective date. February 13, 1984.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: February 7, 1984.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 84-3806 Filed 2-10-84; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 31

[T.D. 7943]

Income Tax; Taxable Years Beginning After December 31, 1953 and Employment Taxes and Collection of Income Tax at Source; Postponement of Effective Date—Information From Recipients of Gambling Winnings

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document postpones the effective date of regulations relating to information from recipients of gambling winnings (T.D. 7919) published in the **Federal Register** on Wednesday, October 12, 1983 (48 FR 46296).

The effective date has been postponed to provide payors and payees additional time to comply with those regulations. The effect of this document is that no aggregation of gambling winnings from certain identical bets is required with respect to payments of those winnings made after November 14, 1983 and before January 1, 1984.

DATE: Those regulations are effective for payments of gambling winnings made after December 31, 1983, instead of for payments of winnings made after November 14, 1983.

FOR FURTHER INFORMATION CONTACT: Barry L. Wold 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) (202-566-3808).

SUPPLEMENTARY INFORMATION:

In General

On Wednesday, October 12, 1983, the **Federal Register** published amendments to the Income Tax Regulations (26 CFR Part 1) and the Employment Taxes and Collection of Income Tax at Source Regulations (26 CFR Part 31) under sections 3402(q) and 6011 of the Internal Revenue Code of 1954 (48 FR 46296). Those regulations provided that, effective for payment of gambling winnings made after November 14, 1983, gambling winnings from certain identical bets must be aggregated to determine whether those winnings are subject to 20 percent withholding. These regulations postpone the effective date of those regulations to payments of gambling winnings made after December 31, 1983. The Service had previously announced its intention to extend the effective date in a news release dated November 23, 1983 (IR-83-147).

Non-Applicability of Executive Order 12291

The Treasury Department has determined that this final regulation is not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the Order dated April 29, 1983.

Regulatory Flexibility Act

Pursuant to 5 U.S.C. 605(b), the Secretary of the Treasury has certified that the requirements of the Regulatory Flexibility Act do not apply to this final regulation as it will not have a significant impact on a substantial number of small entities.

Drafting Information

The principal author of this regulation is Barry L. Wold 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 regulation on matters of both substance and style.

List of Subjects

26 CFR 1.6001–1—1.6109–2

Income taxes, Administration and procedure, Filing requirements.

26 CFR Part 31

Employment taxes, Income taxes Lotteries, Railroad retirement, Social security, Unemployment tax, Withholding.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Parts 1 and 31 are amended by adding December 31, 1983, as the effective date in the date section of T.D. 7919 (48 FR 46296) in place of November 14, 1983; by removing the phrase "November 14, 1983" from the first sentence of § 31.3402(q)–1(c)(1)(ii) and inserting in lieu thereof the phrase "December 3, 1983"; by removing the phrase "December 1, 1983" from the first sentence of § 31.3402(q)–1(d) Example (3) and inserting in lieu thereof the phrase "January 1, 1984"; and by removing the phrase "November 14, 1983" from the first sentence of § 31.3402(q)–1(f)(1)(iv) and inserting in lieu thereof the phrase "December 31, 1983".

This Treasury decision is issued under the authority contained in section 6011 and 7805 of the Internal Revenue Code of 1954 (68A Stat. 732, 917; 26 U.S.C. 6011, 7805).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: January 23, 1984.

John E. Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 84–3765 Filed 2–10–84; 8:45 am]

BILLING CODE 4830–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–5–FRL 2525–4]

Approval and Promulgation of Implementation Plans; Michigan

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: EPA announces final rulemaking on revisions to the Michigan State Implementation Plan (SIP) related to Volatile Organic Compound (VOC) emissions from surface coating lines at two automobile plants. These revisions approve Consent Order No. 4–1983 and No. 5–1983 for the General Motors (GM) Corporation, Oldsmobile Division in Ingham County and the GM Assembly Division in Washtenaw County. Consent Order No. 4–1983 provides a detailed compliance schedule for prime, primer-surfacer, topcoat, and final repair operations. Consent Order No. 5–1983 provides a detailed compliance schedule for topcoat and final repair operations. These Consent Orders contain VOC emission control measures which will achieve final compliance by December 31, 1987. EPA believes that approval of this SIP revision will not jeopardize attainment of the ozone National Ambient Air Quality Standards (NAAQS).

DATE: This action will be effective April 13, 1984 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of these SIP revisions and other materials relating to this rulemaking are available for inspection at the following addresses:

The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20408.

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

U.S. Environmental Protection Agency, Air Programs Branch, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

Michigan Department of Natural Resources, Air Quality Division, State Secondary Government Complex, General Office Building, 7150 Harris Drive, Lansing, Michigan 48910

Written comments should be sent to: Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR–26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Toni Lesser, Regulatory Analysis Section, Air and Radiation Branch (5AR–26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886–6037.

SUPPLEMENTARY INFORMATION: On October 20, 1981, EPA published a Policy Statement (46 FR 51386) to reduce the regulatory burden on the automotive industry. The policy established criteria whereby States would defer certain compliance dates for surface coating operations at automotive and light truck assembly plants.

Michigan's Rule 336.1603 requires individual sources to submit compliance schedules containing specific increments of progress, for achieving compliance with VOC emission limits in Part 6 of the Michigan Air Pollution Control Commission's (MAPCC) Rules. On May 6, 1980 (45 FR 29790), EPA conditionally approved R336.1603. The condition required that the State submit the individual compliance schedules to EPA as revisions to the SIP, in order that the SIP conform to the requirements of 40 CFR 51.1(Q) and 51.15. Michigan's Rule 336.1610 contains interim and final VOC emission limits for various automobile plant coating operations.

On June 20, 1983, the Michigan Department of Natural Resources (MDNR) submitted consent orders for the GM Corporation's Oldsmobile Division (No. 4–1983), and GM Assembly Division (No. 5–1983) as revisions to the Michigan SIP. These Consent Orders provide detailed compliance schedules for surface coating operations which extend the final compliance deadline until December 31, 1987.

Michigan's Consent Order No. 4–1983 for the GM Oldsmobile Division provides the following schedule and emission limitations for prime operations; primer-surfacer operations; topcoat operations; and final repair operations:

Prime Operations: Until December 31, 1987, VOC emissions shall not exceed 27.5 pounds per gallon of applied coating solids. After December 31, 1987, VOC emissions shall not exceed 1.5 pounds per gallon of applied coating solids.

Primer Surfacer Operations: Until December 31, 1987, no emissions shall be permitted. After December 31, 1987, VOC emissions shall not exceed 14.9 pounds per gallon of applied coating solids.

Topcoat Operations: Until December 31, 1987, VOC emissions shall not exceed

48.1 pounds per gallon of applied coating solids and after December 31, 1987, VOC emissions shall not exceed 14.9 pounds per gallon of applied coating solids.

Final Repair Operations: Until December 31, 1987, VOC emissions shall not exceed 135 pounds per gallon of applied coating solids. After December 31, 1987, VOC emissions shall not exceed 34.3 pounds per gallon of applied coating solids.

EPA's October 20, 1981, policy regarding prime surfacing states that extensions of compliance deadlines to 1987 are appropriate in cases where such an extension would eliminate (and not merely postpone) substantial costs. This policy also states that U.S. EPA will approve State submitted compliance extensions to 1986 or 1987 for topcoating to allow for further development of coating technology. The same compliance extension should be granted for final repair coating as is granted for topcoating due to the need for consistency between the two types of coating material.

Michigan's June 20, 1983, SIP submittal for GM's Oldsmobile Division notes that the Oldsmobile Division has current plans and permits to eliminate the coating operations at the plant and allow the coating operations to be performed at a separate facility in Lansing, Michigan. Thus, this proposed extension meets the criterion of eliminating substantial compliance costs. The State also requested a compliance extension for topcoating, due to the planned shutdown. However, if GM changes plans and continues operating this plant, the compliance extension will allow GM to utilize further developments in coating technology.

In addition, Consent Order No. 4–1983 will not interfere with reasonable further progress (RFP) toward attainment. The GM Oldsmobile Division plant is located in the City of Lansing, County of Ingham. The area in which this plant is located is designated as an urban nonattainment area. However, monitoring data in Ingham County have shown no exceedances in the last 3 years. Consequently, a continuation of emissions at current levels is not expected to jeopardize attainment and maintenance of the air quality standards.

Michigan's Consent Order No. 5–1983 for the GM Assembly Division provides the following schedule and emission limitations for topcoat operations; and final repair operations:

Topcoat Operations: Until December 31, 1984, VOC emissions shall not exceed 48.1 pounds per gallon of applied coating solids. After December 31, 1984, and until December 31, 1987, VOC emissions shall not exceed 33.1 pounds per gallon of applied coating solids. After December 31, 1987, VOC emissions shall not exceed 14.9 pounds per gallon of applied coating solids.

Final Repair Operations: Until December 31, 1987, VOC emissions shall not exceed 135 pounds per gallon of applied coating solids. After December 31, 1987, VOC emissions shall not exceed 34.3 pounds per gallon of applied coating solids.

The State has requested these compliance extensions to allow the Assembly Division to convert to a new coating system. As noted above, the October 20, 1981, policy recommends approval of such requests for compliance extensions for topcoating, and the same compliance data extension should be granted for final repair coating.

The GM Assembly Division plant is located in the City of Ypsilanti, County of Washtenaw. Washtenaw County was part of the Detroit demonstration area for Michigan's 1979 Ozone SIP but was excluded from the 1982 Ozone SIP demonstration area which consists of Wayne, Oakland, and MaComb counties. Washtenaw County is classified as a rural nonattainment area and Michigan is requiring reasonable available control technology (RACT) controls in the County. Under these circumstances, the compliance extension requested by the State is not likely to jeopardize the expeditious attainment of the ozone air quality standard.

In a summary, EPA has reviewed Consent Orders No. 4–1983 and No. 5–1983 for the GM facilities described above (EPA Technical Support Document: October 26, 1983), and finds the December 31, 1987, compliance date extension to be consistent with the October 20, 1981, policy statement, regarding surface coating operations at automotive and light truck assembly plants which recommends approval of such compliance date extensions. Further, EPA believes the air quality data show that the extension until December 31, 1987, will not jeopardize the attainment and maintenance of the ozone NAAQS and believes that these extensions will result in more cost-effective compliance. EPA also believes these consent orders assure continued compliance with the requirements of Sections 110 and 172 of the Clean Air Act. For these reasons, EPA approves these consent orders as revisions to the Michigan VOC SIP.

Because EPA considers today's action noncontroversial and routine, we are approving it today without prior proposal. This action will become effective on (60 days from the date of this notice). However, if we receive notice by (30 days from the date of this notice) that someone wishes to submit critical comments, then EPA will publish: (1) A notice that withdraws this action, and (2) a notice that begins a new rulemaking by proposing the action and establishing a comment period.

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. Section 605(b), I certify that SIP approvals do not have a significant economic impact on a substantial number of small entities.

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

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxides, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Incorporation by reference.

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

This notice is issued under authority of Section 110 of the Clean Air Act, as amended (42 U.S.C. 7410).

Dated: February 3, 1984.

William D. Ruckelshaus,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart X—Michigan

1. Section 52.1170 is amended by adding paragraphs (c) (73) and (74) as follows:

§ 52.1170 Identification of plan.

* * * * *

(c) * * *

(73) On June 30, 1983, the State of Michigan submitted as a State Implementation Plan (SIP) revision. Consent Order No. 4–1983 between the General Motors Corporation's Oldsmobile Division and the Michigan Air Pollution Control Commission. The Consent Order establishes a Volatile

Organic Compound (VOC) emissions compliance schedule as required under Michigan's Rule 336.1603 and 336.1610, and extends the final compliance dates for prime, primer-surfacer, topcoat, and final repair operations until December 31, 1987.

(74) On June 30, 1983, the State of Michigan submitted as a State Implementation Plan (SIP) revision. Consent Order No. 5–1983, between the General Motors Corporation's Assembly Division and the Michigan Air Pollution Control Commission. The Consent Order established a Volatile Organic Compound (VOC) emission compliance schedule as required under Michigan's Rule 336.1603 and R336.1610, and provides interim compliance limits to be achieved by December 31, 1984, and extends the final compliance dates for topcoating and final repair coating operations until December 31, 1987.

[FR Doc. 84–3830 Filed 2–10–84; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 401

[CGD 83–064]

Great Lakes Pilotage Rates

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule amends the Great Lakes Pilotage Regulations. These amendments increase the basic pilotage rates by five percent in the U.S. Great Lakes pilotage system. These changes are made in order to increase the revenue received by the pilot organizations so that they may meet their operating costs.

EFFECTIVE DATE: March 15, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. John J. Hartke (G–MVP/13), Room 1316, Department of Transportation, Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593. (202) 426–2985.

SUPPLEMENTARY INFORMATION: The United States and Canada entered into a Memorandum of Arrangements regarding Great Lakes Pilotage (1977 being the most recent version) which incorporates, among other things, the provisions for the establishment and adjustment of joint or identical pilotage rates. The U.S. Coast Guard and the Canadian Great Lakes Pilotage Authority, Ltd. have agreed to a joint identical five percent rate increase to be implemented prior to the commencement of the 1984 navigation season on the Great Lakes. Under the "foreign affairs" exception of the Administrative Procedures Act (5 U.S.C. 553(a)(1)), a Notice of Proposed Rulemaking is not required. As this rate adjustment involves a foreign affairs function, only a Final Rule will be published setting forth the provisions of the agreed to five percent rate increase in Great Lakes Pilotage Rates.

U.S. pilots are private entrepreneurs, and as such, they must price their services so as to recover the costs of providing that service.

The Coast Guard has completed a review of revenues earned and expenses incurred by the three U.S. Great Lakes pilot organizations and has developed estimated revenue requirements. The sum of all operating costs, including administration, dispatching, pilot boats, pilot travel, pilot training, and target pilot compensation, form the total estimated revenue requirements. The guideline followed in the development of a pilot compensation figure is that the target compensation for U.S. pilots is to be comparable to the earnings of their licensed counterparts on U.S. Great Lakes vessels.

Traffic was also analyzed by reviewing traffic trends of prior years, and by obtaining the views of interested persons including the pilots and the users of pilotage services. The number of vessels, their size, and route patterns for 1984 are expected to be similar to those in 1983.

The estimated revenue requirements taken in conjunction with projected traffic produce the basic rates required to enable the U.S. pilotage system to be self-supporting. The results of our analysis indicate that a 5% increase in the basic pilotage rates is appropriate.

In an effort to deal with declining revenues, the pilot associations have taken steps wherever possible, including further reducing the number of pilots on their rolls.

Evaluation

Although Executive Order 12291 does not apply to this regulation under the foreign affairs exception, the Coast Guard has nevertheless reviewed this regulation and has determined it to be non-major. This regulation is considered to be nonsignificant and, although not required, a regulatory evaluation has been prepared under the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 dtd 5–22–80). The DOT Order requires that each evaluation include an economic analysis which quantifies, to the extent practicable, the estimated cost of the regulations to the private sector, consumers, and Federal, State, and local governments, as well as the anticipated benefits and impacts of the regulations. The estimated cost of this rule is $332,075. This figure is the amount of additional revenue the U.S. pilots should receive under this regulation based on the projected 1984 traffic and is the increased amount that shippers would have to pay for pilotage services on the Great Lakes. The benefit of this rule is the value of avoiding or minimizing costly delays and disruptions in shipping attributable to the failure to retain qualified pilots and to attract new qualified pilots. The overall efficiency and safety of the pilotage system is enhanced by having an appropriate number of pilots available to provide the required services. The regulatory evaluation from which this information is taken has been included in the public docket and can be obtained from the Marine Safety Council (G–CMC/44) (CGD 83–064), U.S. Coast Guard, Washington, D.C. 20593.

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354, 94 Stat. 1164) requires an initial regulatory flexibility analysis for regulations having a significant economic impact on a substantial number of small entities. The pilotage fees in question account for less than five percent of the total shipping cost and will not have a significant impact on the shipping industry. Pursuant to § 605(b) of the Act, it is certified that this regulation will not have a significant economic impact on a substantial number of small entities.

In the development of this rate adjustment, U.S. and Canadian shipping associations and pilots organizations were consulted.

Drafting Information

The principal persons involved in drafting this rule are: John J. Hartke, Project Manager, Office of Merchant Marine Safety, and Lieutenant Commander William B. Short, Project Attorney, Office of the Chief Counsel.

List of Subjects in 46 CFR Part 401

Administrative practice and procedure, Great Lakes, Navigation (water), Reporting and recordkeeping requirements, Seamen.

PART 401—[AMENDED]

In consideration of the foregoing, Part 401 of Title 46 of the Code of Federal Regulations is amended as follows:

1. Section 401.405 is revised to read as follows:

§ 401.405 Basic rates and charges on designated waters.

Except as provided under § 401.420, the following basic rates shall be payable for all services and assignments performed by U.S. Registered Pilots in the areas subscribed in § 401.300.

(a) District 1:

(1) For passage through the District or any part thereof, $8.78 for each statute mile, plus $117 for each lock transited, but with a minimum basic rate of $256 and a maximum basic rate for a through trip of $1125.

(2) For a movage in any harbor—$386.

(b) District 2:

(1) Southeast Shoal to Toledo or any point on Lake Erie west of Southeast Shoal—$599.

(2) Between points on Lake Erie west of Southeast Shoal—$354.

(3) Southeast Shoal to Port Huron Change Point or any point on the St. Clair River when pilots are not changed at Detroit Pilot Boat—$1,043.

(4) Southeast Shoal to Detroit/Windsor or any point on the Detroit River—$599.

(5) Southeast Shoal to Detroit Pilot Boat—$434.

(6) Toledo or any point on Lake Erie west of Southeast Shoal to Port Huron Change Point, when pilots are not changed at Detroit Pilot Boat—$1,209.

(7) Toledo or any point on Lake Erie west of Southeast Shoal to Detroit/Windsor or any point on the Detroit River—$778.

(8) Toledo or any point on Lake Erie west of Southeast Shoal to the Detroit Pilot Boat—$599.

(9) Detroit/Windsor to any point on the Detroit River and between points on the Detroit River—$354.

(10) Detroit/Windsor or any point on the Detroit River to Port Huron Change Point or any point on the St. Clair River—$785.

(11) Detroit Pilot Boat to any point on the St. Clair River—$785.

(12) Detroit Pilot Boat to Port Huron Change Point—$610.

(13) Between points on the St. Clair River—$354.

(14) Port Huron Change Point to any point on the St. Clair River—$434.

(c) District 3:

(1) Between the southerly limit of the District and the northerly limit of the District or the Algoma Steel Corporation Wharf at Sault Ste. Marie, Ontario—$1,024.

(2) Between the southerly limit of the District and Sault Ste. Marie, Ontario or any point in Sault Ste. Marie, Ontario other than the Algoma Steel Corporation Wharf—$859.

(3) Between the northerly limit of the District and Sault Ste. Marie, Ontario, including the Algoma Steel Corporation Wharf, or Sault Ste. Marie, Michigan—$386.

(4) For a movage in any harbor—$386.

2. Section 401.410 is amended by revising paragraphs (a) and (b) to read as follows:

§ 401.410 Basic rates and charges on undesignated waters.

(a) Except as provided under § 401.420 and subject to paragraph (c) of this section, the basic rates for each 6 hour period or part thereof that a U.S. pilot is on board in the undesignated waters shall be:

(1) In Lake Ontario—$207.

(2) In Lake Erie—$256.

(3) In Lakes Huron, Michigan and Superior—$207.

Each time a U.S. pilot performs the docking or undocking of a ship in undesignated waters there is an additional charge of $197.

(b) Between Buffalo and any point on the Niagara River below the Black Rock Lock—$503.

* * * * *

3. Section 401.420 is revised to read as follows:

§ 401.420 Cancellation, delay or interruption in rendition of services.

(a) Except as provided in this paragraph, whenever the passage of a ship is interrupted and the services of a U.S. pilot are retained during the period of the interruption or when a U.S. pilot is detained on board a ship after the end of an assignment for the convenience of the ship, the ship shall pay an additional charge calculated on a basis rate of $33 for each hour or part of an hour during which each interruption lasts with a maximum basic rate of $33 for each hour or part of an hour during which each interruption lasts with a maximum basic rate of $512 for each continuous 24 hour period during which the interruption continues. There is no charge for an interruption caused by ice, weather, or traffic, except during the period beginning the 1st of December and ending on the 8th of the following April. No charge shall be made for an interruption if the total interruption ends during the 6 hour period for which a charge has been made under § 401.410.

(b) When the departure or movage of a ship for which a U.S. pilot has been ordered is delayed for the convenience of the ship for more than one hour after the U.S. pilot reports for duty at the designated boarding point or after the time for which the pilot is ordered, whichever is later, the ship shall pay an additional charge calculated on a basic rate of $33 for each hour or part of an hour including the first hour of the delay, with a maximum basic rate of $512 for each continuous 24 hour period of the delay.

(c) When a U.S. pilot reports for duty as ordered and the order is cancelled, the ship shall pay:

(1) A cancellation charge calculated on a basic charge rate of $193;

(2) A charge for reasonable travel expenses if the cancellation occurs after the pilot has commenced travel; and

(3) If the cancellation is more than one hour after the pilot reports for duty at the designated boarding point or after the time for which the pilot is ordered, whichever is later, a charge calculated on a basic rate of $33 for each hour or part of an hour including the first hour, with a maximum basic rate of $512 for each 24 hour period.

4. Section 401.428 is revised to read as follows:

§ 401.428 Basic rates and charges for carrying a U.S. pilot beyond normal change point or for boarding at other than the normal boarding point.

If a U.S. pilot is carried beyond the normal change point or is unable to board at the normal boarding point the pilot shall be paid at the rate of $197 per day or part thereof, plus reasonable travel expenses to or from the pilot's base. These charges are not applicable if the ship utilizes the services of the pilot beyond the normal change point and the ship is billed for those services. The change points to which this section applies are designated in § 401.450.

(Sec. 5, 74 Stat. 260 (46 U.S.C. 9303); Sec. 6(a)(4), 80 Stat. 937, as amended; 49 CFR 1.46(d); 5 U.S.C. 553(a)(1))

Dated: February 6, 1984.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 84-3809 Filed 2-10-84; 8:45 am]

BILLING CODE 4910-14-M

Proposed Rules

Federal Register
Vol. 49, No. 30
Monday, February 13, 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 COMMERCE

International Trade Administration

15 CFR Parts 373 and 376

[Docket No. 40110-04]

Amendments to the Distribution License Procedure

AGENCY: Office of Export Administration, International Trade Administration, Commerce.

ACTION: Proposed rule; extension of comment period.

SUMMARY: This document extends for 30 days the comment period for a proposed rule announced in the Federal Register (49 FR 2264–2267, January 19, 1984). The comment period on that proposed rule originally was scheduled to end on February 21, 1984; this document extends the comment period until March 22, 1984. This extension will afford exporters more time to address fully the issues raised in the proposed rule.

DATES: Comments due on or before March 22, 1984.

FOR FURTHER INFORMATION CONTACT: Vincent Greenwald, Office of Export Administration (Telephone: (202) 377–3856).

SUPPLEMENTARY INFORMATION: The public is invited to make specific comments on each proposed change announced in the January 19 Notice, "Amendments to the Distribution License Procedure." The guidelines for submitting comments and the mailing address are set forth in that Notice.

Dated: February 8, 1984.

Richard M. Seppa,

Acting Deputy Director, Office of Export Administration, International Trade Administration.

[FR Doc. 84-3893 Filed 2-10-84; 8:45 am]

BILLING CODE 3510-DT-M

FEDERAL TRADE COMMISSION

16 CFR Part 703

Trade Regulation Rule Concerning Informal Dispute Settlement Procedures

AGENCY: Federal Trade Commission.

ACTION: Invitation for public comment.

SUMMARY: The Federal Trade Commission invites written public comments on a request by the Better Business Bureau Mediation/Arbitratrion Program, the Chrysler Customer Satisfaction Board and the Automotive Consumer Action Program for a limited exemption from the Commission's Rule on Informal Dispute Settlement Procedures. The exemption would extend the Rule's 40-day time limit for arbitration decisions to 60 days. This extension would allow BBB, Chrysler and AutoCAP to use a mediation process as part of their dispute resolution programs. The Commission has tentatively dicided to grant the requested exemption with conditions.

DATES: Comments will be accepted through March 14, 1984.

ADDRESS: Written comments regarding the request for a limited exemption from the Commission's Rule on Informal Dispute Settlement Procedures should be addressed to the Secretary, Federal Trade Commission, 6th and Pennsylvania Avenue, NW., Washington, D.C. 20580. All comments should be labeled "Exemption Request-Rule on Informal Dispute Settlement Procedures."

FOR FURTHER INFORMATION CONTACT: Lemuel Dowdy, Federal Trade Commission, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580, (202) 523–3911.

SUPPLEMENTARY INFORMATION: The BBB currently operates a nation-wide mediation/arbitration program that handles warranty and post-warranty disputes between consumers and automobile manufacturers. The program provides dispute settlement services for the following automobile manufacturers: General Motors, Nissan U.S.A., Volkswagen, Porsche and Audi. As of October 1, 1983, these manufacturers have incorporated the BBB program into their written warranties. Under the provisions of the Magnuson-Moss Warranty Act, warrantors that incorporate a dispute settlement program into the warranty must comply with the standards for such programs set forth in the Commission's Rule on Informal Dispute Settlement Procedures (Rule 703).

Chrysler has operated the Chrysler Customer Satisfaction Board Program as a nation-wide dispute resolution program under Rule 703 since October 1982. AutoCAP is also a nation-wide dispute settlement program. It was originally established to resolve disputes between consumers and automobile dealers. However, the program was expanded in 1982 to resolve disputes between manufacturers and consumers. Currently, American Motors Corporation and most of the foreign automobile manufacturers participate in the AutoCAP program. Some of these manufacturers plan to incorporate notice of the AutoCAP program into their warranties in selected areas. Therefore, the AutoCAP programs in these areas must comply with Rule 703.

BBB requests an exemption from Rule 703 which would extend the Rule's 40-day time limit for arbitration to 60 days. This extension would allow BBB, Chrysler and AutoCAP to use a mediation process as a part of their dispute resolution programs.

BBB requests that the exemption be granted for a two-year period. This period, according to BBB, would allow it to gather sufficient data to either further support the exemption or to recommend rulemaking to modify the 40-day time limit required by Rule 703.

The exemption BBB has requested is similar to that granted in 1977 to the Home Owners Warranty Corporation (HOW), a nation-wide program established to resolve warranty disputes involving new homes. It is also similar to the exemption currently in effect for the Residential Warranty Corporation (RWC), a program similar to HOW, but on a much smaller scale. These exemptions were granted to allow HOW and RWC to operate a 20-day conciliation process before the 40-day decision-making period required by Rule 703. The HOW exemption provided that

homeowners initially could be required to enter a conciliation process, but could terminate conciliation and initiate arbitration at any time during the conciliation period without incurring a penalty. The RWC exemption allows a requirement that homeowners make themselves available for at least one conciliation meeting before initiating the 40-day arbitration process. The BBB petition is different from the HOW and RWC exemptions in that the BBB is not seeking to make participation in the mediation process a prerequisite to arbitration.

Invitation To Comment

The Commission has tentatively decided to grant a limited exemption from Rule 703 for the Better Business Bureau Mediation/Arbitration Program, the Chrysler Customer Satisfaction Board Program and the Automotive Consumer Action Program. The exemption would extend the Rule's time limit for arbitration decisions from 40 days to 60 days. This extension was requested to allow adequate time for a mediation process. The Commission has also tentatively decided to place the following conditions on the exemption:

1. Consumers are not required to participate in mediation. Consumers may terminate mediation before the process begins or at any time during the process and still obtain a decision from the mechanism.

2. Upon notification from the consumer that he or she elects to cease mediation and start the arbitration process, the mechanism shall render a decision within 40 days of such notification or within 60 days of the date the mechanism first received notification of the dispute, whichever is less.

3. The procedures required by conditions 1 and 2 shall be disclosed clearly and conspicuously to the consumer after the mechanism has received notice of the dispute and prior to beginning the mediation process.

Comments are sought on whether granting the exemption with the conditions set forth above is appropriate.

By direction of the Commission.

Elizabeth O. Williard,

Acting Secretary.

[FR Doc. 84-3808 Filed 2-10-84; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Ch. I

Public Hearing on Possible Customs Regulations Amendments Relating to Elimination of Sureties on Customs Bonds

AGENCY: Customs Service, Department of the Treasury.

ACTION: Notice of hearing.

SUMMARY: This notice announces that a public hearing will he held at Customs Headquarters in Washington, D.C. at 9:30 a.m. on April 10, 1984, to listen to oral presentations concerning the proposal to eliminate the Customs Regulations requirement of having a surety on a Customs bond in certain instances. This hearing will assist agency officials to determine what, if any, action should be taken to implement the proposal.

DATES: Persons requesting to participate in the hearing must furnish a copy of their presentation to the Commissioner of Customs, to be received no later than April 2, 1984. The Hearing will be held on April 10, 1984 at 9:30 a.m.

ADDRESSES: Presentation should be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, Room 2426, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

The hearing will be held at Customs Headquarters, 1301 Constitution Ave., NW., Washinton, D.C., in room 3428.

FOR FURTHER INFORMATION CONTACT: John E. Elkins, Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8237).

SUPPLEMENTARY INFORMATION:

Background

By notice published in the Federal Register on October 14, 1983 (48 FR 46805), Customs invited written comments on a proposal to amend the Customs Regulations (19 CFR Chapter 1) to eliminate the requirement of having surety on a Customs bond in certain instances. In addition to requesting comments on the merits of the proposal and the various alternative ways in which it could be implemented, the notice indicated that a public hearing would be held if commenters indicated an interest in one.

Numerous comments have been received in response to the notice. Several parties have requested that a public hearing be held to allow for oral presentations to be made on the issue and other parties have requested to attend a hearing if one is held.

Because of the widespread interest in the matter and the significant effect it would have on all aspects of the importing community, Customs has determined that a public hearing should be held. The hearing will be held on April 10, 1984, at 9:30 a.m. in room 3428 at Customs Headquarters at 1301 Constitution Avenue, NW., Washington, D.C. The purpose of the hearing will be to afford interested parties an opportunity to make oral presentations and to allow Customs and possibly Department officials to ask questions of the parties concerning the proposal. This hearing will assist agency officials to determine what, if any, action should be taken to implement the proposal.

As stated in the notice of October 14, 1983, only parties who commented on that notice will be authorized to participate in the hearing. To ensure that adequate accommodations can be made for all who wish to attend, and to enable Customs to prepare a hearing agenda, all parties who want to make oral presentations will be required to submit a copy of their presentation to Customs. The copy must be received by April 2, 1984. Participants will be given 15 minutes each within which to make their presentation. A question and answer period will follow each presentation or at the conclusion of all the presentations. Parties wishing to attend the meeting but not to make oral presentations are also required to submit written notification to Customs. This notification must be received by April 2, 1984. No written verbatim record of the hearing will be made.

Dated: February 7, 1984.

Robert P. Schaffer,

Assistant Commissioner, Commercial Operations.

[FR Doc. 84-3708 Filed 2-10-84; 8:45 am]

BILLING CODE 4820-02-M

Internal Revenue Service

26 CFR Parts 53, 54, 141, and 301

[EE-16-81]

Second Tier Excise Taxes

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to second tier excise taxes. Changes to the applicable tax law were made by Pub. L. No. 96-596. The regulations will affect private foundations, black lung benefit trusts, pension plans, and disqualified persons with respect to the foregoing.

who may become liable for second tier taxes within the meaning of section 4962(b) of the Internal Revenue Code of 1954.

DATES: Written comments and requests for a public hearing must be delivered or mailed by April 13, 1984. The amendments are proposed to be effective for second tier taxes assessed after December 24, 1980.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T:EE–16–81, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: George B. Baker of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T:EE–16–81, 202–566–3422 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Foundation and Similar Excise Taxes Regulations (26 CFR Part 53), to the Pension Excise Taxes Regulations (26 CFR Part 54), to the Temporary Excise Tax Regulations under the Employee Retirement Income Security Act of 1974, (26 CFR Part 141), and to the Procedure and Administration Regulations (26 CFR Part 301), under sections 4941, 4942, 4943, 4944, 4945, 4961, 4962, 4971, 4975, 6213, 6503, 6861, and 7422. These amendments are proposed to conform the regulations to section 2 of the Act of December 24, 1980 (Pub. L. No. 96–596, 94 Stat. 3469) and are to be issued under the authority of section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Prior Law

The Internal Revenue Code imposes excise taxes in two tiers to insure compliance with certain provisions of the Code by private foundations, black lung benefit trusts, pension trusts, and disqualified persons with respect to the foregoing entities. A first tier excise tax is imposed automatically if the foundation, trust, or disqualified person engages in a prohibited act (such as self-dealing between a disqualified person and a private foundation), or fails to perform a required act (such as a private foundation's failure to distribute the amount described in section 4942). A much larger second tier excise tax is imposed for failing to correct the prohibited act or failure to act within a "correction period."

In *Adams v. Commissioner*, 72 T.C. 81 (1979), the Tax Court held that it lacked the authority to redetermine a deficiency of second tier tax with respect to an act of self dealing by a private foundation under Code section 4941(b). The court found that because the second tier tax was not "imposed" until after the court's decision was final, it did not have jurisdiction to redetermine a deficiency of that tax.

Amendments to Law

The Code was revised by section 2 of Pub. L. No. 96–596 to impose the second tier taxes at the end of a "taxable period," which begins with the event giving rise to the tax and ends on the earliest of (i) the date a notice of deficiency with respect to the first tier tax is mailed, or (ii) the date the first tier tax is assessed if no deficiency notice is mailed, or (iii) (in some cases) the date the taxable act is corrected.

Under new section 4961, if the taxpayer corrects the act (or failure to act) giving rise to the second tier tax within a "correction period," the tax is not to be assessed, and if assessed, it is to be abated, and if collected, it is to be credited or refunded as an overpayment. If the taxpayer files a petition with the Tax Court to redetermine the deficiency within the time limits of section 6213, the tax also is not to be assessed until the decision of the Tax Court becomes final (under Code section 7481). The correction period begins on the day the taxable event occurs and ends 90 days after the date of mailing of a notice of deficiency with respect to the second tier tax, extended by any period during which section 6213 bars assessment (determined without regard to section 4961) including the period (where applicable) until the decision of the Tax Court becomes final. The correction period may also be extended for any period the Service determines is reasonable and necessary to bring about correction.

If no petition is filed with the Tax Court, the tax will be assessed. If the taxpayer pays the first tier tax in full, files a claim for refund of the amount paid, and files a refund suit if the claim is denied, all within the specified time limits, collection of an assessed second tier tax is suspended during administrative and judicial refund procedures.

Under section 4961, the court that determines that the second tier tax was properly imposed has jurisdiction to conduct supplemental proceedings to determine whether the taxable act was corrected within the correction period.

Finally, the amount involved for second tier tax under section 4941, 4951, or 4975, is the highest fair market value during the taxable period (rather than the correction period).

These revisions to the Code are effective for first tier taxes as if included in the Code when the tax was first imposed. The revisions are effective only for second tier taxes assessed after December 24, 1980, but do not operate to permit the assessment of a second tier tax in a case to which, on December 24, 1980, the doctrine of res judicata applied.

Proposed Amendments

These amendments are proposed to conform the regulations to the changes to the Code made by section 2 of Pub. L. No. 96–596.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted, 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. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

The Internal Revenue Service invites comments on the proposal to delete from existing regulations the special rule for determining the end of the taxable period. *See, e.g.*, § 53.4941(e)–1(a)(3). The Service may consider retaining the existing rule (and including it in the regulations under section 4975) when final regulations are published.

Regulatory Flexibility Act

Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Non-Applicability of Executive Order 12291

The Treasury Department has determined that this regulation is not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the Order dated April 29, 1983.

Paperwork Reduction Act

The collection of information requirements contained in this notice of

proposed rulemaking have been submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act. Comments on these requirements should be sent to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for Internal Revenue Service, New Executive Office Building, Washington, D.C. 20503. The Internal Revenue Service requests that persons submitting comments on these requirements to OMB also send copies of those comments to the Service.

Drafting Information

The principal author of these proposed regulations was George B. Baker of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects

26 CFR Part 53

Excise taxes, Foundations, Investments, Trusts and trustees, Black lung benefit trusts.

26 CFR Part 54

Excise taxes, Pensions.

26 CFR Part 141

Excise taxes, Pensions, Employee Retirement Income Security Act of 1974.

26 CFR Part 301

Administrative practice and procedure, Bankruptcy, Courts, Crime, Employment taxes, Estate taxes, Excise Taxes, Gift taxes, Income taxes, Investigations, Law enforcement, Penalties, Pensions, Statistics, Taxes, Disclosure of information, Filing requirements.

Proposed Amendments to the Regulations

Amendments to 26 CFR Parts 53, 54, 141, and 301 are proposed as follows:

PART 53—FOUNDATION AND SIMILAR EXCISE TAXES

Paragraph 1. Section 53.4941(b)–1(a) is amended by striking out the words "correction period (as defined in § 53.4941(e)–1(d))." and inserting the words "taxable period (as defined in § 53.4941(e)–1(a))." in lieu thereof.

Par. 2. Section 53.4941(e)–1 is amended: first, by removing subparagraph (3) of paragraph (a); second, by redesignating subparagraph (4) of paragraph (a) as subparagraph (3) of paragraph (a) and by revising Example (3) of the redesignated subparagraph; third, by striking out, in subparagraph (3) of paragraph (b) and in Example (2) of paragraph (e)(2)(ii), the words "correction period" and inserting the words "taxable period" in lieu thereof; fourth, by revising subparagraph (1) of paragraph (a); fifth, by revising Example (4) of paragraph (b)(4); and sixth, by revising paragraph (d), to read as follows:

§ 53.4941 (e)–1 Definitions.

(a) *Taxable period*—(1) *In general.* For purposes of any act of self-dealing, the term "taxable period" means the period beginning with the date on which the act of self-dealing occurs and ending on the earliest of:

(i) The date of mailing of a notice of deficiency under section 6212 with respect to the tax imposed by section 4941(a)(1),

(ii) The date on which correction of the act of self-dealing is completed, or

(iii) The date on which the tax imposed by section 4941(a)(1) is assessed.

* * * * *

(3) *Examples.*

* * * * *

Example (3). On July 16, 1980 F, a manager of private foundation X acting on behalf of the foundation, knowing his act to be one of self-dealing, willfully and without reasonable cause engaged in an act of self-dealing by selling certain real estate to A, a disqualified person. On March 25, 1981, A files a waiver of the restrictions on assessment and collection of the tax imposed on the sale under section 4941(a)(1) and the tax is assessed on April 1, 1981. The taxable period with respect to the act of self-dealing for both A and F is July 16, 1980, through April 1, 1981.

(b) *Amount involved.*

(4) *Examples.*

* * * * *

Example (4). D, a disqualified person with respect to private foundation T, purchases 100 shares of stock from T for $5,000 on June 15, 1982. The fair market value of the 100 shares of stock on that date is $4,800. D sells the 100 shares of stock on December 20, 1983, for $6,000. On December 27, 1983, a notice of deficiency with respect to the taxes imposed under subsections (a) and (b) of section 4941 is mailed to D and the taxable period ends. D fails to correct during the taxable period. Between June 15, 1982, and the end of the taxable period, the stock was quoted on the New York Stock Exchange at a high of $67 per share. The amount involved with respect to the tax imposed under subsection (a) is $5,000, and the amount involved with respect to the tax imposed under subsection (b) for failure to correct is $6,700 (100 shares at $67 per share), the highest fair market value during the taxable period.

* * * * *

(d) *Cross reference.* For rules relating to taxable events that are corrected within the correction period, defined in section 4962(e), see section 4961(a), and the regulations thereunder.

* * * * *

Par. 3. Section 53.4942(a)–1 is amended: (1) by striking out, in subparagraph (2) of paragraph (a), the words "correction period" and "paragraph (c)(3)" and inserting the words "taxable period" and "paragraph (c)(1)" respectively in lieu thereof; (2) by removing Example (3) from subparagraph (4) of paragraph (c); and (3) by revising subparagraph (4) of paragraph (a) and subparagraphs (1) and (3) of paragraph (c) to read as follows:

§ 53.4942 (a)–1 Taxes for failure to distribute income.

(a) *Imposition of tax.*

* * * * *

(4) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). *M*, a private foundation which uses the calendar year as its taxable year, has at the end of 1981, $50,000 of undistributed income (as defined in paragraph (a) of § 53.4942(a)–(2) for 1981. As of January 1, 1983, $40,000 is still undistributed. On August 15, 1983, a notice of deficiency with respect to the excise taxes imposed by section 4942 (a) and (b) is mailed to *M* under section 6212(a) and the taxable period ends. Thus, under these facts, an initial excise tax of $6,000 (15 percent of $40,000) is imposed upon *M*. An additional excise tax of $40,000 (100 percent of $40,000) is imposed by section 4942(b). Under section 4961(a), however, if the undistributed income is reduced to zero during the correction period this latter tax will not be assessed, and if assessed, it will be abated, and if collected, it will be credited or refunded as an overpayment.

Example (2). Assume the facts as stated in example (1), except that the notice of deficiency is mailed to *M* on September 7, 1984, and as of January 1, 1984, only $10,000 of the $50,000 of undistributed income with respect to 1981 is undistributed. Therefore, initial excise taxes of $6,000 (15 percent of $40,000, *M*'s undistributed income from 1981, as of January 1, 1983) and $1,500 (15 percent of $10,000, *M*'s undistributed income from 1981 as of January 1, 1984) are imposed by section 4942(a). If the $10,000 remains undistributed as of September 7, 1984, the end of the taxable period, an additional excise tax of $10,000 (100 percent of $10,000, *M*'s undistributed income from 1981, as of September 7, 1984) is imposed by section 4942(b).

* * * * *

(c) *Certain periods.* For purposes of this section—

(1) *Taxable period.* The term "taxable period" means, with respect to the undistributed income of a private

foundation for any taxable year, the period beginning with the first day of the taxable year and ending on the earlier of:

(i) The date of mailing of a notice of deficiency under section 6212(a) with respect to the initial excise tax imposed under section 4942(a), or

(ii) The date on which the initial excise tax imposed under section 4842(a) is assessed.

For example, assume *M*, a private foundation which uses the calendar year as the taxable year, has $15,000 of undistributed income for 1981. A notice of deficiency is mailed to *M* under section 6212(a) on June 1, 1983. With respect to the undistributed income of *M* for 1981, the taxable period began on January 1, 1981, and ended on June 1, 1983.

* * * * *

(3) *Cross reference.* For rules relating to taxable events that are corrected within the correction period, defined in section 4962(e), see section 4961(a) and the regulations thereunder.

* * * * *

Par. 4. Section 53.4942 (a)–3 is amended by revising Example (2) in paragraph (d)(3) to read as follows:

§ 53.4942 (a)–3 Qualifying distributions defined.

* * * * *

(d) *Treatment of qualifying distributions.*

* * * * *

(3) *Examples.*

* * * * *

Example (2). *M*, a private foundation which uses the calendar year as the taxable year, has undistributed income of $300 for 1981, $200 for 1982, and $400 for 1983. On January 14, 1983, *M* makes its first qualifying distribution in 1983 when it sets aside (within the meaning of paragraph (b) of this section) $700 for construction of a hospital. On February 24, 1983 a notice of deficiency with respect to the excise taxes imposed by section 4942 (a) and (b) in regard to *M*'s undistributed income for 1981 is mailed to *M* under section 6212 (a). *M* notifies the Commissioner in writing on March 24, 1983, that it is making an election under subparagraph (2) of this paragraph to have its distribution of January 14th applied first against its undistributed income for 1982, next against its undistributed income for 1981, and last against its undistributed income for 1983. Thus, $200 of the $700 qualifying distribution is treated as made out of the undistributed income for 1982; $300, out of undistributed income for 1981; and $200 ($700 less the sum of $200 and $300), out of the undistributed income for 1983. Thus, an initial excise tax of $45 (15 percent of $300) is imposed under section 4942(a). Since *M* made the election described above, the $300 (treated as distributed out of undistributed income for 1981) corrects (within the meaning of section 4962(d)(2)) the taxable act because the undistributed income for 1981 is reduced to zero. Furthermore, correction is effected within the correction period (as defined in section 4962(e)(1) and § 53.4962–1(e)). Therefore, under the provisions of section 4961(a), the additional tax imposed by section 4942(b) will not be assessed.

* * * * *

Par. 5. Section 53.4943–2 is amended by revising paragraph (b) to read as follows:

§ 53.4943–2 Imposition of tax on excess business holdings of private foundations.

* * * * *

(b) *Additional tax.* In any case in which the initial tax is imposed under section 4943(a) with respect to the holdings of a private foundation in any business enterprise, if, at the close of the taxable period (as defined in section 4943(d)(2) and § 53.4943–9) with respect to such holdings the foundation still has excess business holdings in such enterprise, there is imposed a tax under section 4943(b) equal to 200 percent of the value of such excess holdings as of the last day of the taxable period.

Par. 6. Section 53.4943–9 is amended by revising subparagraphs (1) and (2) of paragraph (a), and by revising paragraph (b) to read as follows:

§ 53.4943–9 Business holdings; certain periods.

(a) *Taxable period*—(1) *In general.* For purposes of section 4943, the term "taxable period" means, with respect to any excess business holdings of a private foundation in a business enterprise, the period beginning with the first day on which there are such excess business holdings and ending on the earliest of:

(i) The date of mailing of a notice of deficiency under section 6212 with respect to the tax imposed on the holdings by section 4943(a);

(ii) The date on which the excess is eliminated; or

(iii) The date on which the tax imposed by section 4943(a) is assessed.

(2) *Example.* *M*, a private foundation, first has excess business holdings in *X*, a corporation, on February 5, 1972. A notice of deficiency is mailed under section 6212 to *M* on June 1, 1974. With respect to *M*'s excess business holdings in *X*, the taxable period begins on February 5, 1972, and ends on June 1, 1974.

* * * * *

(b) *Cross reference.* For rules relating to taxable events that are corrected within the correction period, defined in section 4962(e), see section 4961(a) and the regulations thereunder.

* * * * *

Par. 7. Section 53.4944–2 is amended by striking out the words "correction period" throughout the section and inserting the words "taxable period" in lieu thereof and by striking out, in paragraph (a), the words "4944(e)(3)" and inserting the words "4944(e)(1)" in lieu thereof.

Par. 8. Section 53.4944–5 is amended by revising paragraphs (a) and (d) to read as follows:

§ 53.4944–5 Definitions.

(a) *Taxable period.* For purposes of section 4944, the term "taxable period" means, with respect to any investment which jeopardizes the carrying out of a private foundation's exempt purposes, the period beginning with the date on which the amount is invested and ending on the earliest of:

(1) The date of mailing of a notice of deficiency under section 6212 with respect to the tax imposed on the making of the investment by section 4944(a)(1);

(2) The date on which the amount invested is removed from jeopardy; or

(3) The date on which the tax imposed by section 4944(a)(1) is assessed.

* * * * *

(d) *Cross reference.* For rules relating to taxable events that are corrected within the correction period, defined in section 4962(e), see section 4961(a) and the regulations thereunder.

Par. 9. Section 53–4945–1 is amended: (1) by striking out, in subparagraph (1) of paragraph (b), the words "correction period" and inserting the words "taxable period" in lieu thereof; and (2) by revising Example (2) in paragraph (c)(3) and by revising paragraph (e) to read as follows:

§ 53.4945–1 Taxes on taxable expenditures.

* * * * *

(c) *Special rules.** * *

(3) *Examples.** * *

Example (2). Assume the same facts as in example (1). Further assume that within the taxable period A makes a motion to correct the taxable expenditure at a meeting of the board of directors. The motion is defeated by a two-to-one vote, A voting for the motion and B and C voting against it. In these circumstances an additional tax is imposed on the private foundation in the amount of $100,000 (100 percent of $100,000). The additional tax imposed on B and C is $10,000 (50 percent of $100,000 subject to a maximum of $10,000). B and C are jointly and severally liable for the $10,000, and this sum may be collected by the Service from either of them.

* * * * *

(e) *Certain periods*—(1) *Taxable period.* For purposes of section 4945, the term "taxable period" means, with respect to any taxable expenditure, the period beginning with the date on which the taxable expenditure occurs and ending on the earlier of:

(i) The date of mailing of a notice of deficiency under section 6212 with respect to the tax imposed on taxable expenditures by section 4945(a)(1); or

(ii) The date on which the tax imposed by section 4945(a)(1) is assessed.

(2) *Cross reference.* For rules relating to taxable events that are corrected within the correction period, defined in section 4962(e), see section 4961(a) and the regulations thereunder.

Par. 10. Sections 53.6001–1 through 53.7101–1 (Subpart K) of Part 53 is redesignated subpart L, and a new subpart K consisting of §§ 53.4961–1 through 53.4962–1 is added to read as follows:

Subpart K—Second Tier Excise Taxes

§ 53.4961–1 Abatement of second tier taxes for correction within correction period.

If any taxable event is corrected during the correction period for the event, then any second tier tax imposed with respect to the event shall not be assessed. If the tax has been assessed, it shall be abated. If the tax has been collected, it shall be credited or refunded as an overpayment. For purposes of this section, the tax imposed includes interest, additions to the tax and additional amounts. For definitions of the terms "second tier tax," "taxable event," "correct," and "correction period," see § 53.4962–1.

§ 53.4961–2 Court proceedings to determine liability for second tier tax.

(a) *Introduction.* Under section 4961 (b) and (c), the period of limitations on collection may be suspended and assessment or collection of first or second tier tax may be prohibited during the pendency of administrative and judicial proceedings conducted to determine a taxpayer's liability for second tier tax. This section provides rules relating to the suspension of the limitations period and the prohibitions on assessment and collection. In addition, this section describes the administrative and judicial proceedings to which these rules apply.

(b) *Initial proceeding*—(1) *Defined.* For purposes of subpart K, an initial proceeding means a proceeding described in subparagraph (2) or (3).

(2) *Tax Court proceeding before assessment.* A proceeding is described in this subparagraph (2) if it is a proceeding with respect to the taxpayer's liability for second tier tax and is commenced in accordance with section 6213(a).

(3) *Refund proceeding commenced before correction period ends.* A proceeding is described in this subparagraph (3) if it is a proceeding commenced under section 7422, in accordance with the provisions of § 53.4962–1(e) (4) and (5) (relating to prerequisites to extension of the correction period during certain refund proceedings), and with respect to the taxpayer's liability for second tier tax.

(c) *Supplemental proceeding*—(1) *Jurisdiction.* If a determination in an initial proceeding that a taxpayer is liable for a second tier tax has become final, the court in which the initial proceeding was commenced shall have jurisdiction to conduct any necessary supplemental proceeding to determine whether the taxable event was corrected during the correction period.

(2) *Time for beginning proceeding.* The time for beginning a supplemental proceeding begins on the day after a determination in an initial proceeding becomes final and ends on the 90th day after the end of the correction period.

(d) *Restriction on assessment during Tax Court proceeding.* If a supplemental proceeding described in section 4961(b) and § 53.4961–2(c) is commenced in the Tax Court, the provisions of the second and third sentences of section 6213(a) and the first and third sentences of § 301.6213–1(a)(2) apply with respect to a deficiency in second tier tax until the decision of the Tax Court in the supplemental proceeding is final.

(e) *Suspension of period of collection for second tier tax*—(1) *Scope.* Except as provided in subparagraph (6), this paragraph (e) applies to the second tier tax assessed with respect to a taxable event if a claim described in subparagraph (2) is filed.

(2) *Claim for refund.* A claim for refund is described in this subparagraph (2) if, no later than 90 days after the day on which the second tier tax is assessed with respect to a taxable event, the taxpayer——

(i) Pays the full amount of first tier tax for the taxable period, and

(ii) Files a claim for refund of the amount paid.

(3) *Collection prohibited.* No levy or proceeding in court for the collection of the second tier tax shall be made, begun, or prosecuted until the end of the collection prohibition period described in subparagraph (5). Notwithstanding section 7421(a), the collection by levy or proceeding may be enjoined during the collection prohibition period by a proceeding in the proper court.

(4) *Suspension of running of period of limitations on collection.* With respect to a second tier tax to which this paragraph (e) applies, the running of the period of limitations provided in section 6502 (relating to collection of tax by levy or by a proceeding in court) shall be suspended for the collection prohibition period described in subparagraph (5).

(5) *Collection prohibition period.* The collection prohibition period begins on the day the second tier tax is assessed and ends on the latest of:

(i) The day a decision in a refund proceeding commenced before the 91st day after denial of the claim described in subparagraph (2) of this paragraph (including any supplemental proceeding under § 53.4961–2(c)) becomes final;

(ii) The 90th day after the claim referred to in subparagraph (2) is denied; or

(iii) The 90th day after the second tier tax is assessed.

(6) *Jeopardy collection.* If the Secretary makes a finding that the collection of the second tier tax is in jeopardy, nothing in this paragraph (e) shall prevent the immediate collection of such tax.

(f) *Finality*—(1) *Tax Court proceeding.* For purposes of this subpart K, section 7481 applies in determining when a decision in a Tax Court proceeding becomes final.

(2) *Refund proceeding.* For purposes of this subpart K, § 301.7422–1 applies in determining when a decision in a refund proceeding becomes final.

§ 53.4962–1 Definitions.

(a) *First tier tax.* For purposes of this subpart K, the term "first tier tax" means any tax imposed by subsection (a) of section 4941, 4942, 4943, 4944, 4945, 4951, 4952, 4971, or 4975. A first tier tax may also be referred to as an "initial tax" in parts 53 and 54.

(b) *Second tier tax.* For purposes of this subpart K, the term "second tier tax" means any tax imposed by subsection (b) of section 4941, 4942, 4943, 4944, 4945, 4951, 4952, 4971, or 4975. A second tier tax may also be referred to as an "additional tax" in parts 53 and 54.

(c) *Taxable event.* For purposes of this subpart K, the term "taxable event" means any act, or failure to act, giving rise to liability for tax under section 4941, 4942, 4943, 4944, 4945, 4951, 4952, 4971, or 4975.

(d) *Correct*—(1) *In general.* Except as provided in subparagraph (2), the term "correct" has the same meaning for purposes of this subpart K as in the section which imposes the second tier tax or the regulations thereunder.

(2) *Special rules.* The term "correct" means—

(i) For a second tier tax imposed by section 4942(b), reducing the amount of the undistributed income to zero,

(ii) For a second tier tax imposed by section 4943(b), reducing the amount of

the excess business holdings to zero, and

(iii) For a second tier tax imposed by section 4944(b), removing the investment from jeopardy.

(e) *Correction period*—(1) *In general.* The correction period with respect to any taxable event shall begin with the date on which the taxable event occurs and shall end 90 days after the date of mailing of a notice of deficiency under section 6212 with respect to the second tier tax imposed with respect to the taxable event.

(2) *Extensions of correction period.* The correction period referred to in subparagraph (1) of this paragraph shall be extended by any period in which a deficiency cannot be assessed under section 6213(a). In addition, the correction period referred to in subparagraph (1) of this paragraph (e) shall be extended in accordance with subparagraphs (3), (4), and (5) of this paragraph except that subparagraph (4) or (5) shall not operate to extend a correction period with respect to which a taxpayer has filed a petition with the United States Tax Court for redetermination of a deficiency within the time prescribed by section 6213(a).

(3) *Extensions by Commissioner.* The correction period referred to in subparagraph (1) of this paragraph may be extended by any period which the Commissioner determines is reasonable and necessary to bring about correction (including, for taxes imposed by section 4975, equitable relief sought by the Secretary of Labor) of the taxable event. The Commissioner ordinarily will not extend the correction period unless the following factors are present:

(i) The taxpayer on whom the second tier tax is imposed, the Secretary of Labor (for taxes imposed by section 4975), or an appropriate State officer (as defined in section 6104(c)(2)) is actively seeking in good faith to correct the taxable event;

(ii) Adequate corrective action cannot reasonably be expected to result during the unextended correction period;

(iii) For taxes imposed by section 4975, the Secretary of Labor requests the extension because subdivision (ii) applies; and

(iv) For taxes imposed by chapter 42 (other than imposed by section 4940), the taxable event appears to have been an isolated occurrence so that it appears unlikely that similar taxable events will occur in the future.

(4) *Extension for payment of first tier tax.* If, within the unextended correction period, the taxpayer pays the full amount of the first tier tax imposed with respect to the taxable event the Commissioner shall extend the correction period to the later of—

(i) Ninety days after the payment of the first tier tax, or

(ii) The last day of the correction period determined without regard to this paragraph.

(5) *Extensions for filing claim for refund or refund suit.* If prior to the expiration of the correction period (including extensions) a claim for refund is filed with respect to payment of the full amount of the first tier tax imposed with respect to the taxable event, the Commissioner shall extend the correction period during the pendency of the claim plus an additional 90 days. If within that time a suit or proceeding referred to in section 7422(g) with respect to the claim is filed, the Commissioner shall extend the correction period until the determination in the suit for refund (determined without regard to a supplemental proceeding under section 4961(b)) is final, determined under § 301.7422–2(a).

(6) *End of correction period if waiver accepted.* If the notice of deficiency referred to in paragraph (1) is not mailed because there is a waiver of the restrictions on assessment and collection of the deficiency or because the deficiency is paid, the correction period will end with the end of the collection prohibition period described in § 53.4961–2(e)(5).

(7) *Date on which taxable event occurs.* For purposes of subparagraph (1), the taxable event shall be treated as occurring—

(i) Under section 4942, on the first day of the taxable year for which there is undistributed income,

(ii) Under section 4943, on the first day on which there are excess business holdings,

(iii) Under section 4971, on the last day of the plan year in which there is an accumulated funding deficiency, and

(iv) In all other cases, the date on which the event occurred.

(f) *Effective date.* The provisions of this subpart K are effective with respect to second tier taxes assessed after December 24, 1980. The preceding sentence shall not be construed to permit the assessment of a tax in a case to which, on December 24, 1980, the doctrine of res judicata applied.

PART 54—PENSION EXCISE TAX REGULATIONS

Par. 11. Section 54.4971–1 is amended by adding paragraphs (c) and (e) to the proposed rule published at 47 FR 54093, December 1, 1982 as follows:

§ 54.4971–1 General rules relating to excise tax on failure to meet minimum funding standards.

* * * * *

(c) *Additional tax.* Section 4971(b) imposes an excise tax in any case in which an initial tax is imposed under section 4971(a) on an accumulated funding definiency and the accumulated funding deficiency is not corrected within the taxable period (as defined in section 4971(c)(3)). The additional tax is 100 percent of the accumulated funding deficiency to the extent not corrected.

* * * * *

(e) *Definition of taxable period.* For purposes of any accumulated funding deficiency, the term "taxable period" means the period beginning with the end of the plan year in which there is an accumulated funding deficiency and ending on the earlier of:

(1) The date of mailing of a notice of deficiency under section 6212 with respect to the tax imposed by section 4971(a), or

(2) The date on which the tax imposed by section 4971(a) is assessed.

Par. 12. Section 54.4975–1 is added as follows:

§ 54.4975–1 General rules relating to excise tax on prohibited transactions.

(a) *Scope.* This section provides general rules for the imposition of the excise taxes on prohibited transactions.

(b) *Initial tax.* Section 4975(a) imposes an initial tax on each prohibited transaction. The initial tax is 5 percent of the amount involved with respect to the prohibited transaction for each year (or part thereof) in the taxable period.

(c) *Additional tax.* Section 4975(b) imposes an excise tax in any case in which an initial tax is imposed under section 4975(a) on a prohibited transaction and the prohibited transaction is not corrected within the taxable period (as defined in paragraph (d) of this section). The additional tax is 100 percent of the amount involved with respect to the prohibited transaction.

(d) *Taxable period.* For purposes of any prohibited transaction, the term "taxable period" means the period beginning with the date on which the prohibited transaction occurs and ending on the earliest of:

(1) The date of mailing of a notice of deficiency under section 6212 with respect to the tax imposed by section 4975(a);

(2) The date on which correction of the prohibited transaction is completed; or

(3) The date on which the tax imposed by section 4975(a) is assessed.

PART 141—TEMPORARY EXCISE TAX REGULATIONS UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Par. 13. Section 141.4975–13 is amended: (1) by striking out the words "4975(f) (2), (4), (5) and (6)," and inserting the words "4975(f) (4) and (5)," in lieu thereof; and (2) by revising the title to read as follows:

§ 141.4975–13 Definition of "amount involved" and "correction".

* * * * *

PART 301—PROCEDURE AND ADMINISTRATION

Par. 14. Section 301.6212–1 is amended by adding the following two sentences at the end of paragraph (c):

§ 301.6212–1 Notice of deficiency.

* * * * *

(c) *Further deficiency letters restricted.* * * * Solely for purposes of applying the restriction of section 6212 (c), a notice of deficiency with respect to second tier tax under chapter 43 shall be deemed to be a notice of deficiency for the taxable year in which the taxable event occurs. See § 53.4962–1 (e) (7) (iii) or (iv) for the date on which the taxable event occurs.

Par. 15. Section 301.6213–1 is amended by revising the first sentence of paragraph (e) to read as follows:

§ 301.6213–1 Restrictions applicable to deficiencies; petition to Tax Court.

* * * * *

(e) *Suspension of filing period for certain chapter 42 and chapter 43 taxes.* The period prescribed by section 6213 (a) for filing a petition in the Tax Court with respect to the taxes imposed by section 4941, 4942, 4943, 4944, 4945, 4951, 4952, 4971, or 4975, shall be suspended for any other period which the Commissioner has allowed for making correction under § 53.4962–1(e)(3).

Par. 16. Paragraph (a) of § 301.6503 (a)–1 is revised by adding a new subparagraph (3) to read as follows:

§ 301.6503 (a)–1 Suspension of running of period of limitation; issuance of statutory notice of deficiency.

(a) *General rule.*

(3) For provisions relating to suspension of the running of the period of limitation with respect to collection of "second tier" excise taxes (as defined in section 4962) until final resolution of a refund proceeding described in sections 4961 and 7422 for the determination of the taxpayer's liability for the second tier taxes, see § 53.4961–2 (e) (4).

* * * * *

§ 301.6503(g)–1 [Amended]

Par. 17. Section 301.6503 (g)–1 is amended by striking out everything following the word "correction" and inserting "under section 4962(e)(1)(B)." in lieu thereof.

§ 301.6861–1 [Amended]

Par. 18. Paragraph (g) of § 301.6861–1 is amended by removing the last sentence.

Par. 19. Section 301.7422–1 is revised to read as follows:

§ 301.7422–1 Special rules for certain excise taxes imposed by chapter 42 or 43.

(a) *Finality of refund proceeding.* For purposes of sections 4941, 4942, 4943, 4944, 4945, 4951, 4952, 4961, 4962, 4971, and 4975, and the regulations thereunder, a decision in a suit for refund instituted under the provisions of this section shall be final—

(1) Upon the expiration of the time allowed for filing a notice of appeal from a decision of the United States Claims Court or of the United States District Court, if no timely notice of appeal is filed; or

(2) Upon the expiration of the time allowed for filing a petition for certiorari from a decision of the United States Claims Court, or from a decision of the United States District Court, which has been affirmed or the appeal dismissed by the United States Court of Appeals, if no timely petition for certiorari is filed; or

(3) If a petition for certiorari has been filed, thirty days from the denial of such petition; or

(4) Thirty days from the date of a decision of the United States Supreme Court if no timely petition for rehearing is filed; however, if a timely petition for rehearing from such a decision is filed, and is denied, thirty days from the denial thereof; or

(5) If a decision is entered upon a rehearing or if a decision is modified or reversed as the result of a decision of a higher court, upon the expiration, with respect to the decision on rehearing or the modified or reversed decision, of periods similar to those provided in subparagraphs (1) through (4).

(b) *Right to bring action.* With respect to any taxable event, payment of the full amount of first tier tax for the taxable period shall constitute sufficient payment in order to maintain an action under this section with respect to the second tier tax.

(c) *Limitation on suit for refund.* No suit may be maintained under this section for the credit or refund of any tax imposed under section 4941, 4942, 4943, 4944, 4945, 4951, 4952, 4971, or 4975 with respect to any taxable event unless—

(1) No other suit has been maintained for credit or refund of any tax imposed by such sections with respect to such taxable event; and

(2) No petition has been filed in the Tax Court with respect to a deficiency in any tax imposed by such sections with respect to such taxable event.

(d) *Final determination of issues.* For purposes of this section, any suit for the credit or refund of any tax imposed under section 4941, 4942, 4943, 4944, 4945, 4951, 4952, 4971, or 4975, together with a supplemental proceeding (if any) under section 4961(b), with respect to any taxable event, shall constitute a suit to determine all questions with respect to any other tax imposed with respect to such taxable event under such sections. Consequently, failure by the parties to the suit to bring before the Court any question described in the preceding sentence shall constitute a bar to the question.

(e) *Definitions.* For definitions of the terms "taxable event," "first tier tax," and "second tier tax," see § 53.4962–1.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 84–3805 Filed 2–10–84; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD7 84–01]

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, Florida

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Florida Department of Transportation, the Coast Guard is considering a change to the regulations governing the Merrill Barber Bridge, Atlantic Intracoastal Waterway, mile 951.9, State Road 60, at Vero Beach, Florida by permitting the number of openings to be limited during certain periods. This proposal is being made because periods of peak vehicular traffic have increased. This action should accommodate the needs of vehicular traffic and should still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before March 29, 1984.

ADDRESS: Comments should be submitted to and are available for examination from 7:30 a.m. to 4:00 p.m., Monday through Friday, except

holidays, at the office of the Commander, Seventh Coast Guard District, 51 S.W. 1st Avenue, Room 816, Miami, Florida 33130. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Mr. James R. Kretschmer, Senior Bridge Administration Specialist, telephone (305) 350–4108.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Seventh Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. The proposed regulations may be changed in light of comments received.

Drafting Information

The drafters of this notice are Bridge Administration Specialist Mr. Walter Paskowsky, project officer, and Lieutenant Commander K. E. Gray, project attorney.

Discussion of Proposed Regulations

The existing regulations effective 11 June 1973 provide that from 7:45 a.m. to 9:00 a.m., 12:00 noon to 1:15 p.m., and 4:00 p.m. to 5:15 p.m., Monday through Friday, except national holidays, the draw need not open for passage of vessels. However, the draw shall open at 8:30 a.m., 12:30 p.m. and 4:30 p.m. if any vessels are waiting to pass. The proposed amendment to the regulation provides that between 1 December and 30 April from 7:00 a.m. until 6:00 p.m. Monday through Friday except national holidays the draw need open only on the hour, quarter-hour, half-hour, and three-quarter hour if any vessels are waiting to pass. The average hourly vehicular traffic 7 a.m. to 6 p.m. is 1478 vehicles, a 7 percent increase since 1972, which is approaching roadway capacity for this two-lane two-way bridge structure.

The draw opened 5815 times for the passage of vessels in 1982. The bridge logs reflect the seasonal migration of vessels to and from South Florida, with the highest number of openings in October-November and April-May. During a vehicular traffic count taken during March and April 1983, the bridge opened an average of 1.6 times per hour between 7 a.m. and 6 p.m. Marine traffic is primarily pleasure craft with about 15 percent of the openings for commercial vessels. Although the proposed regulation will be restrictive during the present unregulated periods 9 a.m. to 12 noon and 1:15 p.m. to 4 p.m., 1 December to 30 April, the regulated operation will eliminate multiple openings which affect the flow of vehicular traffic. Since the regulations continue to exempt, at all times, tugs with tows and the draw will open every 15 minutes for passage of all other vessels, it is expected that there will be only minimal economic impact; therefore, an economic evaulation has not been prepared.

Paragraph (C) of the regulations will be changed to include cruise vessels operated on a regular schedule and the opening signal for exempted vessels will be changed to five short blasts for exempted vessels to conform to the present inland rules.

Economic Assessment and Certification

These proposed regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. In addition, these proposed regulations are considered to be nonsignificant in accordance with guidelines in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). As explained above, an economic evaluation has not been conducted since its impact is expected to be minimal. In accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), it is certified that these rules, if promulgated, would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations, by revising paragraphs (b) and (c) of § 117.438a to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.438a Merrill Barber Bridge, State Road 60, AIWW mile 951.9, Vero Beach, Florida.

* * * * *

(b) From 1 May through 30 November from 7:45 a.m. to 9 a.m., 12 noon to 1:15 p.m. and 4 p.m. to 5:15 p.m., Monday through Friday, except national holidays, the draw need not open for the passage of vessels. However, the draw shall open at 8:30 a.m., 12:30 p.m. and 4:30 p.m. if any vessels are waiting to pass. From 1 December through 30 April from 7:00 a.m. to 6:00 p.m., Monday through Friday, except national holidays, the draw need open only on the hour, quarter-hour, half-hour, and three-quarter hour if any vessels are waiting to pass.

(c) The draw shall open at any time for the passage of public vessels of the United States, state or local government vessels used for public service, tugs with tows, cruise vessels operated on a regular schedule, and vessels in distress. The opening signal from these vessels is five blasts of a whistle or horn or by shouting.

* * * * *

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05–1(g)(3))

Dated: January 27, 1984.

A. V. Breed,

Captain, U.S. Coast Guard District Commander, Acting.

[FR Doc. 84–3810 Filed 2–10–84; 8:45 am]

BILLLING CODE 4910–14–M

DEPARTMENT OF DEFENSE

Department of the Army Corps of Engineers

33 CFR Part 204

Pamlico Sound, North Carolina; Danger Zone

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Extension of time to file comments.

SUMMARY: On December 1, 1983, the Corps of Engineers published an invitation for public comment in the **Federal Register** (48 FR 54253) and the Wilmington District Engineer concurrently published a public notice. These notices invited written public comments on amendments to 33 CFR 204.55, which governs the use and navigation of danger zones in the waters of Pamlico Sound and Neuse River, North Carolina. The changes are necessary to reflect distances in nautical miles rather than statute miles; add laser training to the uses of an area to reflect changes in training needs; and change the boundaries of the range areas to add an extra margin of safety for the general public.

The closing date for comments was January 3, 1984. This notice extends the comment period to March 26, 1984. This comment period is extended to coincide with the extended comment period for the Wilmington District Public Notice.

which was requested by the Assistant Attorney General, State of North Carolina on December 9, 1983.

DATE: Comments must be filed no later than March 26, 1984.

ADDRESS: HQDA, DAEN-CWO-N, Washington, D.C. 20314.

FOR FURTHER INFORMATION CONTACT: Mr. Bob Johnson at (919) 343–4641 or Mr. Ralph Eppard at (202) 272–0199.

List of Subjects in 33 CFR Part 204

Marine safety, Waterways.

Dated: January 27, 1984.

Michael Volpe,

Colonel, Corps of Engineers, Executive Director of Civil Works.

[FR Doc. 84-3773 Filed 2-10-84; 8:45 am]

BILLING CODE 3710-92-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[A-6-FRL 2525-3]

Approval and Promulgation of the Arkansas State Plan for a Designated Facility and Pollutant; Arkansas Plan for Controlling Total Reduced Sulfur Emissions From Kraft Pulp Mills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed approval.

SUMMARY: This notice proposes approval of Arkansas' plan for controlling total reduced sulfur (TRS) emissions from existing kraft pulp mills which was submitted by the Governor on February 28, 1983. Arkansas' plan was submitted in response to the publication of emission control guidelines by the Administrator under Section 111(d) of the Clean Air Act, as amended. The plan and the clarification letter dated August 6, 1981, satisfies EPA's requirement for adoption and submittal of a plan to control TRS.

DATE: Interested persons are invited to submit comments on this proposed action on or before March 14, 1984.

ADDRESS: Written comments should be submitted to the address below:

Environmental Protection Agency, Region 6, Air and Waste Management Division, Air Branch, State Implementation Plan Section, 1201 Elm Street, Dallas, Texas 75270

Copies of the materials submitted by Arkansas may be examined during normal business hours at this address and the address listed below:

Arkansas Department of Pollution Control & Ecology, Air & Hazardous Materials Division, 8001 National Drive, Little Rock, Arkansas 72209

FOR FURTHER INFORMATION CONTACT: Kathryn M. Griffith at the EPA Region 6 address above or call (214) 767–9853.

SUPPLEMENTARY INFORMATION: On February 28, 1983, the Governor of Arkansas, after adequate notice and public hearing, submitted the State's plan for controlling total reduced sulfur emissions from existing kraft pulp mills. This plan was adopted by the Arkansas Commission on Pollution Control and Ecology on January 28, 1983. The State has adopted this plan to establish emission limitation for TRS from the pulp paper industry. The State has identified existing facilities and established emission limits for these facilities.

EPA reviewed this plan and developed an evaluation report,[1] which is based on the requirements of section 111(d) of the Clean Air Act of 1977, as amended, 40 CFR Part 60 Subpart B and an EPA guideline document titled "Kraft Pulping—Control of TRS Emissions from Existing Mills." This evaluation report is available for inspection by interested parties during normal business hours at the EPA Region 6 Office and the other addresses listed above.

As submitted, the plan did not adequately demonstrate that the State had the requisite authority to disclose emission data to the public upon the public's request. However, when EPA approved Arkansas' general implementation plan submitted pursuant to the provisions of Section 110(a) of the Clean Air Act, EPA provided rulemaking for making such data available under 40 CFR 62.852. This provision is appropriate for use in disclosing emission data from sources covered by this TRS plan.

The State adopted EPA Test Method 16 and allows alternate test methods to be used with the approval of the Director of the Arkansas Department of Pollution Control and Ecology. A letter of clarification dated August 6, 1981, states that the State will seek approval from the Regional Administrator before approving any alternative testing methods.

The State has approved standards for TRS emissions less stringent than the standards recommended in the EPA guideline for kraft pulping. The Administrator has determined that TRS, an odorous pollutant, may cause or contribute to the endangerment of public welfare but that adverse effects on public health have not been demonstrated. Regulations promulgated by EPA at 40 CFR 60.24(d) in accordance with Section 111(d)(1) of the Clean Air Act allow States to "balance the emission guidelines, compliance times, and other information provided in the applicable guideline document against other factors of public concern in establishing emission standards * * *." The recommended guideline limits and Arkansas limits for the various affected facilities are as follows:

EPA guideline	Arkansas
Recovery boilers:	
New design (5 ppm)	5 ppm.
Old design (20 ppm)	[1] 40 ppm.
Lime kiln (20 ppm)	40 ppm.
Multiple effect evaporators (5 ppm)	[2]
Digesters (5 ppm)	[2]

[1] The State would allow 200 ppm from the recovery boiler at Weyerhaeuser Company plant in Pine Bluff. The small plant built in the mid-1950's produces about 300 tons per day of unbleached bag paper. The company would have to replace their recovery boiler to meet a 40 ppm limit.

[2] Efficient incineration of all noncondensible gases.

The State justified the less stringent emission limits for "old design" recovery boilers on the basis that they will be phased out within 5–10 years and the cost of retrofitting. In a letter dated August 30, 1983, the State requested each company to "indicate the expected date of retirement of any recovery boiler subject to the regulations." Their answers were as follows:

Weyerhaeuser—"The current expected life of the entire mill is an additional 12 years. We do not see any circumstances that would necessitate retiring the boiler separate from other major mill components, i.e., the paper machine."

International Paper, Pine Bluff—"Our long range plans * * * includes the installation of a 900-ton recovery boiler to replace our two 390-ton 1958 vintage recovery boilers. The year for this retirement has not been established."

Arkansas Kraft Corporation—"The No. 2 recovery boiler at Arkansas Kraft is expected to have a further useful life of 10 to 20 years."

Nekoosa Papers, Inc.—"Since the No. 1 recovery boiler is only 15 years old, with adequate operating care and maintenance, this unit should have an additional 10 years of operating life before any major capital expenditures would be required. It would therefore not be economically feasible to replace the boiler at this time."

Georgia-Pacific Corporation—"Based on [EPA] guideline data, the life of recovery boilers is estimated at 25 years. This means that 7R Recovery Boiler should be repolaced in 1992—nine years from now. The unit is not operating now and will not be until the mill is further modernized and expanded

[1] EPA Review of Arkansas' 111(d) plan for the Control of Total Reduced Sulfur from Kraft Pulp Mills.

which will be at least two years and most likely five years from now or maybe never."

International Paper, Camden—"No specific plans are now forecasted for replacement of any of the three recovery boilers; in fact, No. 2 and No. 3 recoveries (1947 vintage) will have new electrostatic precipitators installed in early 1984 to ensure particulate compliance. These monies are committed (and partially spent) now."

The State also asked each company how the cost of meeting the EPA guideline limits compared with meeting the States' limits. The costs are summarized below:

	State limit (40 ppm)		EPA guideline (20 ppm)	
	Capital cost (dollars)	Annualized cost $/ADT [1]	Capital cost (dollars)	Annualized cost $/ADT [1]
Weyerhaeuser	[2] 0	[2] 0	29,000,000	87.00
International Paper, Pine Bluff	3,450,000	1.51	7,100,000	3.11
Arkansas Kraft Corp	2,650,000	1.83	4,542,000	3.15
Nekoosa Paper, Inc	0	0	0	1.00
Georgia Pacific Corp	2,920,000	1.70	5,300,000	3.88
International Paper, Camden	2,210,000	2.21	5,150,000	5.15

[1] Air dryed ton (ADT) of pulp.
[2] The State would allow 200 ppm from the recovery boiler at Weyerhaeuser Corp. because the company would have to replace their recovery boiler to meet a 40 ppm limit.

The State then asked how the additional costs of meeting the [EPA] guideline would affect the economic viability of each mill. Their answers were as follows:

Weyerhaeuser—A company representative testified at the public hearing in Little Rock, Arkansas, April 30, 1980, that "Adoption of the regulations as proposed [40 ppm] could almost certainly result in closure of the mill. The economic burden of such a large expenditure of nonproductive capital at this small plant would make it noncompetitive in today's market. The alternatives * * * appear to be expand the plant, curtail production, or shut it down. Expansion to approximately three times present size would probably be required to retire the new debt on an acceptable payout. However, the company does not foresee any near term opportunity to make such a major expansion."

International Paper, Pine Bluff—"The additional costs of meeting the guidelines would have no effect on the economic viability of the Pine Bluff Mill. However, any monies spent either for capital or operating costs must eventually be passed on to the customer or consumer."

Arkansas Kraft Corporation—"As a profit center, the Arkansas plant is struggling. In the recent economic downturn, if capital expenditures had been required for TRS control as a condition to operate, a mill shutdown would likely have occurred."

Nekoosa Paper, Inc.—"According to the boiler manufacturer, the unit should be able to meet 20 ppm limit if it is operated closer to the design load by 10 percent * * * equates to 50–55 tons per day of lost hardwood pulp production."

Georgia-Pacific Corporation—"The additional cost of meeting 20 ppm * * * will result in $2.18 cost per ton of air dry pulp. The last figure will require an increase in price of finished product in order to remain a profitable operation."

International Paper, Camden—"It is obvious that the additional cost of meeting the more stringent limit is significantly higher. These higher and continuing operating costs would have an impact on our ability to compete in the marketplace (this is especially true regarding nonfiberous products such as plastics). It is not possible, however, for us at this time to access accurately the long-term impact of these possible costs."

The Arkansas 111(d) plan for TRS will not be implemented until it is approved by EPA. The Arkansas plan is estimated to reduce total Statewide emissions of TRS by 90 percent. Meeting EPA's limits would give the State an additional 5 percent reduction in TRS but, in many cases, would double the cost to the companies.

EPA will accept comments over the next 30 days on its proposal to approve Arkansas' plan for controlling TRS emissions from existing kraft pulp mills.

Under 5 U.S.C. 605(b), 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.

This notice of proposed approval is issued under the authority of Section 111(d) of the Clean Air Act, as amended, 42 U.S.C. 7411(d).

List of Subjects in 40 CFR Part 62

Air pollution control, Fluoride, Sulfur, Administrative practice and procedure, Intergovernmental relations, Reporting requirements.

Dated: July 14, 1983.

Dick Whittington,

Regional Administrator.

[FR Doc. 84-3831 Filed 2-10-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 15

Federal Emergency Management Agency Special Facility and Grounds

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule.

SUMMARY: This proposed rule prescribes rules and regulations for persons entering onto the premises at the FEMA Special Facility near Berryville, Virginia. These regulations implement and supplement General Services Administration regulations concerning Conduct on Federal Property and are needed because of the special activities carried out at that installation (see 41 CFR Subpart 101–20.3).

DATE: Comment on this proposed rule is due on before April 13, 1984.

ADDRESS: Comments should be sent to the Rules Docket Clerk, Office of General Counsel, Federal Emergency Management Agency, Room 840, 500 C Street, SW., Washington, D.C. 20472.

FOR FURTHER INFORMATION CONTACT: George W. Watson at (202) 287–0376.

SUPPLEMENTARY INFORMATION: FEMA operates its Special Facility near Berryville, Virginia. Since programs of national security interest are being handled at the Special Facility, premises must be regulated in accordance with regulations prescribed by the General Services Administration, 41 CFR 101–20.3 (Conduct on Federal Property). The regulation prescribes rules for entry at the Facility, inspections of vehicles and personal effects of persons entering the Facility, disturbances, gambling, use of alcoholic beverages and narcotics, soliciting, vending, distribution of handbills and for vehicular and pedestrian traffic at the Facility. Penalties under 40 U.S.C. 318(c) are prescribed. This regulation is administrative and, as such, is categorically excluded from the requirements for environmental assessments contained in 44 CFR Part

10. This rule is not a major rule as defined in Section 1(b) of Executive Order 12291, nor will it have a significant economic impact on a substantial number of small entities. Hence, regulatory impact analyses are not necessary. There are no information collection requirements to be submitted to the Office of Management and Budget under section 3504(h) of the Paper Work Reduction Act.

List of Subjects in 44 CFR Part 15

Federal buildings and facilities.

Accordingly, Chapter I of Title 44, Code of Federal Regulations is proposed to be amended by adding the following Part 15:

PART 15—CONDUCT AT THE FEMA SPECIAL FACILITY

Sec.
15.1 Applicability.
15.2 Admission.
15.3 Inspection.
15.4 Preservation of property.
15.5 Conformity with signs and directions.
15.6 Disturbances.
15.7 Gambling.
15.8 Alcoholic beverages and narcotics.
15.9 Soliciting, vending and debt collection.
15.10 Distribution of handbills.
15.11 Photographs and other depictions.
15.12 Dogs and other animals.
15.13 Vehicular and pedestrian traffic.
15.14 Weapons and explosives.
15.15 Penalties and other laws.

Authority: FEMA Reorganization Plan No. 3 of 1978; E.O. 12127; E.O. 12148; delegation of authority from Administrator of General Services, dated July 18, 1979; Pub. L. 566, 80th Congress, approved June 1, 1948 (40 U.S.C. 318–318d); and the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended.

§ 15.1 Applicability.

These rules and regulations apply to all the property known as the "Special Facility," located on Mt. Weather on Virginia Route 601 near Berryville, Virginia, which is owned, operated or under the charge and control of the Federal Emergency Management Agency (FEMA) and to all persons entering, while on, or leaving the property.

15.2 Admission.

The Special Facility contains classified material and areas which must be protected in the interest of national security. The facility is designated a restricted area. Access to the Special Facility is closed to the general public and is limited to those persons having official business related to the missions and operations of the Special Facility. Persons and vehicles entering the Special Facility must be approved for admission by the Director, Federal Emergency Management Agency, or his/her designee, registered with the Special Facility Security force, and issued a Special Facility identification badge and vehicle parking decal or permit. No person shall enter or remain on the Special Facility premises unless he or she has received permission from the Director, FMEA or his/her designee and has complied with the above procedures.

§ 15.3 Inspection.

All vehicles, packages, handbags, briefcases, and other containers being brought into, while on, or being removed from the Special Facility are subject to inspection by security force personnel and other authorized personnel. A full search may accompany an arrest. Inspection is permitted to prevent the possession and use of items prohibited by these rules and regulations or by other applicable laws, to prevent theft of property and to prevent the wrongful obtaining of defense information under 18 U.S.C. 793. Individuals objecting to such inspections must make their objection known to the officer on duty at the entrance gate prior to entering the Special Facility. Individuals refusing to permit an inspection of their vehicle or possessions will not be authorized or allowed to enter the premises of the Special Facility.

§ 15.4 Preservation of property.

The improper disposal of rubbish at the Special Facility, the willful destruction of or damage to property, the theft of property, the creation of any hazard on the property to persons or things, the throwing of articles of any kind from or at a building, or the climbing upon a fence, or the climbing upon the roof of any part of a building is prohibited.

§ 15.5 Conformity with signs and directions.

Persons at the Special Facility shall at all times comply with official signs of a prohibitory, regulatory, or directory nature and with the directions of law enforcement and other authorized officials.

§ 15.6 Disturbances.

Any unwarranted loitering, disorderly conduct, or other conduct at the Special Facility which creates loud or unusual noise or a nuisance; which unreasonably obstructs the usual use of entrances, foyers, lobbies, corridors, offices, elevators, stairways, roadways or parking lots; which otherwise impedes or disrupts the performance of official duties by government employees; or which prevents persons from obtaining the administrative services provided at the Special Facility in a timely manner, is prohibited.

§ 15.7 Gambling.

Participating in games for money or other personal property, or the operating of gambling devices, the conduct of a lottery or pool, or the selling or purchasing of numbers tickets at the Special Facility is prohibited.

§ 15.8 Alcoholic beverage and narcotics.

Operating a motor vehicle at the Special Facility by a person under the influence of alcoholic beverages, narcotic drugs, hallucinogens, marijuana barbiturates or amphetamines is prohibited. Entering upon the or while on the property, under the influence of or using or possessing any narcotic drug, marijuana, hallucinogen, barbiturate or amphetamine is prohibited. This prohibition shall not apply in cases where the drug has been prescribed for a patient by as physician. Entering upon the property, or being on the property under the influence of alcoholic beverages is prohibited. Bringing alcoholic beverages, narcotic drugs, hallucinogens, marijuana, barbiturates or amphetamines onto the premises of the Special Facility is prohibited unless authorization has been granted by the Director, FEMA or his designee.

§ 15.9 Soliciting, vending, and debt collection.

Soliciting alms and contributions, commercial or political soliciting and vending of all kinds, displaying or distributing commercial advertising, or collecting private debts at the Special Facility is prohibited. This rule does not apply to (a) national or local drives for funds for welfare, health, or other purposes as authorized by the "Manual on Fund Raising Within the Federal Service" issued by the U.S. Office of Personnel Management and sponsored or approved by the occupant agencies (all such drives must have the prior approval of the Director, Federal Emergency Management Agency or his/her designee); (b) concessions or personal notices posted by employees on authorized bulletin boards; and (c) solicitation of labor organization membership or dues authorized by occupant agencies under the Civil Service Reform Act of 1978 (Pub. L. 95–454).

§ 15.10 Distribution of handbills.

The distribution of materials such as pamphlets, handbills and/or flyers, and the displaying of placards or posting of materials on bulletin boards or elsewhere at the Special Facility is

prohibited except as authorized in Sec. 15.9 above or when such distribution or displays are conducted as part of authorized government activities.

§ 15.11 Photographs and other depicitions.

The taking of photographs and the making of notes, sketches, or diagrams of buildings, grounds, or other appurtenances of the Special Facility, or the possession of a camera is prohibited while at the Special Facility except when approved by the Director, Federal Emergency Management agency, or his/her designee.

§ 15.12 Dogs and other animals.

Dogs and other animals, except seeing-eye dogs, shall not be brought onto the Special Facility for other than official purposes.

§ 15.13 Vehicular and pedestrian traffic.

Drivers of all vehicles entering or while at the Special Facility shall drive in a careful and safe manner at all times and shall comply with the signals and directions of security force officers or other authorized individuals and all posted traffic signs; the blocking of entrances, driveways, walks, loading platforms, or fire hydrants on the property is prohibited; except in emergencies, parking on the property is not allowed without a permit. Parking without authority, parking in unauthorized locations or in locations reserved for other persons, or parking contrary to the direction of posted signs is prohibited. Vehicles parked in violation, where warning signs are posted, shall be subject to removal at the owners' risk and expense. This paragraph may be supplemented from time to time with the approval of the Director of Federal Emergency Management Agency, or his/her designee, by the issuance and posting of such specific traffic directives as may be required, and when so issued and posted such directives shall have the same force and effect as if made a part thereof. Proof that a motor vehicle was parked in violation of these regulations or directives may be taken as prima facie evidence that the registered owner was responsible for the violation.

§ 15.14 Weapons and explosives.

No person entering or while at the Special Facility shall carry or possess firearms, other dangerous or deadly weapons, explosives or items intended to be used or which could reasonably be used to fabricate an explosive or incendiary device, either openly or concealed, except for official purposes and upon the approval of the Director, Federal Emergency Management Agency, or his/her designee.

§ 15.15 Penalties and other laws.

Whoever shall be found guilty of violating any rule or regulation herein is subject to a fine of not more than $50 or imprisonment for not more than 30 days, or both. (See 40 U.S.C. 318c.) Nothing contained in these rules and regulations shall be construed to abrogate any other Federal laws or any State and local laws and regulations applicable to the Special Facility premises. These rules and regulations supplement those penal provisions of Title 18, United States Code, relating to Crimes and Criminal Procedure, which apply without regard to the place of the offense and those penal provisions which apply in areas under the special maritime and territorial jurisdiction of the United States, as defined in 18 U.S.C. 7. However, they supersede those provisions of State law which are made Federal criminal offenses by virtue of the Assimilated Crimes Act (18 U.S.C. 13) to the extent that they are in conflict with these regulations. State and local criminal laws are applicable as such only to the extent that authority in that regard has been reserved to the State by the State consent or cession statute or vested in the State by Federal statute.

Dated: February 2, 1984.

Louis O. Giuffrida,

Director.

[FR Doc. 84-3803 Filed 2-10-84; 8:45 am]

BILLING CODE 6718-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 5b

Privacy Act of 1974; Exempt Record System

AGENCY: Department of Health and Human Services.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Assistant Secretary for Personnel Administration, through the Office of Personnel Systems Integrity of the Department of Health and Human Services, by separate **Federal Register** notice is proposing alteration in the system of records entitled, "Management Information System Efficiency Report (MISER), HHS/OS/ASPER/OPSI", 09-90-0095. The Department intends to exempt portions of this system from certain provisions of the Privacy Act, 5 U.S.C. 552a. The proposed exemption is authorized by subsection (k)(2) of the Privacy Act, which applies to investigative materials compiled for law enforcement purposes. The Office of Personal Systems Integrity (OPSI) is authorized to gather information for personnel, legal, and regulatory enforcement purposes under Title 5 U.S.C., Chapter 12. In order to maintain the integrity of the OPSI process of merit system and prohibited personnel practice complaints investigations, and to ensure that the Office of Personnel Systems Integrity will be able to obtain access to complete and accurate information, the Department proposes to exempt from the notification, access, correction, and amendment provisions of the Privacy Act those portions of Management Information System Efficiency Report (MISER) which contain personal information that would identify either a confidential source or an individual other than the complainant or subject of an investigation.

DATE: Comments must be received by March 14, 1984.

ADDRESS: Comments should be addressed to Dr. Howard Harrison, Director, Office of Personnel Systems Integrity, Department of Health and Human Services, Room 2046, Switzer Building, 330 C Street SW., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: Betty Colton, Director, Division of Personnel Systems Improvement, Department of Health and Human Services at the above address or call (202) 475-0027.

SUPPLEMENTARY INFORMATION: The Office of Personnel Systems Integrity is proposing alteration in portions of the system of records as currently constituted and described in a system notice published in the **Federal Register** (System Number 09-90-0095, 47 FR 45771). The purpose of this alteration in portions of the system is to permit to OPSI to maintain an additional subsystem of records for use by employees of HHS and other government agencies who process merit system and prohibited personnel practice complaints under 5 U.S.C., Chapter 12.

The altered system will contain personal information that would identify confidential source(s) or an individual other than the complainant or subject of an OPSI investigation. The releasing of information that has been supplied by individuals under the assurance of confidentiality could impede investigations, violate the rights of individuals other than the subject of an OPSI investigation, reveal the identities

of confidential sources, or otherwise impair the ability of the Office of Personnel Systems Integrity to conduct merit system and prohibited practice complaint investigations. For these reasons, the Department proposes to exempt portions of this system under subsection (k)(2) of the Privacy Act from the notification, access, correction, and amendment provisions of the Privacy Act.

The proposed exemption does not meet the standards set forth in the Executive Order 12291 for classification as a major rule, and no regulatory analysis statement is required.

The Secretary certifies that the proposed exemption will not have a significant impact on any substantial number of small entities as defined by the Regulatory Flexibility Act, Pub. L. 96–354.

List of Subjects in 45 CFR Part 5b

Privacy.

For the reasons set forth in this premable it is proposed that the Department's Privacy Act Regulations, Part 5b or 45 CFR Subtitle A, be amended as follows:

PART 5b—PRIVACY ACT REGULATIONS

1. By adding paragraph (b)(2)(ii)(F) to § 5b.11 as follows:

§ 5b.11 Exempt systems.

* * * * *

(b) * * *

(2) * * *

(ii) * * *

(F) The Management Information System Efficiency Report (MISER), HHS/OS/ASPER/OPSI.

* * * * *

Dated: October 20, 1983.

Margaret M. Heckler,

Secretary.

[FR Doc. 84–3852 Filed 2–10–84; 8:45 am]

BILLING CODE 4150–04–M

Notices

Federal Register
Vol. 49, No. 30
Monday, February 13, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

Advisory Committee on Instrument Standards for Cotton; Meeting

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

Name: Advisory Committee on Instrument Standards for Cotton.

Date: March 29, 1984.

Place: Ramada Inn Southwest Airport, 1471 Brooks Road East, Memphis, Tennessee.

Time: 8:30 a.m.

Purpose: The agenda will include discussions of several technical issues remaining to be resolved. Among these are: (1) How to report color readings and (2) test limits and tolerances to be adopted. There will also be progress reports regarding research on instrument measurement of trash and the findings of a USDA survey on the effects of humidity and moisture on test results.

The meeting is open to the public. Public participation will be limited to written statements received prior to the meeting. Written statements should be addressed to Jesse F. Moore, Director, Cotton Division, Agricultural Marketing Service, U.S. Department of Agriculture, Annex Building, Room 302, Washington, D.C. 20250, (202) 447–3193.

Dated: February 7, 1984.

Eddie F. Kimbrell,

Deputy Administrator, Commodity Services.

[FR Doc. 84–3811 Filed 2–10–84; 8:45 am]

BILLING CODE 3410–02–M

Rural Electrification Administration

Hoosier Energy Rural Electric Cooperative, Inc.; Finding of No Significant Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Finding of No Significant Impact.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Environmental Policy Act of 1969, the Council on Environmental Quality Regulations (40 CFR Part 1500), and REA Bulletin 20–21:320–21, Environmental Policies and Procedures, has made a Finding of No Significant Impact with respect to a request by Hoosier Energy Rural Electric Cooperative, Inc. (HE), of Bloomington, Indiana, for additional financing assistance for cost increases and capital additions and improvements for the Merom Generating Station in Sullivan County, Indiana.

FOR FURTHER INFORMATION CONTACT: REA's Finding of No Significant Impact and Environmental Assessment and HE's Borrower's Environmental Report (BER) may be reviewed or obtained in the Office of the Director, Northeast Area—Electric, Room 0241, South Agriculture Building, Rural Electrification Administration, Washington, D.C. 20250, telephone (202) 382–1420, or at the office of Hoosier Energy Rural Electric Cooperative, Inc. (Virgil E. Peterson, Executive Vice President and General Manager), P.O. Box 908, Bloomington, Indiana 47402, telephone (812) 876–2021.

SUPPLEMENTARY INFORMATION: The Merom Generating Station consists of two-490 megawatt, coal-fired steam-electric generating units and associated support facilities. Higher owner's costs than were anticipated at the time of the previous financing assistance, higher interest during construction and a need for capital additions and improvements for increased plant reliability and efficiency have resulted in a request for additional financing assistance.

Alternatives examined included no action and additional financing for the project. After consideration of these alternatives, REA has determined that the proposed project is an environmentally acceptable way for HE to meet its members' needs, even though no conclusion on financing assistance has been made.

Based upon information contained in the BER, and in REA's Final Environmental Impact Statement for the Merom Generating Station, dated September 1977, REA has prepared an Environmental Assessment and determined that the proposed capital improvements will have no affect on threatened and endangered species, cultural resources, wetlands, floodplains, or important farmlands. In accordance with REA Bulletin 20–21:320–21, HE advertised and requested comments on the environmental aspects of the capital improvements in newspapers with general circulation in Sullivan and Monroe Counties, Indiana. No comments were received.

If approved, the additional financing assistance, besides financing cost increases and capital additions and improvements at the Merom Generating Station, would be for transmission facilities unrelated to the Merom Generating Station, but included as a part of the request for additional financing assistance for administrative efficiency and convenience. A BER has been submitted to REA for these projects. Additional information on cultural resources, threatened and endangered species, wetlands, floodplains, and important farmlands was also submitted. REA has independently reviewed this information and has determined that these projects are categorically excluded from further environmental requirements in accordance with Section IV–C of Bulletin 20–21.

REA has concluded that if it approves additional financing assistance, it will not represent a major Federal action significantly affecting the quality of the human environment. A supplemental environmental impact statement is, therefore, not necessary.

(This program is listed in the Catalog of Federal Domestic Assistance as 10.850-Rural Electrification Loans and Loan Guarantees)

Dated: February 7, 1984.

Harold V. Hunter,

Administrator.

[FR Doc. 84–3860 Filed 2–10–84; 8:45 am]

BILLING CODE 3410–15–M

Nushagak Electric Cooperative, Inc.; Finding of No Significant Impact

AGENCY: Rural Electrification Administration (REA), USDA.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: Notice is hereby given that REA, pursuant to the National Environmental Policy Act of 1969, the Council on Environmental Quality Regulations (40 CFR Part 1500), and REA Bulletin 20–21:320–21, Environmental

Policies and Procedures, has made a Finding of No Significant Impact (FONSI) with respect to proposed financing assistance to Nushagak Electric Cooperative, Inc. (NEC), of Dillingham, Alaska. The proposed financing assistance is necessary for the installation of a new 2.2 MW diesel electric generator and for construction of related facilities.

FOR FURTHER INFORMATION CONTACT: REA's FONSI and Environmental Assessment (EA) may be reviewed at or obtained from the office of the Director, Western Area—Electric, Room 0207, South Agriculture Building, Washington, D.C. 20250, telephone: (202) 382–8848, or the office of NEC (Mr. David F. Bouker, Manager) Box 197, Dillingham, Alaska 99576, telephone: (907) 842–5251, during regular business hours.

SUPPLEMENTARY INFORMATION: REA has reviewed the Borrower's Environmental Report (BER) submitted by NEC and has determined that it represents an accurate assessment of the environmental impact of the proposed project. The proposed project consists of constructing a new diesel electric generator at the present powerhouse at Dillingham, Alaska.

The BER and EA adequately consider potential impacts of the proposed project to resources including cultural resources, threatened or endangered species or prime farmland, air quality, water quality, floodplains, or wetlands.

A number of alternatives were considered, including no action, installing the new diesel electric generator at a new site, use of alternative forms of energy, energy management and conservation, and purchase of power. After reviewing these alternatives, REA determined that the proposed project is an acceptable alternative since it meets NEC's needs with a minimum adverse environmental impact.

Based upon the BER and other related data, REA prepared an EA and FONSI concerning the proposed construction. REA has independently evaluated the proposed project and has concluded that approval of financing assistance for the project would not constitute a major Federal action significantly affecting the quality of the human environment.

In accordance with REA Bulletin 20–21:320–21, dated January 21, 1980, NEC advertised the availability of its BER in the local newspaper. Comments were solicited and the public was given 30 days to reply. No comments were received.

(This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees)

Dated: February 7, 1984.

Harold V. Hunter,

Administrator.

[FR Doc. 84–3859 Filed 2–10–84; 8:45 am]

BILLING CODE 3410–15–M

DEPARTMENT OF COMMERCE

President's Commission on Industrial Competitiveness; Meeting

AGENCY: Office of Economic Affairs, Commerce.

ACTION: Notice of meeting.

SUMMARY: This notice announces the forthcoming meeting of the Committee on Capital Resources, a subcommittee of the President's Commission on Industrial Competitiveness (Commission). The Commission was established by Executive Order 12428 on June 28, 1983 and its charter was approved on August 23, 1983. The Commission shall review means of increasing the long-term competitiveness of United States industries at home and abroad, with particular emphasis on high technology, and provide appropriate advice to the President through the Cabinet Council on Commerce and Trade and the Department of Commerce.

Time and place: The Committee on Capital Resources (a subcommittee of the Commission) will meet on February 23, 1984 from 8:00 a.m. to 5:00 p.m. at the Vista International Hotel, 1400 M Street NW., Washington, D.C. 20005 in the Sherwood Room.

Public participation: The meeting will be open to public attendance. a limited number of seats will be available for the public on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: J. Paul Royston, President's Commission on Industrial Competitiveness, 736 Jackson Place NW., Washington, DC 20503, telephone: 202–395–4527 on substantive issues or Marilyn McLennan, Chief, Information Management Division, 202–377–4217, on issues regarding administration of the Commission.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to discuss the cost of capital in the United States (a panel discussion)..

Dated: February 8, 1984.

Egils Milbergs,

Executive Director, President's Commission on Industrial Competitiveness.

[FR Doc. 84–3845 Filed 2–10–84; 8:45 am]

BILLING CODE 3510–18–M

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No.: 84–033. Applicant: University of Arizona, Department of Chemistry, Tucson, AZ 85721. Instrument: UHV Surface Spectrometer. Manufacturer: VG Scientific Ltd., United Kingdom. Intended use: Ongoing research projects which include: (1) Studies of electrode surfaces which find application in photoelectrochemical cells and high energy density batteries, and studies of small molecule and molecular fragment interactions with metal species that are involved in certain catalytic biological processes; and (2) study of "real world" materials such as particulate atmospheric pollutants and ferromanganese sea nodules, clay surfaces and other soil bodies, microelectronic, semiconductor materials, etc. Application received by Commissioner of Customs: December 7, 1983.

Docket No.: 84–024. Applicant: V.A. Medical Center (90), 1601 Perdido Street, New Orleans, LA 70146. Instrument: Electron Microscope, EM 410LS. Manufacturer: Nederlandse (Philips) Bedrijven, The Netherlands. Intended use: Studies of human and animal tissues and cells for diagnostic or research purposes. Education—The product of the instrument (diagnosis and photographs) will be used in all disciplines of medicine. Instrument will also be used for training of residents. Application received by Commissioner of Customs: December 7, 1983.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Stautory Import Programs Staff.

[FR Doc. 84–3815 Fild 2–10–84; 8:45 am]

BILLING CODE 3510–DS–M

SRI International; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No.: 83–329. Applicant: SRI International, Menlo Park, CA 94205. Instrument: Kelvin Probe and Electronics. Manufacturer: Delta-Phi-Electronik, West Germany. Intended use: See notice at 48 FR 51676.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument is capable of measuring the surface work function with an accuracy of 0.1 millivolts. National Bureau of Standards advises in its memorandum dated January 17, 1984 that: (1) The capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory import Programs Staff.

[FR Doc. 84–3814 Filed 2–10–84; 8:45 am]

BILLING CODE 3510–DS–M

Electronic Instrumentation Technical Advisory Committee; Closed Meeting

Summary: The Electronic Instrumentation Technical Advisory Committee was initially established on October 23, 1973, and rechartered on January 5, 1984, in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act.

Time and Place: February 23, 1984, at 9:30 a.m., Herbert C. Hoover Building, Room 3407, 14th Street & Constitution Ave., NW., Washington, DC. The meeting will continue to its conclusion on February 24, in Room B841, Herbert C. Hoover Building.

Agenda: The Committee will meet only in Executive Session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM Control program and strategic criteria related thereto.

Supplementary Information: A Notice of Determination to close meetings of the Committee to the public on the basis of 5 U.S.C. 552b(c)(1) was approved on February 6, 1984, in accordance with the Federal Advisory Committee Act. A copy of the Notice is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Telephone: 202–377–4217.

This meeting is being called on short notice because of the need to initiate Committee consideration of specific critical technical data, abstracted from the MCTL, for inclusion in the Export Administration Regulations.

For Further Information Contact: Mrs. Margaret A. Cornejo, telephone: (202) 377–2583.

Dated: February 7, 1984.

Milton M. Baltas,

Director of Technical Programs, Office of Export Administration.

[FR Doc. 84–3813 Filed 2–10–84; 8:45 am]

BILLING CODE 3510–DT–M

Export Trade Certificate of Review; TWP Co.

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Issuance of Export Trade Certificate of Review

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SUMMARY: The Department of Commerce has issued an export trade certificate of review to TWP Co., Inc. (TWP). This notice summarizes the conduct for which certification has been granted.

ADDRESS: The Department requests public comments on this certificate. 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 the certificate as "Export Trade Certificate of Review, application number 83–00030."

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 ("the Act") (Pub. L. No. 97–290) authorizes the Secretary of Commerce to issue export trade certificates of review. The regulations implementing the Act are found at 48 FR 10595–604 (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 government criminal and civil suits under federal and state antitrust laws for the export conduct 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 Untied 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 meets 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 15937–40 (April 13, 1983).

Description of Certified Conduct

The Office of Export Trading Company Affairs received an application for an export trade certificate of review from TWP on November 14, 1983. The application was deemed submitted on November 18, 1983. A summary of the application was published in the **Federal Register** on November 30, 1983 (48 FR 54088). Based on analysis of the information contained in the application and other information in their possession, the Department of Commerce has determined, and the Department of Justice concurs, that the following export trade, export trade activities, and methods of operation specified by USEX meet the four standards of the Act:

Export Trade

Products

Rice, corn, flour, soybean oil, refined granulated sugar, foodstuffs, pharmaceuticals (analgesics, antibiotics, dermatologicals, diagnostics, ophthalmologicals, tranquilizers, vitamins), newsprint and stationery, automobile tires, aircraft spare parts, floor and ceiling tiles and computer software and hardware.

Export Markets

The Export Markets include all parts of the world (particularly Africa) except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

Export Trade Activities and Methods of Operation

To engage in the Export Trade in the Export Markets, TWP may:

(a) Enter into any number of nonexclusive agreements with individual buyers in the Export Markets or with individual Suppliers to act as a Sales Representative or Broker.

(b) Enter into agreements with individual Suppliers wherein:

(1) TWP agrees to serve as the exclusive Sales Representative and, in addition, may agree not to represent any competitors of such Supplier unless authorized by the Supplier; or

(2) The Supplier agrees not to sell, directly or indirectly through any other intermediary, into the Export Markets in which TWP exclusively represents the Supplier; or

(3) Both (1) and (2) above.

(c) Enter into exclusive agreements with persons in the Export Markets (including distributors and sales or marketing agents), wherein TWP agrees to pay competitive commissions or other compensation, and wherein (1) TWP agrees to deal in Products in the Export Markets only through that person, or (2) that person agrees not to represent TWP's competitors in the Export Markets or not to buy from TWP's competitors, or both (1) and (2).

(d) Establish prices and quantities of Products to be sold in the Export Markets, for TWP's own account or on behalf of an individual Supplier.

(e) Enter into exclusive or nonexclusive agreements with an individual buyer in the Export Markets to act as a Purchasing Agent with respect to a particular transaction.

(f) Upon receiving a request from a buyer in the Export Markets for the price of a particular Product, TWP may ask one or more U.S. Suppliers individually to supply a price quotation to TWP for that Product, add its own mark-up to the U.S. Supplier's price, and transmit a price quotation to the buyer. Upon placement of an order by a Buyer, TWP may purchase Products and ship to the Buyer.

(g) As TWP becomes aware of invitations to bid or other sales opportunities in the Export Market, TWP may contact individual U.S. Suppliers of the various or similar Products specified in the invitation to bid or purchase specifications, invite the Suppliers to supply independent quotations to TWP for the Products, and enter into independent, individual agreements with Suppliers whereby TWP will submit a response to the bid invitation or request for quotation.

The Office of Exporting Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.5(c), which requires the Department of Commerce to publish a summary of a certificate in the **Federal Register.** Under Section 305(a) of the Act and 15 CFR 325.10(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

A copy of each certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4001–B, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230. The certificates may be inspected and copied in accordance with regulations published in 15 CFR Part. 4. Information inspection and copying of records at this facility may be obtained from Patricia L. Mann, the International Trade Administration Freedom of Information Officer, at the above address or by calling (202) 377–3031.

Dated: February 8, 1984.

Irving P. Margulies,

Acting General Counsel.

[FR Doc. 84–3862 Filed 2–10–84; 8:45 am]

BILLING CODE 3510–DR–M

National Technical Information Service

Government-Owned Inventions; Availability for Licensing

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

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

Please cite the number and title of inventions of interest.

Douglas J. Campion,

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

Administration of Veterans Affairs

SN 6–288,197 (4,422,515)
Motorized Wheel Chair

Department of Agriculture

SN 6–248,371 (4,417,839)
Automatic Hatchery Tray Dumper

SN 6–251,667 (4,421,682)
Heating of Proteinaceous Liquids

SN 6–352,426 (4,420,369)
Process for the Decolorization of Pulp Mill Bleach Plant Effluent

SN 6–356,864 (4,419,120)
Control of Prickly Sida, Velvetleaf, and Spurred Anoda with Fungal Pathogens

SN 6–356,865 (4,424,059)
Process and Compositions for Preserving Fresh Hides and Skins

SN 6–380,375 (4,418,647)
Artificial Host Egg for Rearing Trichogramma

SN 6–385,172 (4,421,775)
Method for Removing the Outer Waxy Cutin-Containing Layer from Papaya

SN 6–426,439 (4,418,064)

Chemotherapeutically Active Maytansinoids: Treflorine, Trenudine, and N-Methyltrenudone
SN 6-519,783
Wood Beam
SN 6-546,220
Moncolonal Antibodies to Porcine Immunoglobulins
SN 6-555,749
Multi-Phase Agricultural Herbicide Granule Method

Department of Health & Human Services

SN 6-209,305 (4,421,986)
Nuclear Pulse Discriminator
SN 6-221,565 (4,419,446)
Recombinant DNA Process Utilizing A Papilloma Virus DNA as a Vector
SN 6-329,869 (4,421,913)
Separation of Triphenylphosphine Oxide from Methotrexate Ester and Purification of Said Ester
SN 6-563,369
Hepatitis B Core Antigen Vaccine
SN 6-564,515
A Short Total Synthesis of Morphinan Compounds Which Uses Cyclization of A cycloalkylcarbonyl Compound Selected from Cyclopropylcarbonyl and Cyclobutylcarbonyl
SN 6-817,016 (4,419,089)
Blood Cell Separator

Department of the Air Force

SN 6-256,362 (4,409,661)
Aimpoint Selection Processor
SN 6-270,051 (4,411,715)
Method of Enhancing Rotor Bore Cyclic Life
SN 6-286,819 (4,409,899)
Acoustic Amplitude-Doppler Target Ranging System
SN 6-286,820 (4,408,533)
Acoustic Amplitude-Threshold Target Ranging System
SN 6-293,780 (4,410,293)
Mechanical Preload Nut Assembly
SN 6-339,260 (4,408,833)
Hot Pressed and Diffusion Bonded Laser Mirror Heat Exchanger
SN 6-343,031 (4,409,587)
Altimeter Code Converter
SN 6-343,034 (4,411,022)
Integrated Circuit Mixer Apparatus
SN 6-356,574 (4,409,423)
Hole Matrix Vertical Junction Solar Cell
SN 6-357,444 (4,408,481)
Pore Pressure Probe Assembly and Two-Stage Emplacement Thereof
SN 6-361,020 (4,408,464)
Dewar Cooling Chamber For Semiconductor Platelets
SN 6-393,170 (4,410,376)
Bonding Agent for Polyurethanes
SN 6-463,190 (4,411,717)
Solid Rocket Propellants Comprising Guignet's Green Pigment

Department of the Army

SN 6-533,611
Millimeter Wave Dielectric Resonator and Method of Making
SN 6-544,764
Evanescent Resonator Frequency Multiplier
SN 6-550,853
Code Generator for Multilevel Interleaved Multiplexed Noise Codes
SN 6-551,431
Multilevel Mate Pair Code Compressor for Codes Expanded by the Process of Butting
SN 6-555,774
Code Compressor for Multilevel Interleaved Multiplexed Noise Codes
SN 6-556,661
Pseudo-Random Convolutional Interleaving
SN 6-557,014
Dual Space Fed Parallel Plate Lens Antenna Beamforming System
SN 6-558,000
Wide Field of View Remote Laser Position Sensor
SN 6-559,546
Method of Making Miniature High Frequency SC—Cut Quartz Crystal Resonators
SN 6-564,619
Detonation Products Catcher
SN 6-565,806
Multichannel Time Division Multiplexed Trunk Transmission Link
SN 6-566,622
Optical Communications Systems
SN 6-566,767
Time Division Multiple Access Communications System

Department of the Interior

SN 6-435,535 (4,423,011)
Selective Recovery of Base Metals and Precious Metals from Ores

[FR Doc. 84-3837 Filed 2-10-84; 8:45 am]
BILLING CODE 3510-04-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Additional New Categories of Rubber and Plastic Wearing Apparel in Chief Weight of Cotton, Wool or Man-Made Fiber and Soliciting Public Comment

February 8, 1984.

On December 30, 1983 (48 FR 57584) the Committee for the Implementation of Textile Agreements announced that effective January 1, 1984 new categories were being created to provide for coverage of rubber or plastic coats and jackets containing 50 percent or more by weight of cotton or man-made fibers in T.S.U.S.A. numbers 772.3015, 772.3020, 772.3025 and 772.3030. These new categories are 355 (men's and boys' coats and Jackets or rubber or plastics containing cotton), 356 (women's, girls' and infants' coats and jackets of rubber or plastics containing cotton), 655 (men's and boys' coats and jackets of rubber or plastics containing man-made fiber) and 656 (women's, girls' and infants' coats and jackets or rubber or plastic containing man-made fiber). The new categories are exempted from quota and visa requirements until September 1, 1984.

The purpose of this notice is to announce the creation of three additional categories for other rubber or plastic apparel products in T.S.U.S.A. 722.30. The additional categories are: costs and jackets of rubber or plastic containing 17 percent or more by weight of wool in T.S.U.S.A. number 722.3032 (Textile Category 455), other apparel of rubber or plastic containing 50 percent or more by weight of cotton in T.S.U.S.A. number 772.3035 (Textile Category 371) and other apparel of rubber or plastic containing 50 percent or more by weight or man-made fibers or 17 percent or more by weight of wool in T.S.U.S.A. number 772.3040 (Textile Category 671). Textile Categories 455, 371 and 671 will be exempted from quota and visa requirements until September 1, 1984.

I the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements dircts the Commissioner of Customs to exempt products classified in Categories 445, 371 and 671 from quota levels and visa requirements until September 1, 1984.

Any party wishing to comment or provide data or information regarding these products, or to comment on domestic production or availability of these products, is invited to send such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, the Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Room 3001, Washington, D.C. 20230. Comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3001, U.S. Department of Commerce, 14th and Constitution Avenues, NW., Washington, D.C. 20230. Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements

considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

February 8, 1984.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: To facilitate implementation of the U.S. textile import restraint program, it would be appreciated if, effective on January 1, 1984 and until September 1, 1984, you exempt from the quota levels and export visa requirements coats and jackets of rubber or plastic, containing 17 percent or more by weight of wool (T.S.U.S.A. number 772.3032, Textile Category 455), other apparel products of rubber or plastic containing 50 percent or more by weight of cotton (T.S.U.S.A. number 772.3035, Textile Category 371) and other apparel products of rubber or plastic containing 50 percent or more by weight or man-made fiber or 17 percent or more by weight of wool (T.S.U.S.A. number 772.3040, Textile Category 671) from all countries, regardless of the date of export.

This letter will be published in the **Federal Register.**

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-3935 Filed 2-10-84; 8:45 am]

BILLING CODE 3510-DR-M

Import Restraint Levels for Certain Cotton, Wool and Man-Made Fiber Textile Products From the Republic of Korea, Effective on January 1, 1984; Correction

February 8, 1984.

On December 16, 1983 a notice was published in the **Federal Register** (48 FR 55894) which established import restraint levels for certain cotton, wool and man-made fiber textiles and textile products, produced or manufactured in the Republic of Korea and exported during 1984. Footnote 5 in the letter to the Commissioner of Customs, which followed that notice, omitted T.S.U.S.A. number 348.0565. The footnote should have read as follows:

[5] In Category 669, only TSUSA numbers 348.0065, 348.0075, 348.0565, and 348.0575.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-3934 Filed 2-10-84; 8:45 am]

BILLING CODE 3510-DR-M

Request for Public Comment on Bilateral Textile Consultations With the Government of India To Review Trade in Categories 334 (Men's and Boys' Cotton Coats), 445 and 446 (Wool Sweaters)

February 8, 1984.

On January 28, 1984, the Government of the United States requested consultations with the Government of India with respect to Categories 334, 445, and 446. This request was made on the basis of Paragraph 16 of the Agreement between the Governments of the United States and India relating to trade in Cotton, Wool and Man-Made Fiber Textiles and Textile Products of December 21, 1982. Paragraph 16 provides for consultations when the orderly development of trade between the two countries may be impeded by imports due to market disruption, or the threat thereof.

The purpose of this notice is to advise the public that if no solution is agreed upon in consultations between the two governments, CITA, pursuant to paragraph 16 of the Agreement, may establish the following prorated specific limits for the entry and withdrawal from warehouse for consumption of cotton and wool textile products in Categories 334, 445 and 446, produced or manufactured in India and exported to the United States during the period beginning on January 28, 1984 and extending through December 31, 1984:

Category	Prorated 12-mo. levels [1]
334	26,366 dozen.
445	10,173 dozen.
446	18,747 dozen.

[1] January 28, 1984–December 31, 1984.

The Government of the United States has decided, pending a mutually satisfactory solution, to control imports in these categories during the 90-day consultation period which began on January 28, 1984 and extends through April 26, 1984 at the following levels:

Category	90-day levels
334	8,303 dozens.
445	3,627 dozen.
446	6,683 dozen.

[1] January 28, 1984–April 26, 1984.

The United States remains committed to finding a solution concerning these categories. Should such a solution be reached in consultations with the Government of India, further notice will be published in the **Federal Register.**

In the event the levels established for Cateories 334, 445 and 446 during the ninety-day period are exceeded, such excess amounts, if they are allowed to enter at the end of the restraint period, shall be charged to the prorated twelve-month levels described above.

Summary market statements for each of these categories follow this notice.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924) and December 14, 1983 (48 FR 55607), and December 30, 1983 (48 FR 57584).

Effective Date: February 14, 1984.

Any party wishing to comment or provide data or information regarding the treatment of Categories 334, 445 and 446 under the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement with the Government of India, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in these categories, is invited to submit such comments or information in ten copies to Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Since the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs functions of the United States."

Supplementary Information: On December 16, 1983 a letter was published in the **Federal Register** (48 FR

55891) to the Commissioner of Customs from the Chairman of the Committee for the Implementation of Textile Agreements which established levels of restraint for certain categories of cotton, wool and man-made fiber textiles and textile products, produced or manufactured in India and exported during the twelve-month period which began on January 1, 1984. In the letter published below, pursuant to the terms of the bilateral agreement, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs, pending agreement on a different solution, to prohibit entry for consumption or withdrawal from warehouse for consumption of cotton and wool textile products in Categories 334, 445 and 446, exported during the indicated ninety-day period, in excess of the designated levels of restraint.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

India—Market Statement

Category 334—Men's and Boys' Cotton Coats, Other

January 1984.

U.S. imports of Category 334 from India were 26,666 dozen during the January–November 1983 period, up 121.4 percent from the 12,042 dozen imported a year earlier. This eleven-month 1983 level far exceeds the 1981 calendar year imports of 5,847 dozen and is more than twice the 1982 level. This is a sharp and substantial increase of imports in a sector already adversely affected by imports.

Domestic production of Category 334 declined from 903,000 dozen in 1981 to 809,000 dozen in 1982. Imports also declined, dropping from 1,016,000 dozen in 1981 to 925,000 dozen in 1982. However, imports for the first eleven months of 1983 were 1,057,000 dozen which was higher than any previous calendar year. The January–November imports were up 23.2 percent from a year earlier. The imports of Category 334 exceeded domestic production by 12.5 percent in 1981 and 14.3 percent 1982. The excess in 1983 probably ranged from 30 to 40 percent.

Category 445/446—Wool Sweaters

U.S. imports of Category 445/446 from India were 33,029 dozen during January–November 1983, up 384.6 percent from the 6,816 dozen imported a year earlier Thirty-two percent of India's January–November imports were in Categroy 445, men's and boys' wool sweaters; and 68 percent were in Category 446, women's, girls', and infants' wool sweaters. This sharp and substantial increase of imports in in a sector already damaged by imports. These imports from India are imported at duty-paid values below the U.S. producer prices for comparable sweaters.

The ratio of imports to domestic production increased from 150.8 percent in 1981 to 157.4 percent in 1982. The 1983 ratio, based on the substantial increase in 1983 imports, will be higher.

February 8, 1984.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of December 13, 1983 from the Chairman of the Committee for the Implementation of Textile Agreements which directed you to prohibit entry of certain cotton, wool, and man-made fiber textiles and textile products, produced or manufactured in India and exported during 1984.

Effective on February 14, 1984, paragraph one of the directive of December 13, 1983 is hereby amended to include the following limits for cotton and wool textile products in Categories 334, 445, and 446, produced or manufactured in India and exported during the ninety-day period which began on January 28, 1984 and extends through April 26, 1984:

Category	90-day level of restraint [1]
334	8,303 dozen.
445	3,627 dozen.
446	6,683 dozen.

[1] The levels have not been adjusted to reflect any imports exported after January 27, 1984.

Textile products in Categories 334, 445 and 446 which have been exported to the United States before January 28, 1984 shall not be subject to this directive.

Textile products in Categories 334, 445 and 446 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The action taken with respect to the Government of India and with respect to imports of cotton and wool textile products from India have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 533. This letter will be published in the **Federal Register**.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-3936 Filed 2-9-84; 1:10 pm]

BILLING CODE 3510-DR-M

CONGRESSIONAL PANEL ON SOCIAL SECURITY ORGANIZATION

Congressional Panel on Social Security Organization; Meeting

AGENCY: Congressional Panel on Social Security Organization.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given of public meetings of the Congressional Panel on Social Security Organization (hereafter referred to as the "Panel") to which experts on government management, operations, and organization have been invited to meet with the Panel and to provide information and advise. The Panel was established under the authority of the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate in accordance with section 338 of Pub. L. 98–21, April 20, 1983. The Panel's mandate directs it to study the issues of establishing an independent social security agency and to make recommendations on how best to set up such an agency.

DATES/ADDRESSES: The meetings will be held as follows:

Date	Time	Place
Feb. 17	9:00a.m.–5:00 p.m.	Senate Finance Committee, Room 215, Dirksen Senate Office Building.
Feb. 23	3:00a.m.–5:00 p.m.	From Feb. 23 to Mar. 29 the meetings will be held in the Ways and Means Committee, Room 1129 of the Longworth House Office Building.
Feb. 24	9:00a.m.–5:00 p.m.	Do.
Mar. 16	9:00a.m.–5:00 p.m.	Do.
Mar. 29	2:00a.m.–5:00 p.m.	Do

FOR FURTHER INFORMATION CONTACT: P. Royal Shipp, Executive Director, Congressional Panel on Social Security Organization, 200 Independence Avenue SW., Washington, D.C. 20201; telephone 202/472–3104.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Attendance will be limited to the space available.

Members of the Panel include the Honorable Elmer Staats, Chairman, and Dr. Martha Derthick and the Honorable Arthur E. Hess. They are charged with the task of conducting an implementation study for an independent social security agency. The Panel is inviting a variety of expert witnesses to appear at a series of public meetings to assist them in their efforts.

Records will be kept of the above meetings and will be available for review upon request made to the Administrative Officer, Congressional Panel on Social Security Administration, 200 Independence Avenue, SW.,

Washington D.C. 20201; telephone 202/472-3104.

P. Royal Shipp,

Executive Director.

[FR Doc. 84-3836 Filed 2-10-84; 8:45 am]

BILLING CODE 1460-01-M

DEPARTMENT OF DEFENSE

Defense Communications Agency

Scientific Advisory Group; Closed Meeting

The DCA Scientific Advisory Group will hold closed meetings on 12 and 13 March 1984 at the Defense Communications Agency, Director's Management Information Center, at Headquarters, Defense Communications Agency, 8th Street and South Courthouse Road, Arlington, Va.

The subject of the meeting will be WWMCCS Information Systems, DSN, Future DCS Applied Technology and issues affecting DCA's organization, roles and missions.

Any person desiring information about the Advisory Group may telephone (Area Code 202-692-2888) or write Deputy Director, Planning and Systems Integration, Headquarters, Defense Communications Agency, 8th Street and South Courthouse Road, Arlington, Va. 22204.

These meetings are closed because the material to be discussed is classified requiring protection in the interest of National Defense. (5 U.S.C. 552b(c)(1)).

David R. Israel,

Deputy Director, Planning and Systems Integration.

[FR Doc. 84-3796 Filed 2-10-84; 8:45 am]

BILLING CODE 3610-05-M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

February 6, 1984.

The USAF Scientific Advisory Board Tactical and Strategic Cross-Matrix Panels will meet at Hickam AFB, HI on April 16-19, 1984.

The purpose of the meeting will be to receive briefings on PACAF missions, weapons, threats, and manpower requirements. The meetings will convene at 8:00 a.m. to 5:00 p.m. each day.

The meeting concerns matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202-697-8845.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 84-3842 Filed 2-10-84; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF EDUCATION

National Board of the Fund for the Improvement of Postsecondary Education; Meeting

AGENCY: National Board of the Fund for the Improvement of Postsecondary Education; Meeting.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the proposed agenda of a forthcoming meeting of the National Board of the Fund for the Improvement of Postsecondary Education. This notice also describes the functions of the Board. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92-643, Section 10(a)(2).

DATE: March 8, 1984 at 5:30 p.m. through March 9, 1984 at 9:30 p.m.

ADDRESS: Quality Inn/Embassy Suites, 2000 N Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Sven Groennings, Director, Fund for the Improvement of Postsecondary Education, 7th & D Streets SW., Washington, D.C. 20202 (202-245-8091).

SUPPLEMENTARY INFORMATION: The National Board of the Fund for the Improvement of Postsecondary Education is established under Section 1003 of the Higher Education Amendments of 1980, Title X (20 U.S.C. 1135a-1). The National Board of the Fund is established to "advise the Secretary and the Director of the Fund for the Improvement of Postsecondary Education on priorities for the improvement of postsecondary education . . . and on the selection of projects under consideration for support by the Fund in its competitions."

The meeting of the National Board will be open to the public. The proposed agenda include:

—A discussion on the portfolio of preliminary proposals received under the Comprehensive Program;

—Preparation for the final stage of the Comprehensive Program;

—A discussion on the two smaller grant competitions: Mina Shaughnessy Scholars Program and Final Year Dissemination.

Records shall be kept of all Board proceedings, and shall be available for public inspection at the Fund for the Improvement of Postsecondary Education, 7th and D Streets SW., Room 3100, Washington, D.C. 20202 from the hours of 8:00 a.m. to 4:30 p.m. weekdays, except Federal Holidays.

Dated: February 3, 1984

Edward M. Elmendorf,

Assistant Secretary for Postsecondary Education.

[FR Doc. 84-3850 Filed 2-10-84; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Proposed Remedial Order; General Atlantic Petroleum, Inc. and Gerald S. Klotz

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Proposed Remedial Order to General Atlantic Petroleum, Inc. and Gerald S. Klotz.

SUMMARY: Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice of a Proposed Remedial Order which was issued to General Atlantic Petroleum, Inc. (General Atlantic) and Gerald S. Klotz, 727 Bunkerhill, Houston, Texas 77024. This Proposed Remedial Order alleges that General Atlantic and Gerald S. Klotz charged prices in excess of their actual purchases prices in violation of §§ 212.86, 210.62(c) and 205.202 during the period March through December 1980 in the amount of $1,195,259.66. The Proposed Remedial Order also alleges violations in the pricing of crude oil of § 212.183 during the period March through December 1980 in the amount of $296,141.37.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from: U.S. Department of Energy, Economic Regulatory Administration, ATTN: Sandra K. Webb, Director, One Allen Center, Suite 610, 500 Dallas Street, Houston, Texas 77002.

Within fifteen (15) days of publication of this Notice any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, U.S. Department of Energy, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, in Accordance with 10 CFR 205.193.

Issued in Houston, Texas, on the 26th day of January 1984.

Sandra K. Webb,

Director, Houston Office, Economic Regulatory Administration.

[FR Doc. 84-3775 Filed 2-10-84; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CP84-205-000]

ANR Pipeline Company; Request Under Blanket Authorization

February 8, 1984.

Take notice that on January 23, 1984, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP84-205-000 a request, as supplemented January 26, 1984, pursuant to § 157.209 of the Regulations under the Natural Gas Act (18 CFR 157.209) that ANR proposes to transport natural gas for ARMCO INC. (ARMCO) under the authorization issued in Docket No. CP82-480-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

ANR proposes to transport up to 42,000 dt equivalent of natural gas per day on an interruptible basis on behalf of ARMCO for an initial term ending not later than June 30, 1985. ANR states that ARMCO has entered into a gas purchase contract with ANR Production Company (Production Company) for the purchase of up to 15,330,000 dt equivalent of natural gas per year. ANR further states it would receive the natural gas at either the interconnections of the pipeline systems of ANR and Production Company in Roger Mills County, Oklahoma, or Production Company would cause Producers Gas Company (Producers) to tender the gas to ANR for ARMCO's account at the existing interconnection of the pipeline systems of ANR and Producers in Caddo County, Oklahoma. ANR would then transport and deliver equivalent volumes to Texas Gas Transmission Company (Texas Gas) for ARMCO's account at the existing interconnection of the pipeline systems of ANR and Texas Gas in Webster County, Kentucky. ANR indicates that Texas Gas would provide additional transportation services for ARMCO for ultimate use at ARMCO's Middletown, Ohio, plant.

ANR proposes to charge ARMCO a transportation rate of 44.3 cents per dt for gas received from Production Company or Producers in Oklahoma and transported and delivered to Texas Gas for ARMCO's account. ANR states such rate is based upon existing rate schedules of FERC Gas Tariff, Revised Volume No. 2 (X-76). ANR further states the proposed rate of 44.3 cents per dt is derived on the basis of a transportation haul of 975.1 miles times 2.88 cents per Mcf per 100 miles for a transportation cost of 28.1 cents plus fuel of 16.2 cents.

ANR indicates that the gas would be used at ARMCO's steel plant at Middletown, Ohio, primarily for boiler and furnace use. ANR also indicates that no intermediary participated in the transaction between Production Company and ARMCO.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3780 Filed 2-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-232-000]

Arizona Public Service Company; Filing

February 8, 1984.

The filing Company submits the following:

Take notice that on January 30, 1984, Arizona Public Service Company (Arizona) tendered for filing as an initial rate schedule an Agreement for Economy Energy Interchange between the City of Pasadena (Pasadena) and Arizona dated January 10, 1984.

Arizona requests that the Agreement become effective 60 days from the date of filing.

A copy of this filing has been served upon Pasadena and the Arizona Corporation Commission.

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 24, 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. 84-3781 Filed 2-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-234-000]

Arizona Public Service Company; Filing

February 8, 1984.

The filing Company submits the following:

Take notice that on January 30, 1984, Arizona Public Service Company (Arizona) tendered for filing Amendment No. 4, executed December 8, 1983, to the Interruptible Transmission Service Agreement between Department of Water and Power of the City of Los Angeles (Los Angeles) and Arizona. Arizona states that this Amendment proposes to update the rates to be charged for interruptible transmission service.

Arizona requests an effective date of November 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon Los Angeles and the Arizona Corporation Commission.

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 24, 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. 84-3782 Filed 2-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-228-000]

Carolina Power & Light Company; Filing

February 8, 1984.

The filing Company submits the following:

Take notice that on January 30, 1984, Carolina Power & Light Company (CP&L) tendered for filing amendments to the Exhibits and Section shown below of the Power Coordination Agreement (PCA) between the Company and the North Carolina Eastern Municipal Power Agency (NCEMPA).

Exhibit PCA–I–6
Exhibit PCA–I–61
Exhibit PCA–I–23B
Exhibits PCA–I–35A and PCA–I–35B
Exhibit PCA–X–1
Exhibit PCA–XIII–1
Section 4.2(A)

CP&L states that the amendments to all Exhibits, except PCA–XIII–1, are minor changes to correct typographical errors that occurred during preparation of the PCA. The amendment to PCA–XIII–1 allows additional time for the NCEMPA to respond to estimates in metered data. The amendment to Section 4.2(A) is necessary in order to reflect changes made in the delivery of capacity and energy from Southeastern Power Administration.

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 23, 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. 84-3783 Filed 2-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-230-000]

Connecticut Light and Power Company; Filing

February 8, 1984.

The filing Company submits the following:

Take notice that on January 30, 1984, Connecticut Light and Power Company (CL&P) tendered for filing as an initial rate schedule an agreement (the Agreement) between CL&P, Western Massachusetts Electric Company (WMECO, and together with CL&P, the NU Companies) and New England Power Company (NEPCO). The Agreement, dated as of September 16, 1983, provides for the sale by the NU Companies of system energy from their systems ("system energy") or for the NU Companies to sell system energy in exchange for an entitlement in capacity from NEPCO's system that may be available on a daily or weekly basis (a transaction). CL&P states that the timing of transactions cannot be accurately estimated but that the NU Companies would offer to sell such system energy to NEPCO only when it was economical to do so. NEPCO would only accept such offer if it was economical to do so.

CL&P states that NEPCO will pay an energy reservation charge to the NU Companies for each transaction in an amount equal to the megawatthours of system energy reserved for NEPCO by the NU Companies during a transaction multiplied by an energy reservation charge rate negotiated prior to each transaction. NEPCO will pay any energy charge for each transaction in an amount equal to the megawatthours delivered by the NU Companies during such transaction times an energy charge rate. The energy charge rate is the weighted average forecasted energy charge rate for the generating unit(s) which the NU Companies determine to be available to provide such energy at the time of a transaction.

CL&P requests an effective date of September 16, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have been mailed to WMECO and NEPCO.

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 24, 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. 84-3785 Filed 2-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-229-000]

Connecticut Light and Power Company; Filing

February 8, 1984.

The filing Company submits the following:

Take notice that on January 30, 1984, Connecticut Light and Power (CL&P) tendered for filing a proposed rate schedule with respect to a Transmission Agreement dated September 12, 1983 between: (1) CL&P and Western Massachusetts Electric Company (WMECO and together with CL&P, the NU Companies); and (2) New England Power Company (NEPCO).

CL&P states that the Transmission Agreement provides for transmission services to NEPCO for the wheeling of their purchases from United Illuminating (UI) of an entitlement in UI system power during the period from September 12, 1983 to October 31, 1984.

The transmission charge rate is a weekly rate equal to one-fifty-second of the estimated annual average cost of transmission service on the electric transmission system of the NU Companies determined in accordance with Appendix A and Exhibits I, II and III thereto, of the Transmission Agreement. The weekly transmission charge is determined by the product of: (i) The transmission charge rate ($/kW-233k); and (ii) the number of kilowatts NEPCO is entitled to receive during such week. The weekly transmission charge is reduced by up to 50% to give due recognition for payments made by NEPCO to UI for providing transmission service, with regard to NEPCO's purchase from UI.

CL&P requests an effective date of September 12, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon WMECO and NEPCO (Westboro, Massachusetts).

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 17, 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. 84-3786 Filed 2-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-231-000]

Connecticut Light and Power Company; Filing

February 8, 1984.

The filing Company submits the following:

Take notice that on January 30, 1984, Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule pertaining to a Northfield Mountain Purchase Agreement between the Connecticut Light and Power Company, Western Massachusetts Electric Company (WMECO, and together with CL&P, the NU Companies) and the Massachusetts Municipal Wholesale Electric Company (MMWEC) dated as of June 13, 1983.

CL&P states that the Purchase Agreement provides for a sale to MMWEC, on a weekly basis, of a percentage of capacity and related pondage from the NU Companies' Northfield Mountain Pumped Storage Hydro Electric Project (Project) together with related transmission service commencing June 13, 1983 and terminating upon four weeks written notice by any of the parties.

CL&P states that the capacity charge rate for the Project is a rate determined on a cost-of-service basis for the entire Project. The weekly transmission charge is equal to one-fifty-second of the average annual cost of transmission service on the transmission systems of the NU Companies and their affiliated companies determined in accordance with Schedule B to the Purchase Agreement, multiplied by the number of kilowatts of winter capability which MMWEC is entitled to receive during each week. The station service charge is equal to the average cost of oil-fired generation on the system of the NU Companies for the prior month, multiplied by MMWEC's share of the Project's station service energy requirement.

CL&P further states that except for the weekly nature of transactions, services to be provided under the Purchase Agreement are the same as services provided by the NU Companies relating to a sale of capacity from the Project to the Braintree Electric Department pursuant to a rate schedule dated as of May, 1982. (Rate Schedule FERC Nos. CL&P 272 and WMECO 206).

CL&P requests an effective date of July 5, 1983, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital 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 24, 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. 84-3787 Filed 2-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP76-37-007 and CP77-408-012]

El Paso Natural Gas Co.; Petition To Amend

February 8, 1984.

Take notice that on January 5, 1984, El Paso Natural Gas Company (Petitioner), Post Office Box 1492, El Paso, Texas 79978, filed in Docket Nos. CP76-37-007 and CP77-408-012 a petition pursuant to Section 7(c) of the Natural Gas Act to amend the orders issued December 3, 1975,[1] as amended, and August 29, 1977,[1] as amended, in Docket Nos. CP76-37 and CP77-408, respectively, so as to authorize Petitioner to transport for Southwest Gas Corporation (Southwest) certain quantities of gas pursuant to the certificated arrangements in Docket No. CP76-37 in lieu of the certificated arrangements in Docket No. CP77-408, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Petitioner's Rate Schedule T-4, it is stated, provides for Southwest to pay a demand charge equal to the product of 95 percent of the contract quantity times the current rate, regardless of whether any volumes are transported. Petitioner asserts that Southwest has advised Petitioner that Southwest does not anticipate having available for transportation the entire contract quantity. The proposed arrangement, it is stated, would allow Southwest to make full use of the contract quantity on which the demand charge is levied.

It is explained that under the provisions of a letter agreement dated August 17, 1982, Petitioner would receive for transportation and delivery under its Rate Schedule T-4 (Docket No. CP76-37) certain quantities of natural gas purchased by Southwest in the San Juan Basin production area. These quantities of natural gas are presently being transported and delivered under Petitioner's Rate Schedule T-8 (Docket No. CP77-408), it is submitted.

Petitioner states that no new or additional facilities would be required and no new receipt and/or delivery points would be required in order to effectuate the instant proposal.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before February 29, 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 protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3788 Filed 2-10-84; 8:45 am]

BILLING CODE 6717-01-M

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

[Docket No. ID-2092-000]

Frank S. Forsythe; Application

February 8, 1984.

The filing individual submits the following:

Take notice that on January 27, 1984, Frank S. Forsythe filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

President and Director
Cliffs Electric Service Company
Director
Upper Peninsula Generating Company

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the 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 22, 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 this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3789 Filed 2-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-235-000]

Iowa Southern Utilities Co.; Filing

February 8, 1984.

The filing Company submits the following:

Take notice that on February 1, 1984, Iowa Southern Utilities Company (Iowa Southern) tendered for filing proposed changes in its FERC Electric Service Tariff Volume No. 1, Sheet No. 11. The proposed changes would increase revenues from jurisdictional sales and service by $378,330 based on the 12-month period ending December 31, 1982.

Iowa Southern's request for an electric rate increase is based on increased operating costs due to inflation and loss of revenue associated with the expiration of a contract with Iowa Electric Light and Power Company for the sale of 100 megawatts of generating capacity.

Iowa Southern requests an effective date of May 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon Albia Light and Railway Company and the Cities of Seymour, Afton, Orient, Danville, New London and the Iowa State Commerce Commission.

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 24, 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. 84-3791 Filed 2-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2086-000]

Henry T. Segerstrom; Application

February 8, 1984.

The filing individual submits the following:

Take notice that on January 3, 1984, Henry T. Segerstrom filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Director
Southern California Edison Company
Director
SAFECO Corporation

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 the 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 22, 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 this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3790 Filed 2-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-233-000]

Union Electric Co.; Filing

February 8, 1984.

The filing Company submits the following:

Take notice that on January 27, 1984, Union Electric Company (Union) tendered for filing Notices of Succession in Ownership pursuant to section 35.7 of the Commission's regulations.

Union states that on December 19, 1983 the Commission entered an order authorizing and approving the mergers of Missouri Utilities Company (MU), Missouri Power & Light Company (MPL) and Missouri Edison Company (ME) with and into Union. The mergers were effective December 30, 1983.

Union further states that in addition to those rate schedules included in the Notices of Succession, that schedules were cancelled for service from Union to the three former subsidiaries. Those schedules are as follows:

UE FERC Rate Schedules 97, 99, 103, 104 and 105
MPL FERC Rate Schedules 26, 47 and 55
ME FERC Rate Schedules 3 and 4

According to Union MU FERC Rate Schedule 1 is to be cancelled but it should be noted that this will be part of UE FERC Rate Schedule 70, and UE FERC Rate Schedule 49 should also be cancelled.

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 24, 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. 84-3779 Filed 2-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-154-000]

Central Plants, Inc.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

February 8, 1984.

On January 30, 1984, Central Plants, Inc., (Applicant), of 6055 East Washington Boulevard, Suite 830, City of Commerce, California 90040, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The facility will be located near the City of Stockton, California. The primary energy source will be biomass in the form of landfill gas, generated from the anaerobic digestion by methanogenic bacteria of refuse and other solid wastes deposited in a sanitary landfill. No use of natural gas, oil or coal is planned for use in this facility. The power production capacity will be approximately 800 kilowatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3784 Filed 2-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-159-000]

Owens-Illinois, Inc.; Coleman Falls Dam; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

February 8, 1984.

On January 30, 1984, Owens-Illinois, Inc., (Applicant) of One Seagate, Toledo, Ohio 43666, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 2 megawatt hydroelectric facility (P. 5456) is located on the James River in Bedford County, Virginia.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3792 Filed 2-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-160-000]

Owens-Illinois, Inc.; Big Island Dam; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

February 8, 1984.

On January 30, 1984, Owens-Illinois, Inc., (Applicant) of One Seagate, Toledo, Ohio 43666, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 0.512 megawatt hydroelectric facility (P. 2902) is located on the James River in Amherst and Bedford Counties, Virginia.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with 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. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3793 Filed 2-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-153-000]

Ownen-Illinois, Inc.; Holcomb Rock; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

February 8, 1984.

On Janaury 30, 1984, Owens-Illinois, Inc., (Applicant) of One Seagate, Toledo, Ohio 43666, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 1.875 megawatt hydroelectric facility (P. 2901) is located on the James River in Amherst and Bedford Counties, Va.

Any person desiring to be heard or objecting to the granting of qualifying status 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 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3794 Filed 2-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-152-000]

Ultrapower Inc.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

February 8, 1984.

On January 27, 1984, Ultrapower Incorporated (Applicant), of 16845 Von Karman Avenue, Irvine California 92714, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The facility will be located in Monterey County, California. The primary energy source will be waste in the form of petroleum coke. The facility will use distillate fuel for start-up purposes and some heavy crude oil which will be approximately 15 percent of the total energy input of the facility during any calendar year. In no event will the use in the aggregate of oil, natural gas, and coal exceed 25 percent. The power production capacity will be 30 megawatts with a possible adjustment in accordance with final design plans.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. 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 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. 84-3778 Filed 2-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-219-000]

Colorado Interstate Gas Co.; Request Under Blanket Authorization

February 8, 1984.

Take notice that on January 31, 1984, Colorado Interstate Gas Company (CIG), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP84-219-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that CIG proposes to transport natural gas on behalf of The Gates Rubber Company (Gates) for use as boiler fuel and for commercial space heating under authorization issued in Docket No. CP83-21-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

CIG proposes to transport for 2 years up to 6,500 Mcf of natural gas per day for Gates. It is indicated that Montana-Dakota Utilities Co. (MDU) has released gas being purchased from Western Gas Processors, Ltd. (Western), and that Gates has purchased this released gas from Western. This gas, it is stated, would be delivered to CIG by MDU at existing delivery points in Park and Fremont Counties, Wyoming, and would be redelivered to Public Service Company of Colorado (PSC) in Adams County, Colorado, for Gates' account. It is further indicated that PSC is the distribution company serving Gates in Denver, Colorado.

For this transportation CIG states it would charge Gates its Rate Schedule AIC-1 charge of 36.08 cents per Mcf plus an added incentive charge of 5 cents per MMBTu plus charges for fuel and unaccounted-for gas.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and, pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3864 Filed 2-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-195-000]

Columbia Gas Transmission Corp.; Application

February 8, 1984.

Take notice that on January 13, 1984, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP84-195-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing decreased contract demands under revised service agreements with Baltimore Gas and Electric Company (BG&E) and Washington Gas Light Company, Shenandoah Gas Company, and Frederick Gas Company, Inc. (collectively referred to as WGL), existing wholesale customers of Columbia, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Columbia proposes to enter into revised service agreements with BG&E, effectuating a decrease in its winter contract quantity under Rate Schedule WS of 2,459,100 dt equivalent of natural gas from 9,250,900 dt to 6,791,800 dt in Zone 2, effective November 1, 1983, and with WGL, effectuating a decrease in its

winter contract quantity under Rate Schedule WS of 610,000 dt equivalent of natural gas, from 14,000,000 dt to 13,390,000 dt in Zone 2, effective November 1, 1983.

It is stated that the requested service level changes would not affect BG&E's total daily entitlement (TDE), but would decrease the number of days it would be able to receive its maximum daily quantity under Rate Schedule WS. It is further stated that the requested service level changes would not affect WGL's TDE, but would decrease the number of days it would be able to receive its maximum daily quantity under Rate Schedule WS from 52.3 days to 50 days.

It is indicated that the customers' requests for service changes were made pursuant to the provisions of Columbia's FERC Gas Tariff, Original Volume No. 1.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 29, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Columbia to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3865 Filed 2-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-64-000]

Columbia Gas Transmission Corp.; Application To Withdraw Tariff Filing

February 8, 1984.

Take notice that on July 15, 1983, Columbia Gas Transmission Corporation (Columbia) tendered for filing an application to withdraw its tariff filing in Docket No. RP83-64-000. Columbia cites the significant degree of customer opposition to the subject matter of the tariff filing and the likelihood of expensive litigation as the reasons for its request for withdrawal.

The tariff filing in question concerns the manner in which Columbia's customers are to make payments to it. Columbia states that the withdrawal of the filing is to be without prejudice to its right to submit a similar filing at a future date.

Columbia certifies that each person designated on the official service list in this proceeding has been served with a copy of its filing.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before February 24, 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 on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3866 Filed 2-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-204-000]

National Fuel Gas Supply Corp.; Request Under Blanket Authorization

February 8, 1984.

Take notice that on January 18, 1984, National Fuel Gas Supply Corporation (Supply), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP84-204-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Supply proposes to transport natural gas for an eligible end-user under the authorization issued in Docket No. CP83-4-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Supply proposes to transport up to 1,290 Mcf of gas per day and 470,850 Mcf of gas per year, for the account of Airco Carbon, Division of BOC, Inc. (Airco), to National Fuel Gas Distribution Corporation (Distribution) which, in turn, would deliver the gas to Airco at Airco's facilities in Niagara Falls, New York, pursuant to the terms of the gas transportation agreement dated August 10, 1983, as amended (transportation agreement). Supply states that the current transportation rate is 34.14 cents per Mcf, which includes an added incentive charge of 5.0 cents per Mcf, plus 2 percent retainage for shrinkage which is in accordance with its transportation Rate Schedule T-2. In addition, the current transportation rate charged by Distribution is currently 88.0 cents per Mcf plus the surcharge to reflect the tax rates applicable within the municipality where Airco is taking service plus 2.5 percent of the gas for loss allowance in accordance with Distribution's New York Tariff (P.S.C. No. 7-Gas), it is asserted.

Supply states that the gas to be purchased by Airco involves gas supplies previously under contract to and released by Supply. Airco would use the gas transported by Supply in boilers, infrared heaters, water heaters, space heating furnaces, incinerators, dryers and miscellaneous process use, which are qualified end-uses pursuant to § 157.209(e)(2) of the Regulations, it is asserted. Supply states that no new facilities are necessary to effectuate the proposed transportation. It is stated that the proposed transportation would commence on March 1, 1984, and terminate at 11:59 p.m. on June 30, 1985, or upon termination of the contract which term is for 3 months, effective August 10, 1983, and month to month thereafter, whichever occur first.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the

time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3867 Filed 2-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-203-000]

National Fuel Gas Supply Corp.; Request Under Blanket Authorization

February 8, 1984.

Take notice that on January 18, 1984, National Fuel Gas Supply Corporation (Supply), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP84-203-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Supply proposes to transport natural gas for an eligible end-user under the authorization issued in Docket No. CP83-4-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is file with the Commission and open to public inspection.

Supply proposes to transport up to 1,000 Mcf of gas per day and 365,000 Mcf of gas per year, for the account of Al Tech Specialty Steel Corporation (Al Tech), to National Fuel Gas Distribution Corporation (Distribution) which, in turn, would deliver the gas to Al Tech at Al Tech's facilities in Dunkirk, New York, pursuant to the terms of the gas transportation agreement dated July 11, 1983, as amended (transportation agreement). Supply states that the current transportation rate is 34.14 cents per Mcf, which includes an added incentive charge of 5.0 cents per Mcf, plus 2 percent retainage for shrinkage which is in accordance with its transportation Rate Schedule T-2. In addition, the current transportation rate charged by Distribution is currently 88.0 cents per Mcf plus the surcharge to reflect the tax rates applicable within the municipality where Al Tech is taking service plus 2.5 percent of the gas for loss allowance in accordance with Distribution's New York Tariff (P.S.C. No. 7-Gas), it is asserted.

Supply states that the gas to be purchased by Al Tech involves gas supplies previously under contract to and released by Supply. Al Tech would use the gas transported by Supply in boilers and forge furnaces, which are qualified end-uses pursuant to § 157.209(e)(2) of the Regulations, it is asserted. Supply states that no new facilities are necessary to effectuate the proposed transportation. It is stated that the proposed transportation would commence on March 1, 1984, and terminate at 11:59 p.m. on June 30, 1985, or upon termination of the contract which term is for 3 months, effective July 11, 1983, and month to month thereafter, whichever occurs first.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3868 Filed 2-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-202-000]

National Fuel Gas Supply Corp. Request Under Blanket Authorization

February 8, 1984.

Take notice that on January 18, 1984, National Fuel Gas Supply Corporation (Supply), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP84-202-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Supply proposes to transport natural gas for an eligible end-user under the authorization issued in Docket No. CP83-4-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Supply proposes to transport up to 1,325 Mcf of gas per day and 483,625 Mcf of gas per year, for the account of Arcata Graphics (Arcata), to National Fuel Gas Distribution Corporation (Distribution) which, in turn, would deliver the gas to Arcata at Arcata's facilities in Depew, New York, pursuant to the terms of the gas transportation agreement dated November 1, 1983 (transportation agreement). Supply states that the current transportation rate is 34.14 cents per Mcf, which includes an added incentive charge of 5.0 cents per Mcf, plus 2 percent retainage for shrinkage which is in accordance with its transportation Rate Schedule T-2. In addition, the current transportation rate charged by Distribution is currently 88.0 cents per Mcf plus the surcharge to reflect the tax rates applicable within the municipality where Arcata is taking service plus 2.5 percent of the gas for loss allowance in accordance with Distribution's New York Tariff (P.S.C. No. 7-Gas), it is asserted.

Supply states that the gas to be purchased by Arcata involves gas supplies previously under contract to and released by Supply. Arcata would use the gas transported by Supply in boilers and forge furnaces, which are qualified end-uses pursuant to § 157.209(e)(2) of the Regulations, it is asserted. Supply states that no new facilities are necessary to effectuate the proposed transportation. It is stated that the proposed transportation would commence on February 29, 1984, and terminate at 11:59 p.m. on June 30, 1985, or upon termination of the contract which term is for 3 months, effective November 1, 1983, and month to month thereafter, whichever occurs first.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3869 Filed 2-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-215-000]

Northern Natural Gas Co., Division of InterNorth, Inc.; Request Under Blanket Authorization

February 8, 1984.

Take notice that on January 27, 1983, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP84-215-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) that Northern proposes to transport natural gas on behalf of Northern Gas Products Company (NGP) under the authorization issued in Docket No. CP82-401-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to the public inspection.

Northern states the proposed transportation service would be performed pursuant to a transportation agreement dated November 23, 1983, as amended. The transportation agreement, it is said, provides for the transportation of 7,000 Mcf of natural gas per day, on behalf of NGP, from Beaver County, Oklahoma, and/or Ochiltree County, Texas, to Ellsworth County, Kansas.

Northern proposes to provide this transportation service for term not to extend beyond June 30, 1985. Northern states further that it would charge NGP a transportation rate of 9.84 cents plus 5.0 cents added incentive charge per Mcf of gas delivered to NGP.

Northern submits that the subject gas would be purchased by NGP from H&L Operating Company and would be used in the operation of NGP's processing plants near Bushton, Kansas.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3870 Filed 2-10-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-7-002]

Southern Natural Gas Co.; Request for a Waiver

February 7, 1984.

Take notice that on January 18, 1984, Southern Natural Gas Company (Southern) tendered for filing a request to waiver the provisions of Section 17.4(5) of its FERC Gas Tariff and § 282.506 of the Regulations, 18 CFR 282.506.

The requested waiver is to allow for the passthrough of refunds received in the month of December, 1983, or, in the alternative, to allow for an extension of time in which to disburse refunds.

Southern states that the refunds in question relate to gas received during a period of nearly seventeen years and involve more than 100 resale customers. Compliance with Section 17.4(5) and 18 CFR 282.506 would necessitate substantial administrative costs that a waiver would avoid.

Moreover, Southern states that, to the extent such a waiver would affect the existing refund mechanism, specifically, an incremental pricing surcharge going to non-exempt industrial boiler fuel users, sch effect would be de minimis.

If the waiver is not allowed, Southern requests a waiver of the time limitation imposed by Section 17.4(5). This time limitation requires disbursements of refunds to be completed within thirty days of receipt; Southern requests a forty-five day period which is to begin on the date of the Commission's ruling on their motion.

The purpose of this extension is to allow for sufficient time in which to verify and calculate the refunds. Southern is willing to pay interest on all cash payments, to the extent that the waiver delays disbursement.

Southern certifies that all of its jurisdictional customers and all interested state commissions have been served with a copy of their motion.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before February 15, 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 on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3871 Filed 2-10-84; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[A-4-FRL 2525-2]

PSD Permit for Amax Phosphate, Inc. Fort Lonesome, Florida

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given that a Prevention of Significant Deterioration (PSD) permit issued December 9, 1983, became effective on January 16, 1984. This permit was issued for the increase of operational hours and the use of alternate fuels by Amax Phosphate, Inc., at their facility in Fort Lonesome, Florida.

DATES: This action is effective as of January 16, 1984, the effective date of the PSD permit. Construction must begin within 18 months of this date or the permit will become invalid.

ADDRESSES: Copies of the PSD permit, permit application, preliminary and final determinations are available for public inspection upon request at the following locations:

U.S. Environmental Protection Agency, Region IV, Air Management Branch, Air and Waste Management Division, 345 Courtland Street, NE., Atlanta, Georgia 30365

Bureau of Air Quality Management, Florida Department of Environmental Regulation, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32301

FOR FURTHER INFORMATION CONTACT: Michael Brandon of the EPA-Region IV, Air Management Branch at the Atlanta address given above, or telephone (404) 881-7654 (FTS 257-7654).

SUPPLEMENTARY INFORMATION: On January 28, 1983, Amax Phosphate, Inc., submitted an application for a PSD

permit to increase the hours of operation and use alternate fuels at their facility in Fort Lonesome, Florida. The Preliminary Determination was issued by the Florida Department of Environmental Regulation (DER) on August 11, 1983, and the public comment period commenced on September 16, 1983. No adverse comments were received regarding the issuance of the Final Determination for the PSD permit. The Final Determination was issued by the Florida DER on October 12, 1983. The Federal PSD permit was issued on December 9, 1983, and became effective as of January 16, 1984.

The effective date of the permit constitutes final Agency action under 40 CFR 124.19(f)(1) and Section 307 of the Clean Air Act for purposes of judicial review. Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements (see § 307(b)(2)). If construction does not commence within 18 months or more, or if construction is not complete within reasonable time, the permit shall become invalid.

(Sec. 160–169 of the Clean Air Act (42 U.S.C. 7470–7479))

Dated: January 31, 1984.

Howard Zeller,

Acting Regional Administrator.

[FR Doc. 84-3832 Filed 2-10-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[Docket: FEMA-REP-9CA-1, FEMA-REP-9CA-2, FEMA-REP-9CA-3, FEMA-REP-9CA-4]

State of California Nuclear Power Plant Emergency Response Plan

AGENCY: Federal Emergency Management Agency.

ACTION: Withdrawal of notice of receipt of plan.

SUMMARY: A notice of receipt of the State of California radiological emergency plan was published in **Federal Register** Volume 49, No. 14, Page 2528, dated January 20, 1984. This notice was placed in the **Federal Register** in error and is hereby withdrawn.

Robert L. Vickers,

Regional Director.

[FR Doc. 84-3807 Filed 2-10-84; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and may request a copy of each agreement and the supporting statement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in § 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–4163.

Title: Global Terminal & Container Services, Inc. and Dart-ML Ltd., Container, Terminal, Stevedore and LCL Service Agreement.

Parties: Global Terminal & Container Services, Inc. (Global) and Dart-ML Ltd., (Dart).

Synopsis: Agreement No. T–4163 provides for Global to provide stevedoring, container and LCL handling, and other terminal services for Dart at its facility in Jersey City, New Jersey for Dart's Northern European Service to New York, New York. The Agreement will run until May 31, 1992.

Filing Party: E. F. Brimo, Treasurer, Global Terminal & Container Service, Inc., Post Office Box 273, Jersey City, New Jersey 07303.

Agreement No.: 14–50.

Title: Trans Pacific Freight Conference of Hong Kong.

Parties:

Japan Line, Ltd.
Nippon Yusen Kaisha.
Showa Line Ltd.
Yamashita-Shinnihon Steamship Co., Ltd.

Synopsis: Agreement No. 14–50 would permit the Agreement members to adopt original independent action proposals at any time upon five days' notice so long as the effective date of the adopting member's action is not earlier than the effective date of the original independent action proposal.

Filing Party: Charles F. Warren, Esquire, Warren & Associates, P.C., 1100 Connecticut Avenue, NW., Washington, D.C. 20036.

Agreement No.: 5600–46.

Title: Philippines North America Conference.

Parties:

American President Lines, Ltd.
Barber Blue Sea Line J/S
Galleon Shipping Corporation
Hapag Lloyd A/G
Lykes Bros. Steamship Co., Inc.
Moller-Maersk Line, A. P.
Sea-Land Service, Inc.

Synopsis: Agreement No. 5600–46 would allow Conference members to release confidential Conference documents to appropriate governmental agencies (where such release is pursuant to an order of the agency or one of its administrative law judges), and would allow Conference members to disclose their positions on matters before the Conference to shippers and consignees in the trade subject to certain limitations designated therein.

Filing Party: Charles F. Warren, Esquire, Warren & Associates, P.C., 1100 Connecticut Avenue, NW., Washington, D.C. 20036.

Agreement No.: 5700–33.

Title: New York Freight Bureau.

Parties:

Japan Line, Ltd.
Mitsui O.S.K. Lines, Ltd.
Nippon Yusen Kaisha.
Yamashita-Shinnihon Steamship Co., Ltd.

Synopsis: Agreement No. 5700–33 would permit the Agreement members to adopt original independent action proposals at any time upon five days' notice so long as the effective date of the adopting member's action is not earlier than the effective date of the original independent action proposal.

Filing Party: Charles F. Warren, Esquire, Warren & Associates, P.C., 1100 Connecticut Avenue, NW., Washington, D.C. 20036.

Dated: February 8, 1984.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 84-3848 Filed 2-10-84; 8:45 am]

BILLING CODE 6730-01-M

Filing and Approval of Agreement

The Federal Maritime Commission hereby gives notice that on January 23,

1984, the following agreement was filed with the Commission pursuant to section 15 of the Shipping Act, 1916, as amended by section 4 of the Maritime Labor Agreements Act of 1980, Pub. L. 96-325, 94 Stat. 1021, and was deemed approved that date, to the extent it constitutes an assessment agreement as described in the fifth paragraph of section 15, Shipping Act, 1916.

Agreement No: LM-83-1.

Title: NYSA/ILA—1983/1986 Master Contract Extension.

Synopsis: Agreement No. LM-83-1 modifies the 1983-1986 Master Contract between NYSA and ILA. The purpose of the modification is to extend the Agreement from January 15, 1984 to January 31, 1984.

Filing Party: Lambos, Flynn, Nyland & Giardino, 29-Broadway, New York, New York 10006.

Dated: February 8, 1984.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 84-3849 Filed 2-10-84; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Alden Bancshares Company, 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 office 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 7, 1984.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Alden Bancshares Company,* Alden, Iowa; to become a bank holding company by acquiring 94.3 percent of the voting shares of Alden State Bank, Alden, Iowa.

2. *First Galena Bancshares, Inc.,* Galena, Ill.; to become a bank holding company by acquiring 91.69 percent of the voting shares of The First National Bank of Galena, Galena, Illinois.

B. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri.63166:

1. *First Commercial Corporation,* Little Rock, Arkansas; to acquire 100 percent of the voting shares or assets of the successor by merger to Morrilton Security Bank, Morrilton, Arkansas.

2. *Greenville Bancshares, Inc.,* Greenville, Missouri.; to become a bank holding company by acquiring 96.9 percent of the voting shares of State Bank of Greenville, Greenville, Missouri.

Board of Governors of the Federal Reserve System, February 7, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-3818 Filed 2-10-84; 8:45 am]

BILLING CODE 6210-01-M

Citicorp, 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 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 propsoal 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 March 5, 1984.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Citicorp,* New York, New York; to engage *de novo* through its subsidiary, Citicorp Credit Services, Inc., in the making to consumers of loans and other extensions of credit, for its own account and for the account of others; the sale at retail of money orders having a face value of not more than $1,000; and the sale of travelers checks. Comments on this application must be received not later than March 1, 1984.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *United Banks of Colorado, Inc.,* Denver, Colorado; to engage *de novo* nationwide through its subsidiary, United Financial Centers, Inc., Denver, Colorado, in making or acquiring for its own account, loans or other extensions of credit such as would be made or acquired by a finance company; servicing loans and offering credit related life and credit related health and accident insurance; such activities will include, but not be limited to making consumer installment loans, purchasing installment sales finance contracts, making loans and other extensions of credit to businesses, and making loans and other extensions of credit secured by real property. This application will expand the geographic scope of the service area to include the states of Colorado and Nebraska.

Board of Governors of the Federal Reserve System, February 7, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-3820 Filed 2-10-84; 8:45 am]

BILLING CODE 6210-01-M

Old Stone Corp., et al.; 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 veiws in writing on the queston 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 29, 1984.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Old Stone Corporation*, Providence, Rhode Island; to engage *de novo* through its subsidiary, Old Stone Mortgage Corporation, Seattle, Washington, in the arranging of financing of commercial income property for third parties.

B. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Bank of Delaware Corporation*, Wilmington, Delaware; to engage through its subsidiary, Del-Vest, Inc., Wilmington, Delaware, in acting as an investment advisor to individuals, corporations, charitable entities, retirement plans, foundations, and others.

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Harris Bankcorp, Inc.*, Chicago, Illinois; to engage *de novo* through its subsidiary, Harris Futures Corporation, Chicago, Illinois, in the activities of a futures commission merchant.

D. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Ranco Bancshares, Inc.*, Spur, Texas; to engage directly in the making and acquiring of commercial and installment loans including the extension of direct loans to consumers and the purchase and sale of loan participations.

Board of Governors of the Federal Reserve System, February 7, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-3816 Filed 2-10-84; 8:45 am]

BILLING CODE 6210-01-M

Pan American Banks 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 2, 1984.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Pan American Banks Inc.*, Miami, Florida; to acquire 99 percent of the voting shares or assets of Central Bank of Delray Beach, Delray Beach, Florida.

2. *S.B.T. Bancshares, Inc.*, Arab, Alabama; to become a bank holding company by acquiring 100 percent of the voting shares of Security Bank & Trust Company, Arab, Alabama.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First of America Bancorporation*, Kalamazoo, Michigan; to acquire 100 percent of the voting shares of Citizens State Bank of Rudyard, Rudyard, Michigan.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Summit Bancshares, Inc.*, Fort Worth, Texas; to acquire 100 percent of the voting shares of Camp Bowie National Bank, Fort Worth, Texas.

Board of Governors of the Federal Reserve System, February 7, 1984.

James McAfee,

Secretary of the Board.

[FR Doc. 84-3817 Filed 2-10-84; 8:45 am]

BILLING CODE 6210-01-M

Teche Bancshares, Inc., Formation of Bank Holding Companies

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 a summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Teche Bancshares, Inc.*, St. Martinville, Louisiana; to become a bank holding company by acquiring 100 percent of the voting shares of Teche Bank & Trust Co., St. Martinville, Louisiana. Comments on this application must be received not later than March 1, 1984.

Board of Governors of the Federal Reserve System, February 7, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-3819 Filed 2-10-84; 8:45 am]

BILLING CODE 6210-01-M

COMMISSION OF FINE ARTS

The Commission of Fine Arts; Meeting

The Commission of Fine Arts will next meet in open session on Tuesday, March 13, 1984 at 10:00 a.m. in the Commission's office at 708 Jackson Place, NW., Washington, D.C. 20006 to discuss various projects affecting the appearance of Washington including buildings, memorials, parks, etc., also matters of design refered by other agencies of the government. Access for handicapped persons will be through the main entrance to the New Executive Office Building on 17th Street between Pennsylvania Avenue and H Street, NW.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Mr. Charles Atherton, Secretary, Commission of Fine Arts, at the above address or call 566-1066.

Dated in Washington, D.C. February 7, 1984.

Charles H. Atherton,

Secretary.

[FR Doc. 84-3843 Filed 2-10-84; 8:45 am]

BILLING CODE 6330-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

Refugee Resettlement Program; Proposed Formula for Allocations to States of FY 1984 Funds for Social Services for Refugees and Cuban/Haitian Entrants

AGENCY: Office of Refugee Resettlement (ORR), SSA, HHS.

ACTION: Notice of proposed formula for allocations to States of FY 1984 funds for refugee and entrant social services.

SUMMARY: This notice proposes the formula for allocation to States of FY 1984 funds for social services under the Refugee Resettlement Program (RRP). The formula will yield the allowable allocation of FY 1984 refugee and Cuban/Haitian entrant social service funds for each State participating in the RRP.

DATE: Comments on the allocation method provided for in this notice will be considered if received by March 14, 1984.

ADDRESS: Address written comments, in duplicate, to: David Howel, Office of Refugee Resettlement, Room 1332, Switzer Building, 330 C Street SW., Washinton, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: David Howell, (202) 245-1923.

SUPPLEMENTARY INFORMATION:

I. Amounts Proposed for Allocation

The Office of Refugee Resettlement (ORR) expects to have available $44,400,000 in refugee/entrant social service funds and $81,500,000 in refugee/entrant targeted assistance funds. This determination has been made based upon an interpretation of the Second Continuing Resolution for FY 1984 (Pub. L. 98-151) as requiring that social service funding be recalculated using assumptions of refugee arrivals lower than those which were anticipated when the FY 1984 budget request was developed, and also as providing that targeted assistance funding be at the same level as in FY 1983.

Of this total of $125,900,000, the Director of ORR proposes to make available to States $60,036,162 in refugee/entrant social service funds and refugee/entrant targeted assistance funds during FY 1984 for purposes of providing social services to refugees and entrants. Separate announcements will be made for the remaining funds not included in this Notice.

All allocation figures include both refugees and entrants, since both populations are to be served through funds addressed in this Notice.

Of the $60,036,162 above, the Director proposes to allocate funds directly to States in the following manner:

- $40,000,000 (90% of the available social service funds) would be allocated on the basis of each State's proportion of the national population of refugees and entrants who had been in the U.S. less than 3 years as of October 1, 1983.
- $430,731 of the available targeted assistance funds would be targeted to States which have particular needs associated with small refugee/entrant populations in order to provide a floor ofr $75,000 for States with fewer than 500 refugees/entrants or $100,000 for States with more than 500.
- $16,581,336 of the available targeted assistance funds would be targeted to ensure that no State's FY 1984 allocation would be less than 90% of the combined amount received under its FY 1983 formula allocations for refugee social services and entrant social services. (Excluded from this base are the amounts awarded to States in FY 1983 for critical unmet needs, since those funds were intended to provide one-time funding on behalf of refugees who had not been adequately accounted for in previous social service allocations.)
- $3,024,095 of the available targeted assistance funds would be allocated to each State on the basis of its proportion of the 3-year refugee/entrant population (including a $5,000 floor) in order to provide targeted service funds as an incentive for States to fund refugee/entrant mutual assistance associations (MAA's). A written assurance that these funds would be used for MAA's would be required in order for a State to receive these funds. Separate guidance for States would be provided regarding this assurance after a final notice is published.

ORR believes that the use of targeted assistance funds in a combined allocation with social service funds is an essential and appropriate response to the special programmatic needs of States in FY 1984. In addition to the formula amount, funds for services would be targeted in order to provide a minimal level of funding necessary to carry out a social service program in States with small refugee populations. Also, supplementary funds would be targeted, under this proposal, to provide States with 90% of their FY 1983 formula allocations in order to avoid serious disruptions or terminations of services which would affect refugees currently receiving services or expected to need services during the year. Finally, ORR

believes that the continued and/or increased utilization of refugee mutual assistance associations in the provision of social services promotes appropriate use of services as well as the effectiveness of the overall service system. Therefore, additional funds which would be targeted specifically to these organizations have been included in the proposal as an optional award to States which would use them for this purpose.

Of the $4,400,000 in remaining social service funds, the Director anticipates making $2,200,000 (5%) available to States, if necessary, to provide funding in addition to the proposed formula resulting from any adjustment made in population estimates (see Section III, below) beyond the estimates specified in section IV. In addition, approximately $2,200,000 (5%) are currently expected to be used on a discretionary basis to carry out individual projects intended to contribute to the effectiveness and efficiency of the refugee resettlement program in service delivery and self-support.

Possible individual projects could test approaches to particular problems or be designed to develop model programs in refugee service delivery and self-support, including: Delivery of social services to special refugee populations; development of job opportunities; vocational-English training; and participation of community agencies, refugee organizations, business leadership, and volunteers in increasing refugee self-sufficiency. An announcement of the availability of funding and grant application procedures for such projects will be published in the **Federal Register** at such time as determinations are made by the Director concerning the appropriate disposition of remaining refugee/entrant social service resources.

II. Proposed Formula

Under this proposal, $60,036,162 of the funds available for FY 1984 for social services and targeted assistance would be allocated to States in accordance with the formula specified below. A State's allowable allocation would be calculated as follows:

1. The total amount of funds determined by the Director to be available for this purpose; divide by—

2. The total number of refugees and entrants who arrived in the United States not more than three years prior to the beginning of the fiscal year for which the funds are appropriated, as shown by the ORR Refugee Data System; the resultant per capita amount will be multiplied by—

3. The number of refugees and entrants in item 2, above, in the State as of October 1, 1983, adjusted for estimated secondary migration.

4. The calculation above will yield the formula allocation for each State. As necessary, targeted adjustments would be made to provide a floor, and to provide 90% of a State's FY 1983 formula allocation in order to prevent service disruption.

5. MAA incentive award supplements would be subsequently made, contingent upon letters of assurance from States.

The proposed formula is similar to that used by ORR for social service allocations in FY 1983, and incorporates improvements which were adopted in last year's formula. States generally supported the concept of the FY 1983 formula, which was also based on 3-year population estimates, and supported FY 1983 proposals that (a) minimum amounts be provided to States with small refugee populations and (b) the population base include refugees of all nationalities. No commenters recommended in FY 1983 that a State's total refugee population, rather than the 3-year population, be used in the formula.

We believe this position to be programmatically sound, since data on refugee dependency on cash assistance show the highest rates to occur during a refugee's first 3 years in the United States and thus validly reflect the need for services directed toward achieving employment and self-sufficiency.

As indicated in section I, the proposed FY 1984 formula incorporates minimum amounts for States with small refugee populations and contains an adjustment to provide that no State will receive less than 90 percent of its FY 1983 formula-based amount. This FY 1983 base amount is the sum of the refugee social service formula allocation and the Cuban/Haitian Entrant social service formula allocation. The FY 1984 formula also continues to take into account refugees of all nationalities in the population estimates.

ORR has reviewed available data regarding the need for social services, and has considered relevant information derived from previous experience in the formula allocation of social service, funds, comments received on the FY 1983 formula, and subsequent consultations with States. From this review, ORR has concluded that the proposed formula will result in allocations being made available to States on an equitable basis. Under this proposal, each State would receive funds in proportion to its population of refugees generally having the greatest need for services and would be assured of the continuation of vital services. While the proposed formula is based on the 3-year refugee population, social service programs are not limited to refugees who have been in the U.S. only three years. States may provide services without regard to an individual refugee's or entrant's length of residence. (A State must, however, have an approved State plan for the Cuban/Haitian Entrant Program in order to use funds on behalf of entrants as well as refugees.)

III. Basis of Refugee and Entrant Population Estimates

The population estimates for the proposed allocation of funds in FY 1984 are based on the ORR Refugee Data System, adjusted as of October 1, 1983, for estimated secondary migration. The data base now includes refugees of all nationalities as well as Cuban and Haitian entrants resettled after 9/30/80.

For fiscal year 1984, ORR's formula allocations to the States for support services for refugees are to be based on the numbers of refugees who arrived, and entrants who arrived or were resettled during the preceding three fiscal years: 1981, 1982, and 1983. Therefore, estimates have been developed of the numbers of refugees and entrants with arrival or resettlement dates between September 1, 1980 and August 30, 1983 who are thought to be living in each State as of September 1, 1983. The population estimates for the fiscal year 1984 allocations cover refugees of all nationalities and Cuban/Haitian entrants.

Estimates have been developed separately for refugees and entrants and then combined into a total estimated 3-year refugee/entrant population for each State. In doing so, ORR excluded from the population totals nationwide 11,412 refugees who were resettled subject to a full Federal match of $1,000 under ORR's matching-grant program with national voluntary refugee resettlement agencies. The social service funds available to serve non-matching grant refugees are limited and, ORR believes, should be directed to the areas where those refugees live.

Table 1 below, shows the estimated three-year populations, as of October 1, 1983, of all refugees (col. 1), excluding those matching-grant refugees discussed above; entrants resettled between September 1, 1980 and August 30, 1983 (col 2); the total of these figures (col. 3); the formula amounts which the population estimates yield (col. 4); and the proposed allocations (col. 5) after allowing for the minimum amounts and the adjustment so that no State is below

90% of its FY 1983 formula-base amount, as discussed in section II, above.

A detailed explanation of the development of data used in this formula allocation can be obtained by writing to the address indicated in section V of this notice:

IV. Proposed Allocations

The following allocations are proposed for refugee social services in FY 1984:

TABLE 1.—ESTIMATED THREE-YEAR REFUGEE/ENTRANT POPULATIONS OF STATES PARTICIPATING IN THE REFUGEE PROGRAM AND SOCIAL SERVICE FORMULA AMOUNTS AND PROPOSED ALLOCATIONS FOR FY 1984 [1]

	(1)	(2)	(3)	(4)	(5)	(6)
	Refugees	Entrants	Total	Formula amount	Proposed allocation	MAA incentive allocation
Alabama	1,228	33	1,261	$154,596	$161,490	$11,594
Arizona	2,161	133	2,294	281,201	313,432	21,090
Arkansas	1,022	168	1,191	145,972	177,185	10,948
California	103,401	1,334	104,735	12,839,155	15,048,261	962,937
Colorado	5,066	96	5,161	632,726	687,751	47,454
Connecticut	3,990	97	4,087	501,009	551,861	37,576
Delaware	77	2	79	9,683	75,000	5,000
Dist. of Columbia	1,959	135	2,094	256,721	256,721	19,254
Florida	7,384	12,896	20,479	2,486,001	8,740,665	186,450
Georgia	5,171	82	5,252	643,861	643,861	48,290
Hawaii	2,195	1	2,196	269,203	467,065	20,190
Idaho	641	0	641	78,564	101,621	5,892
Illinois	12,693	416	13,110	1,607,059	2,164,550	120,529
Indiana	1,495	81	1,576	193,156	277,729	14,487
Iowa	2,910	11	2,922	358,156	613,896	26,862
Kansas	4,313	38	4,351	533,407	616,839	40,006
Kentucky	917	43	960	117,730	181,529	8,930
Louisiana	4,575	162	4,737	580,700	765,814	43,553
Maine	871	36	907	111,218	111,218	8,341
Maryland	3,819	58	3,877	475,230	590,415	35,642
Massachusetts	9,500	262	9,763	1,196,772	1,196,772	89,758
Michigan	5,585	166	5,752	705,062	860,635	52,880
Minnesota	7,829	106	7,936	972,837	2,077,621	72,963
Mississippi	804	5	810	99,243	122,823	7,443
Missouri	2,995	313	3,307	405,443	405,443	30,408
Montana	191	3	194	23,796	90,000	5,000
Nebraska	1,028	12	1,041	127,574	164,129	9,568
Nevada	999	108	1,108	135,768	159,112	10,183
New Hampshire	401	8	409	50,131	75,000	5,000
New Jersey	3,928	775	4,703	576,554	1,116,700	43,242
New Mexico	1,093	43	1,136	139,279	253,352	10,446
New York	16,620	1,906	18,527	2,271,116	3,231,757	170,334
North Carolina	2,404	16	2,420	296,706	380,728	22,253
North Dakota	632	15	648	79,396	100,000	5,955
Ohio	4,114	114	4,228	518,357	668,484	38,877
Oklahoma	3,528	121	3,649	447,277	524,091	33,546
Oregon	6,343	17	6,360	779,664	1,358,879	58,475
Pennsylvania	9,499	269	9,7668	1,197,425	1,672,481	89,807
Rhode Island	4,135	56	4,190	513,693	526,530	38,527
South Carolina	1,136	11	1,147	140,607	158,933	10,545
South Dakota	434	4	439	53,756	90,000	5,000
Tennessee	2,446	214	2,661	326,147	372,971	24,461
Texas	22,979	674	23,652	2,899,459	3,520,049	217,459
Utah	3,600	20	3,620	443,708	664,871	33,278
Vermont	240	0	240	29,467	75,000	5,000
Virginia	10,667	143	10,810	1,325,116	1,357,807	99,384
Washington	12,385	117	12,502	1,532,635	2,137,247	114,948
West Virginia	194	13	206	25,297	75,000	5,000
Wisconsin	3,126	76	3,201	392,430	878,749	29,432
Wyoming	95	13	108	13,193	75,000	5,000
Guam	55	0	55	6,742	75,000	5,000
Total	304,986	21,445	326,298	40,000,000	57,012,067	3,024,095

[1] These calculations may appear incorrect due to rounding. They were performed with a computer program that added and multiplied unrounded figures, which are displayed here rounded to the nearest person or dollar.

V. State Evidence on Refugee Population

If a State wishes ORR to reconsider its population estimate, it should submit written evidence through its ORR Regional Director. Requests will be evaluated according to a strict standard. The following is the type of evidence which would be considered appropriate:

- Documentation and discussion should be confined to the population entering during fiscal years 1981, 1982, 1983, and should clearly identify what refugee groups are being discussed.
- Evidence should include a description of the information collection system(s) used by the State, including data sources, time period covered, timeliness, and validation procedures.
- Special studies and reports can be considered only if they are submitted for review.
- An example of acceptable evidence would be a list of refugees identified by name, alien number, and case size, if appropriate.

Any State evidence on population estimates should be submitted separately from comments on the proposed allocation formula no later than 30 days from date of publication of this notice and should be addressed to: Dr. Linda W. Gordon, Office of Refugee Resettlement, Room 1332, Switzer Building, 330 C Street SW., Washington, D.C. 20201, Telephone: (202) 245–1967.

Paperwork Reduction Act

This notice does not create any reporting or recordkeeping requirements requiring OMB clearance.

(Catalog of Federal Domestic Assistance No. 13.814 Refugee Assistance State Administered Programs and No. 13.817

Entrant Assistance Cuban and Haitian Entrants)

Dated: February 2, 1984.

Phillip N. Hawkes,

Director, Office of Refugee Resettlement.

[FR Doc. 84-3856 Filed 2-10-84; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-6709-A]

Alaska Native Claims Selection; Ounalashka Corp.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611) (1976)) (ANCSA), will be issued to Ounalashka Corporation, for approximately 11 acres. The lands involved are within T. 72 S., R. 117 W., Seward Meridian, Alaska.

The decision to issue conveyance will be published once a week, for four (4) consecutive weeks, in *The Anchorage Times* upon issuance of the decision.

For information on how to obtain copies, contact the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in 43 CFR Part 4, Subpart E, as revised.

If an appeal is taken, the notice of appeal must be filed with the Bureau of Land Management, Alaska State Office, Division of Conveyance Management (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of the decision by personal service or certified mail, return receipt requested, shall have thirty days from the receipt of the decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of the decision by regular mail which is not certified, return receipt requested, shall have until March 14, 1984 to file an appeal.

Any party known or unknown who is adversely affected by the decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of Conveyance Management.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802

Ounalashka Corporation, P.O. Box 149, Unalaska, Alaska 99685

The Aleut Corporation, 2550 Denali Street, Suite 900, Anchorage, Alaska 99503

Helen Burleson,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 84-3812 Filed 2-10-84; 8:45 am]

BILLING CODE 4310-JA-M

[U-16391]

Termination of Proposed Withdrawal and Reservation of Lands; Utah

1. Notice of a proposed withdrawal application by the Department of the Army was published as **Federal Register** Document 71-14613 on page 19446 on October 6, 1971. The application affected the following lands:

Salt Lake Meridian, Utah

T. 21 S., R. 16 E.,
Sec. 23, SW¼, W½SE¼, SE¼SE¼;
Sec. 25, W½, SE¼;
Sec. 26, all;
Sec. 27, lot 5, SE¼SE¼;
Sec. 34, lots 5, 6, NE¼NE¼;
Sec. 35, N½, N½S½, S½SE¼.

Aggregating 2139.50 acres.

This application has been canceled. Pursuant to the regulations contained in 43 CFR 2310.1-4, the segregative effect will be terminated and the lands shall be open as follows:

2. At 10:00 a.m. on March 8, 1984, the lands will be open to operation of public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10:00 a.m. on March 8, 1984, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 10:00 a.m. on March 8, 1984, the public lands will be opened to location under the United States mining laws. Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 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 possessory rights since Congress has provided for such determinations in local courts.

4. At 10:00 a.m. on March 8, 1984 the lands will also be open to offers and applications under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, 136 East South Temple, Salt Lake City, Utah 84111.

Dated: February 6, 1984.

Orval L. Hadley,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-3801 Filed 2-10-84; 8:45 am]

BILLING CODE 4310-DQ-M

[A 9052]

Arizona; Conveyance of Public Land: Correction

February 3, 1984.

In FR Doc. 84-316, appearing on page 940, on Friday, January 6, 1984, make the following corrections:

In T. 12 N., R. 19 W., the legal description is revised to read:
Sec. 3, SW¼;
Sec. 11, N½.

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-3839 Filed 2-10-84; 8:45 am]

BILLING CODE 4310-32-M

[OR-34957, OR-36019, OR-36020]

Oregon: Modification of Realty Action Competitive/Modified Competitive Sale in Lake County, Oregon

The Notice of Realty Action, published in the **Federal Register**

Document No. 83–33354, Volume 48, No. 242, pages 55780 and 55781, Thursday, December 15, 1983, is hereby modified to withdraw Parcel No. 1, OR–34957 and Parcel No. 7, OR–36020 from public sale.

The sale method of the withdrawn parcels is under reconsideration. The parcels will be formally re-offered for sale at a future date.

For additional information regarding this modification, contact the Lakeview District Office, P.O. Box 151, Lakeview, Oregon 97630, (503) 947–2177.

Dated: February 2, 1984.

Jerry Asher,

District Manager.

[FR Doc. 84–3841 Filed 2–10–84; 8:45 am]

BILLING CODE 4310–33–M

Fish and Wildlife Service

Official Insignia Change

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Official Insignia Change.

SUMMARY: The U.S. Fish and Wildlife Service official insignia designation published in the **Federal Register** on September 5, 1978 (43 FR 39444), is hereby cancelled. This notice changes the official insignia of the U.S. Fish and Wildlife Service. The Service insignia was changed in 1978; however, publication of this change was overlooked at the time. This action accomplishes the official designation of the insignia now in use by the Service.

EFFECTIVE DATE: February 13, 1984.

FOR FURTHER INFORMATION CONTACT: Jim Gillett, Chief, Division of Refuge Management, U.S. Fish and Wildlife Service, Washington, D.C. 20240, (202) 343–4311.

SUPPLEMENTARY INFORMATION: The insignia depicted below is prescribed as the official insignia of the U.S. Fish and Wildlife Service, Department of the Interior.

In making this prescription, notice is given that whoever manufactures, sells, or possesses this insignia, or any colorable imitation *thereof*, or photographs, prints or in *any* other manner makes or executes any engraving, photograph or print, or impression in the likeness of this insignia, or any colorable imitation

thereof, without authorization from the United States Department of the Interior is subject to the penalty provisions of section 701 of Title 18 of the United States Code.

Dated: February 6, 1984.

Rolf Wallenstrom,

Acting Director, Fish and Wildlife Service.

[FR Doc. 84–3863 Filed 2–10–84; 8:45 am]

BILLING CODE 4310–07–M

Office of Surface Mining Reclamation and Enforcement

Decisions and Availability of Technical and Environmental Assessments and Findings of No Significant Impact for Three Federal Lands Coal Mining Permits in West Virginia

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

ACTION: Notice of decisions and availability of technical and environmental assessments and findings of no significant impact.

SUMMARY: The Office of Surface Mining (OSM) has approved, with conditions, three 5-year permits for Enviro Energy, Inc., to operate underground mines Nos. 3, 4, and 5 and ancillary facilities within the Monongahela National Forest. The mines are located in the Huttonsville District, Randolph County, West Virginia. The permits for the three mines include a total of 123.49 acres for mine openings, access roads and haul roads, a loading facility, and drainage-control structures. Decisions to approve the permits with conditions are based on technical and environmental assessments (TEA's), findings of no significant impact (FONSI's), and approval of plans of operation by the U.S. Forest Service. Persons with an interest that is or may be adversely affected by the issuance of the Federal permits may request a hearing on the final decisions.

DATE: March 15, 1984.

ADDRESSES: Request for hearing should be submitted to: Hearings Division, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, VA 22203.

TEA's, FONSI's, and permit application packages are available for review at:

Office of Surface Mining, Eastern Technical Center, Ten Parkway Center, Pittsburgh, PA 15220
and
U.S. Department of Agriculture, Forest Service, Monongahela National Forest, P.O. Box 1548, Elkins, WV 26241.

FOR FURTHER INFORMATION CONTACT: Charles Wolf (phone: 412–937–2896) at the Eastern Technical Center. (See "Addresses.")

SUPPLEMENTARY INFORMATION: The TEA's provide analyses of the effects of approving three 5-year permits to allow Enviro Energy, Inc., to operate underground mines and ancillary facilities on U.S. Forest Service land within the Monongahela National Forest. The mines are located in the Huttonsville District, Randolph County, West Virginia.

Any person with an interest that is or may be adversely affected by the issuance of the Federal permits may request a hearing on the final decisions in accordance with section 514(c) of the Surface Mining Control and Reclamation Act (SMCRA). This hearing will be governed by the provisions of 5 U.S.C. Section 554. Requests for a hearing to review the OSM decisions should be submitted to the Office of Hearings and Appeals. (See "Dates" and "Addresses.")

Pursuant to 40 CFR sections 1501.4 (b), (c) and (e) and 1506.6, notice is hereby given that OSM has completed environmental assessments and findings of no significant impact for the permit applications for the Enviro Energy, Inc., Mines Nos. 3, 4, and 5 and ancillary facilities, Randolph County, West

Virginia. OSM's analyses indicate that no significant environmental impacts will result from these actions.

OSM's decisions to approve the Federal permits with conditions is in accordance with sections 510 and 523 of SMCRA. The decisions and the TEA's have concurrence by the U.S. Forest Service which has approved plans of operation.

The TEA's, FONSI's, and permit application packages are available for review at the OSM Eastern Technical Center and the U.S. Forest Service office in Elkins, West Virginia. (See "Addresses.")

Dated: February 8, 1984.

J. R. Harris,

Director.

[FR Doc. 84-3844 Filed 2-10-84; 8:45 am]

BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-43 (Sub-104)]

Rail Carriers; Illinois Central Gulf Railroad Co.; Abandonment in Warren and Claiborne Counties, MS; Findings

The Commission has issued a certificate authorizing the Illinois Central Gulf Railroad Company to abandon its 21.15-mile rail line between milepost 229.85 near Vicksburg (LeTourneau) and milepost 251.00 at Port Gibson in Warren and Claiborne Counties, MS. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-3891 Filed 2-10-84; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30392]

Rail Carriers; LTV Corp.; Control Exemption—River Terminal Railway Co.; Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from prior approval under 49 U.S.C. 11343 the acquisition of control by LTV Corporation of River Terminal Railway Company, subject to conditions for protection of employees.

DATES: This exemption shall be effective on February 13, 1984. Petitions to reopen must be filed by March 5, 1984.

ADDRESSES: Send pleadings referring to Finance Docket No. 30392 (Sub-No. 1) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: Harry J. Jordon, 1090 Vermont, Avenue NW, #200, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: February 6, 1984.

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

James H. Bayne,

Acting Secretary.

[FR Doc. 84-3890 Filed 2-10-84; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30396]

Railcarriers; Union Pacific Railroad Co.; Purchase (Portion) Exemption—Missouri Pacific Railroad Co.; Exemption

On January 19, 1984, Missouri Pacific Railroad Company (MP) and Union Pacific Railroad Company (UP) filed a notice of exemption pursuant to 49 CFR 1180.2(d)(3) of the proposed acquisition by UP from MP of that portion of MP's Crete Subdivision extending from milepost 467.9 near Hickman to milepost 486.8 at Crete, in Lancaster and Saline Counties, NE. The transaction involves conveyance of main track, side tracks, right of way, and other land between the right of way west of Hickman and the end of the line at Crete.

The proposed acquisition is a transaction within a corporate family that will not result in adverse changes in service levels, significant operational changes, or a changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family. It is the type of transaction which falls within the class exemption set forth at 49 CFR 1180.2(d)(3).

As condition to use of the exemption, any employee affected by the acquisition of the line by UP shall be protected pursuant to *New York Dock Ry.—Control-Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979).

Decided: February 3, 1984.

By the Commission, Richard Lewis, Acting Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-3892 Filed 2-10-84; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Niagara Frontier Tariff Bureau, Inc., et al.; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (b) through (h), that a Proposed Final Judgment, Stipulation and Competitive Impact Statement (CIS) have been filed with the United States District Court for the Western District of New York in *United States of America* v. *Niagara Frontier Tariff Bureau, Inc., et al.*, Civil Action No. 83-1313C. The Complaint in this case charges a violation of section 1 of the Sherman Act, 15 U.S.C. 1, and names as defendants the Niagara Frontier Tariff Bureau Inc. (NFTB), a motor carrier rate bureau, and five motor carrier corporations that are NFTB members: Bondy Cartage Limited; Dominion-Consolidated Truck Lines Limited; ICL International Carriers, Ltd.; Inter-City Truck Lines (Canada), Inc.; and TNT Canada Inc. The defendants are parties to the NFTB's collective ratemaking agreement which was approved by the Interstate Commerce Commission (ICC) and which authorizes them to set rates collectively with immunity from the antitrust laws provided that they adhere to the terms of the agreement and ICC regulations. The Complaint alleges that from at least as early as 1966 and

continuing to at least 1981, the defendants and co-conspirators conspired to fix, raise and maintain prices and inhibit or eliminate competition for the transportation of freight by motor carrier between the United States and Ontario, Canada, without complying with the terms of the NFTB's collective ratemaking agreement and by otherwise engaging in conduct that either was not or could not be approved by the ICC. In furtherance of their unlawful conduct, the defendants were alleged to have (1) set rates and agreed on methods to inhibit competition through their participation in an unauthorized committee; (2) set rates without complying with the notice and record-keeping requirements of the NFTB agreement and ICC regulations; and (3) interfered with the rights of other motor carriers to make rates independent of the NFTB agreed-upon rates.

The proposed Final Judgment would require the defendants to conduct their collective ratemaking activities in strict compliance with the NFTB agreement and ICC and statutory procedures. Further, the Judgment would prohibit the defendants from entering agreements to limit competition, other than authorized agreements to approve or disapprove a particular rate proposal.

The proposed Final Judgment would also limit the collective ratemaking activities of the defendant motor carriers and the NFTB to ensure that they do not interfere with a motor carrier's statutorily-guaranteed right to price independently. In this regard, the Judgment would (1) prohibit the motor carrier defendants from discussing with any other carrier or the NFTB any independent rate prior to the rate's publication; (2) prohibit the defendants from discussing an independent rate for 90 days after the issued date, except that it would permit discussions after the issued date concerning lowering the corresponding NFTB rate to an amount not lower than the independent rate; any such discussion could take place only in an authorized rate committee or subcommittee meeting; (3) prohibit the NFTB for 90 days after the issued date of an independent rate from processing rate proposals that could cause collective undercutting of the independent rate; and (4) require the defendant motor carriers to certify that their rate proposals for collective action were not aimed at forcing any other carrier to raise its rates. Greater detail is provided in the proposed Final Judgment and CIS, copies of which appear below.

Public comment is invited within the statutory 60-day comment period. Such comments, and responses thereto, will be published in the **Federal Register** and filed with the Court. Comments should be directed to Elliott M. Seiden, Chief, Transportation Section, Antitrust Division, Department of Justice, Washington, D.C. 20530 (telephone: (202) 724–6349).

Joseph H. Widmar,

Director of Operations, Antitrust Division.

United States District Court for the Western District of New York

United States of America, plaintiff, v. Niagara Frontier Tariff Bureau, Inc., defendants; Civil Action No. 83–1313C; Judge Curtin.

Filed: January 19, 1984.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

Dated: January 18, 1984.

For the Plaintiff:

J. Paul McGrath,

Assistant Attorney General.

Mark P. Leddy,

Elliott M. Seiden,

James R. Weiss.

Barbara B. Anthony,

Donna N. Kooperstein,

Priscilla R. Budeiri,

Attorneys, U.S. Department of Justice.

For the Defendants:

Bryce Rea, Jr.,

Niagara Frontier Tariff Bureau, Inc.

John W. Bryant,

Bondy Cartage Limited.

Donald F. Flexner,

Dominion-Consolidated Truck Lines Limited.

Charles L. Freed,

ICL International Carriers, Ltd.

Lester M. Bridgeman,

Inter-City Truck Lines, (Canada), Inc.

Peter Standish,

TNT Canada, Inc.

David G. Brock,

700 Liberty Bank Building, Buffalo, NY 14202.

United States District Court for the Western District of New York

United States of America, plaintiff, v. *Niagara Frontier Tariff Bureau, Inc., et al.*, defendants; Civil Action No. 83–1313C; Judge Curtin.

Filed: January 19, 1984.

Final Judgment

Plaintiff, United States of America, having filed its Complaint herein on November 18, 1983, and plaintiff and defendants, by their respective attorneys, having consented to the entry of this Final Judgment, prior to the taking of any testimony, without trial or adjudication of any issue of fact or law herein and without admission by either party with respect to any issue:

Now therefore, prior to the taking of any testimony, before adjudication of any issue of fact or law herein and upon consent of the parties hereto, it is hereby,

Ordered, adjudged, and decreed as follows:

I

This Court has jurisdiction of the subject matter of this action and of each of the parties consenting hereto. The Complaint states a claim upon which relief may be granted against each defendant under Section 1 of the Sherman Act (15 U.S.C. 1).

II

As used in this Final Judgment the term:

(A) "Announcing or announces" shall mean: (1) The issued date of an independent rate that has been filed at the ICC pursuant to 49 U.S.C. 10762(a)(1); or (2) the date of an NFTB docket bulletin that publicizes that a motor carrier intends to establish or is establishing a rate by independent action.

(B) "Commence" shall mean: to make contact with any person without first having been specifically requested by that person to make that contact.

(C) "Communications" shall mean: all forms of oral and written contact between two or more persons.

(D) "Cross-border traffic" shall mean: the transportation of freight to or from the United States from or to the Province of Ontario, Canada by any motor carrier required to file rates at the Interstate Commerce Commission pursuant to 49 U.S.C. 10762(a)(1).

(E) "Discussions" shall mean: all forms of oral contact between two or more persons.

(F) "ICC" shall mean: The Interstate Commerce Commission.

(G) "Independent action" shall mean: Any action taken by a common carrier member of a rate bureau (1) to establish a rate to be published in the appropriate rate bureau

tariff, or to cancel a rate for that carrier's account or (2) to instruct the rate bureau that an existing rate (whether established by independent action or collective action) that is proposed to be changed or cancelled be retained for that carrier's account and published in the appropriate bureau tariff or (3) to have published for its account in the appropriate rate bureau tariff a rate established by the independent action of another carrier. This definition applies regardless of the manner in which the carrier joins in the rate, as long as the rate published for the joining carrier's account is the same as the rate established by the other carrier under independent action.

(H) "Independent rate" shall mean: a rate that has been established by an NFTB member motor carrier by independent action and published in an NFTB tariff publication or a rate that has been established by any motor carrier and published in its own tariff publication.

(I) "Issued date" shall mean: the month, day, and year which appear on the first page of a tariff publication next to the word "issued."

(J) "Motor carrier" shall mean: any person authorized, pursuant to 49 U.S.C. 10922(b)(1), to provide transportation subject to the jurisdiction of the ICC as a motor common carrier of property.

(K) "NFTB" shall mean: the Niagara Frontier Tariff Bureau, Inc.

(L) "Person" shall mean: any individual, firm, partnership, association, corporation, or any other business or legal entity.

(M) "Planned independent rate" shall mean: an independent rate that has not been announced.

(N) "Predetermined" shall mean: to plan beforehand to treat a particular matter in a certain way.

(O) "Processing" shall mean: publication by the NFTB of a rate proposal for collective action or of an independent rate with advance notice.

(P) "Rate agreement" shall mean: The agreement, bylaws, and any amendments thereto, either (1) approved by the ICC pursuant to 49 U.S.C. 10706(b) or (2) submitted to the ICC for approval under 49 U.S.C. 10706(b) and pursuant to which a rate bureau has been authorized to operate pending approval by the ICC.

(Q) "Rates or rate matters" shall mean: Specific rates or rate levels or divisions of rates; allowances or charges; rules or classifications affecting or relating to rates; the formulation, development, establishment, implementation, application, or maintenance of specific rates or rate levels, or types or kinds of rates or procedures or policies pertaining thereto.

(R) "Rage committee or subcommittee" shall mean: Any group of persons that includes at least two or more motor carriers that discuss "rate matters."

III.

The provisions of this Final Judgment shall apply to the defendants and to each of their respective subsidiaries, successors, assigns, officers, directors, employees, and agents and to all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

IV

Each motor carrier defendant, at least 60 days prior to the transfer, sale of disposition of all, or substantially all, of the assets used by it as a motor carrier, shall provide notice in writing to the Assistant Attorney General in charge of the Antitrust Division concerning the planned transfer, sale or disposition. The notice shall identify the person(s) acquiring such assets, the terms, and the expected consummation date of the transaction.

V

Prior to announcing an independent rate, each motor carrier defendant is enjoined and restrained from communicating with any other motor carrier or the NFTB that it is considering, contemplating or planning to establish an independent rate; if any defendant learns about any motor carrier's planned independent rate, said defendant is enjoined and restrained from communicating with any motor carrier or the NFTB about the planned independent rate of which it has become aware, except that the defendants may engage in the communications authorized by section XI(A) of this decree. Each motor carrier defendant is further enjoined and restrained from suggesting to or inviting any other motor carrier to file a rate by independent action.

VI

For a period of five years from the date of entry of this Final Judgment:

(A) Whenever any motor carrier announces an independent rate on cross-border traffic that is a reduction below the corresponding, collectively established NFTB rate.

(1) Each defendant, for a period of 90 days following the issued date of the independent rate, is enjoined and restrained from discussing the independent rate with any other motor carrier, except that discussions concerning lowering by collective action the corresponding NFTB rate to an amount not lower than the independent rate may take place within an authorized rate committee or subcommittee meeting after the issued date of the independent rate, and the defendants may engage in the communications authorized by section XI(A) of this Final Judgment, and

(2) Defendant NFTB, for a period of 90 days following the issued date of such independent rate, is enjoined and restrained from processing a motor carrier's rate proposal for collective action, or advance docketing for independent action, reductions of the corresponding NFTB rate(s) to an amount that is known or should be known by defendant NFTB to be below the lower of the specific amount that was established (a) by such independent rate or (b) any other corresponding independent rate; if defendant NFTB receives a rate proposal or an independent action for advance docketing which contains reductions in rates prohibited by this section VI(A)(2), defendant NFTB may communicate with the proponent of the rate proposal or the independent action for the purpose of informing said proponent that its rate reduction is prohibited by this section of this Final Judgment.

(B) Whenever any motor carrier defendant dockets a rate reduction on any NFTB rate for collective action, a responsible official for said defendant must prepare and file with the NFTB a sworn affidavit in the form attached certifying that:

(1) Said defendant has not communicated with any motor carrier outside of authorized rate bureau meetings concerning said rate; and

(2) The proposed rate reduction has not been conceived, designed, proposed or docketed for the purpose of inducing any motor carrier to raise any independently established rate.

(C) Defendant NFTB is enjoined and restrained from processing any proposals for collective rate reductions from any of the motor carrier defendants that are not accompanied by the sworn affidavit described in section VI(B). Defendant NFTB must maintain said affidavits for a period of five years and said affidavits must be made available to the Department of Justice upon written request of the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice.

(D) Each motor carrier defendant is enjoined and restrained from suggesting to or inviting any other person to file a proposal for collective action which it knows could not be processed by defendant NFTB pursuant to section VI(A)(2) of this Final Judgment if filed by a motor carrier; each defendant motor carrier is further enjoined from suggesting to or inviting a non-defendant motor carrier to submit to the NFTB a rate proposal for collective action for the purpose of inducing any other motor carrier to raise any independently established rate.

VII

Each defendant is enjoined and restrained from harassing, discouraging, coercing, or threatening in any way any motor carrier to withdraw, forbear from filing, or modify in any way said carrier's planned or actual independent rates.

VIII

Each defendant motor carrier is enjoined and restrained from combining or conspiring with any other motor carrier to develop, adopt or maintain, and further, defendant NFTB is enjoined from developing, adopting, or maintaining:

(A) Any predetermined policy, plan or program to respond in any specified way to rates established independently by a member or by a non-member motor carrier; and

(B) Any predetermined policy, plan or program to reconsider automatically a general rate increase when a member flags any portion of a general rate increase.

IX

Each defendant motor carrier is enjoined and restrained from combining or conspiring with any other motor carrier to:

(A) Refrain from exercising the right to take independent action, except that when an authorized ratemaking body of a rate bureau with a rate agreement votes to approve or disapprove a particular rate proposal, the collective decision on the proposal shall not be deemed to constitute a combination or

conspiracy within the meaning of subsection (A) of this section IX;

(B) Refrain from soliciting any motor carrier's customer(s);

(C) Change or refrain from changing any rates on the condition that (1) a shipper promises not to negotiate with any other motor carrier(s) for lower rates, or (2) a shipper promises not to purchase transportation services at lower rates or from particular motor carrier(s);

(D) Refrain from offering any kind of class or category of transportation service, except that when an authorized ratemaking body of a rate bureau with a rate agreement votes to approve or disapprove a particular rate proposal, the collective decision on the proposal shall not be deemed to constitute a combination or conspiracy, within the meaning of subsection (D) of this section IX;

(E) Refrain from establishing certain types of rates, except that when an authorized ratemaking body of a rate bureau with a rate agreement votes to approve or disapprove a particular rate proposal, the collective decision on the proposal shall not be deemed to constitute a combination or conspiracy, within the meaning of subsection (E) of this section IX;

(F) Prevent an NFTB member motor carrier from filing a proposal for a reduced rate on traffic that that member motor carrier has not carried, except that when the authorized ratemaking body of a rate bureau with a rate agreement votes to approve or disapprove a particular rate proposal, the collective decision on the proposal shall not be deemed to constitute a combination or conspiracy within the meaning of subsection (F) of this section IX.

X

Defendant NFTB is enjoined and restrained from:

(A) Negotiating or allowing any of its rate committees or subcommittees to negotiate, for a particular level of NFTB rates on the condition that (1) a shipper promise not to negotiate with any motor carriers for lower rates, or (2) a shipper promises not to purchase transportation services at lower rates or from particular motor carriers;

(B) Preventing or allowing any of its rates committees or subcommittees to prevent, an NFTB member carrier from filing a proposal for a reduced rate on traffic that that member motor carrier has not carried, except that when any authorized NFTB rate committee or subcommittee votes to approve or disapprove a particular proposal, the collective decision on the proposal shall not be deemed to constitute preventing the filing of a proposal within the meaning of subsection (B) of this section X;

(C) Refraining or allowing any of its rate committees or subcommittees to refrain from establishing certain types of rates, except that when any authorized NFTB rate committee or subcommittee votes to approve or disapprove a particular rate proposal, the collective decision on the proposal shall not be deemed to constitute a decision to refrain from establishing certain types of rates within the meaning of subsection (C) of this section X; and

(D) Permitting or allowing any employee of NFTB, in any way, to interfere with, control or direct any action taken or to be taken by any NFTB rate committee or subcommittee.

XI

Defendant NFTB is enjoined and restrained from allowing its staff to:

(A) Commence any communication with a member carrier that has directed the NFTB to publish an independent action for the member carrier's account with respect to that independent action, except that the NFTB staff may commence communications with such a member for the purpose of clarifying technical matters to facilitate publication of the independent action, provided, however, that defendant NFTB must maintain a log of each such communication which shall include the date, time, the names of the persons involved in such communication, the length of time of the communication, and the matters discussed, including the specific technical matter or inquiry that constituted the purpose of the communication;

(B) Take a position that any rate be docketed as a proposal, initiate tariff proposals, docket tariff proposals, or take a position on or determine whether to adopt, reject, or otherwise dispose of tariff proposals, except that the NFTB staff may process members' rate proposals, and, upon request, may perform the analysis and offer the advice that will enable the proponent of a rate change to docket the proposal, and upon request, may gather and present to the rate committees or subcommittees that will consider proposals and to other interested carriers and shippers factual information relating thereto, provided, however, that such presentations shall not include any expressions of opinion or make any recommendations;

(C) Initiate or develop any collective response by or among NFTB members to rate proposals or independent rates, except that the NFTB staff may process members' rate proposals, and upon request, may perform the analysis and offer the advice that will enable the proponent of a rate change to docket the proposal, and upon request, may gather and present to the rate committees or subcommittees that will consider proposals and to other interested carriers and shippers factual information relating thereto, provided, however, that such presentations shall not include any expressions of opinion or make any recommendations; and

(D) Handle or publish independent actions in any way other than that which is explicitly described in the NFTB rate agreement.

XII

Each motor carrier defendant is enjoined and restrained from engaging in any communications relating to rate matters with any motor carrier, and defendant NFTB is enjoined and restrained from engaging in any discussions relating to rate matters with two or more motor carriers, unless such communications and discussions take place within an authorized ratemaking body of a rate bureau with a rate agreement. In the NFTB such discussions and communications must take place within a rate committee or subcommittee that is explicitly authorized to consider rate matters; if, however, the NFTB's general rate committee is authorized to create subcommittees pursuant to the NFTB rate agreement that has been filed with the ICC, the defendants may discuss rate matters in such subcommittees in conformity with this section, provided that said subcommittees are created by resolution adopted by the NFTB general rate committee, which explicitly describes such subcommittee and the nature of the rate matters they consider.

XIII

For a period of 5 years from the date of entry of this decree, defendant NFTB must tape record every meeting of any NFTB rate committee or subcommittee that is authorized to consider rate matters in conformity with section XII of this Final Judgment, and said tapes must be maintained for a period of 5 years. Defendant NFTB must make the tapes available to the Department of Justice upon written request of the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice.

XIV

No provision of this decree prohibits communications or agreements between a defendant and any other motor carrier or carriers, including another defendant, for the sole purpose of achieving interline operations or interline rates.

XV

The mere announcing or establishing of an independant rate with no advance notice shall not be deemed to constitute conduct prohibited by sections V, VI or VII of this Final Judgment.

XVI

No provision of this decree shall prohibit the NFTB staff, upon request of any NFTB rate committee or subcommittee member of members, from gathering and presenting to the general rate committee or subcommittee factual information to enable the development of proposals for the simplification of tariffs, the removal of obsolete items from tariffs, general increases or decreases in rates, broad changes in tariff structures or rates, or changes in rules or regulations of substantially general application provided, however, that any such presentations shall not include any expressions of opinion or make any recommendations.

XVII

This Final Judgment applies only to rates or rate matters for the transportation of freight that originates or terminates in the United States, whether by single line or joint line movement.

Each defendant is ordered and directed:

(A) To mail or otherwise furnish within sixty (60) days after the entry of this Final Judgment a copy thereof to each of (1) its officers and directors, (2) its agents and employees with supervisory or management responsibility, or with responsibility over rates or rate matters, and (3) the officers and directors of its parent and subsidiary corporations and within seventy (70) days from the aforesaid date of entry to file with the Clerk of this Court and the plaintiff an

affidavit setting forth the fact and manner of compliance with this section XVIII(A);

(B) To establish a reasonable program for dissemination of, education as to, and compliance with this Final Judgment, involving each corporate officer, director, employee and agent having responsibilities in connection with or authority over the establishment of rates or rate matters, advising them of their obligations under this Final Judgment. This program shall include, but is not necessarily limited to the inclusion, in an appropriate company manual or internal memorandum, a copy of this Final Judgment in whole or in part or an explanation thereof, and a statement of corporate compliance policy thereunder; and

(C) To furnish to plaintiff within one hundred and twenty (120) days of the entry of this Final Judgment, and thereafter upon request by plaintiff, on or about the anniversary date of this Final Judgment for a period of five (5) consecutive years from the date of its entry, an account of all steps said defendant has taken during the preceding year to discharge its obligations under subsections (A) and (B) of this section XVIII and to include with said account copies of all written directives issued during the prior year with respect to compliance with the terms of this Final Judgment.

XIX

(A) For the purpose of determining or securing compliance with this Final Judgment:

(1) Upon receipt of a written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, each defendant shall, on reasonable notice and subject to any legally recognized privilege:

(a) Permit duly authorized representatives of the Department of the Justice access, during the office hours of such defendant, to inspect and copy all United States-located books, ledgers, accounts, correspondence, memoranda, records and documents in the possession or in the control of the defendant relating to any of the matters covered by this Final Judgment;

(b) Provide within sixty (60) days to the Department of Justice in Washington, D.C., copies of any books, ledgers, accounts, correspondence, memoranda, and other documents or records in the possession or under the control of such defendant relating to any subjects covered by this Final Judgment;

(c) Submit written reports, under oath if requested, wtih respect to its compliance with this Final Judgment as may, from time to time, be requested; and

(d) Permit any duly authorized representative of the Department of Justice, subject to the reasonable convenience of each defendant and without restraint or interference from it, to interview officers, employees and agents of such defendant, who may have counsel present, regarding any subject covered by this Final Judgment. Such request and notice may be made by delivery to the person appointed pursuant to section XX of this Final Judgment to receive service of process on behalf of each defendant.

(e) Nothing in this section XIX(A) shall require any defendant to take any action in Canada which is prohibited by the government of Canada or any provincial government pursuant to provisions of Canadian or provincial law, provided that said defendant has exercised good faith efforts to obtain permission of the appropriate person or governmental authority and such permission has not been secured.

(B) No information or document obtained by the means provided in this section XIX shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law, provided however, any representative of the Department of Justice may divulge to the Office of Compliance and Consumer Assistance of the ICC the existence of any practice which is discovered by the means described in this section XIX and which is believed to violate any of the provisions of the Interstate Commerce Act.

(C) If at the time information or documents are furnished by a defendant to plaintiff, such defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and said defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then 10 days notice shall be given by plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which that defendant is not a party.

XX

Each defendant shall appoint a person located in the United States as its agent for service of process in any proceeding for the purpose of the construction, implementation, modification, enforcement of compliance, or punishment of any violation of this Final Judgment. Each defendant shall maintain such agent for the life of this Final Judgment and, within ten (10) days from the date of entry of this Final Judgment, file with this Court and serve on plaintiff a statement identifying such agent. In the event of a need to appoint a successor agent, defendant shall immediately file with this Court and serve on plaintiff a statement identifying the successor agent.

XXI

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and direction as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of any violation hereof.

XXII

This Final Judgment shall exprie ten (10) years from the date of entry or, with respect to any particular provision, on any earlier date specified.

XXIII

This Court finds that the entry of this Final Judgment is in the public interest.

Dated this —— day of ———— 198—.

United States District Judge.

United States District Court for the Western District of New York

United States of America, Plantiff, v. *Niagara Frontier Tariff Bureau, Inc.,* et al., Defendants; Civil Action No. 83–1313; Judge Curtin.

Affidavit

I ————, (title), certify that, to the best of my knowledge, no officer, director, employee, or agent of my company has engaged in any communications with any other motor carrier outside of an authorized rate bureau meeting concerning the rate which is the subject of this proposal for collective consideration; and this rate reduction was not conceived or designed, and it is not being proposed or docketed, for the purpose of inducing any motor carrier to raise any independently established rate.

Notary ————————

Date:

United States District Court for the Western District of New York

United States of America, Plantiff, v. *Niagara Frontier Tariff Bureau, Inc.,* et al., Defendents; Civil Action No. 83–1313 c; Judge Curtin.

Filed: January 19, 1983.

Competitive Impact Statement

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), the United States files this competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I.—Nature and Purpose of the Proceeding

On November 18, 1983, the United States filed a civil antitrust Complaint in the United States District Court for the Western District of New York under section 4 of the Sherman Act (15 U.S.C. 4) to enjoin defendants Niagara Frontier Tariff Bureau, Inc., Bondy Cartage Limited, Dominion-Consolidated Truck Lines Limited, ICL International Carriers, Ltd., Inter-City Truck Lines (Canada) Inc., and TNT Canada, Inc.; from continuing or renewing violations of section 1 of the Sherman Act (15 U.S.C. 1). Previously, on June 10, 1983, the United States had filed substantially the same complaint against the same defendants in the United States District Court for the District of Columbia. On November 18, 1983, the United States filed a notice of voluntary dismissal of the complaint pursuant to Rule 41(a)(1)(i) of the Federal Rules of Civil Procedure. The United States refiled the instant Complaint that same day with this Court. As the government advised the District of Columbia Court, the United States dismissed and refiled the case in this district because defendants,

who had filed a motion contesting jurisdiction and venue in the District of Columbia, had stated that they would not contest jurisdiction and venue in the Western District of New York.

The defendant Niagara Frontier Tariff Bureau (NFTB) is a motor carrier rate bureau, which has a collective ratemaking agreement approved by the Interstate Commerce Commission (ICC). The other defendants are motor carriers that are members of the NFTB. The ICC-approved agreement authorizes NFTB members to set rates collectively with immunity from the antitrust laws provided they adhere to the terms of the agreement, the Interstate Commerce Act and ICC regulations.

The Complaint alleges that beginning at least as early as 1966 and continuing at least into 1981, the defendants and co-conspirators engaged in a combination and conspiracy to restrain interstate and foreign commerce. The substantial terms of the alleged combination and conspiracy were to fix, raise and maintain prices and to inhibit or eliminate competition for the transportation of freight by motor carrier between the United States and the Province of Ontario, Canada, without complying with the terms of the NFTB agreement and by otherwise engaging in conduct that either was not or could not be approved by the ICC.

The instant case was filed to achieve the following purposes: (1) To terminate the unlawful combination and conspiracy and to prevent its recurrence; (2) to prevent the perpetuation of its effects; (3) to identify and proscribe specific anticompetitive conduct that exceeds the scope of antitrust immunity provided to the defendants by the Interstate Commerce Act, 49 U.S.C. 10706(b)(2); and (4) to identify and proscribe certain practices that although not illegal themselves were used by defendants to effectuate the alleged conspiracy. Consistent with these objectives, the Complaint seeks a judgment by the Court that the defendants' conduct did not comply with the terms of the NFTB's collective ratemaking agreement, that such conduct was not immune from the operation of the antitrust laws, and that such conduct constituted a combination and conspiracy in unreasonable restraint of trade in violation of Section 1 of the Sherman Act. Additionally, the Complaint seeks an order enjoining the defendants from continuing, maintaining or renewing such activities in the future or from engaging in any conduct having a similar purpose or effect. Finally, the Complaint requests that the defendant NFTB be ordered to establish and follow rules and procedures designed to ensure that the conspiracy charged is not continued, maintained or renewed, including rules and procedures designed to ensure that the NFTB does not interfere with the right of NFTB member and non-member carriers to make rates independent of the NFTB collectively agreed-upon rates.

II.—Description of Practices Giving Rise to the Alleged Violation

The following describes the practices or events giving rise to the violation alleged in the Complaint. Included are brief description of the trade and commerce that was the subject of defendants' conspiracy, the defendants, and the defendants' alleged unlawful conduct.

A. Trade and Commerce

The trade and commerce alleged in the Complaint as the subject of defendants' conspiracy is the transportation of freight by motor carrier between the United States and the Province of Ontario, Canada. The Complaint alleges that the international traffic revenues of NFTB carriers with requisite authority to transport freight across the United States/Canadian border were at least $330.3 million in 1980 and that the defendant motor carriers and their co-conspirators accounted for most of the cross-border traffic among NFTB motor carriers.

This transportation market is shaped by licensing and other regulatory controls on both sides of the border which limit, but do not eliminate, competition. To transport freight across the U.S./Ontario border, a motor carrier must have operating authority from the ICC, in almost all cases, and must also have extra-provincial authority from the Ontario Highway Transport Board (OHTB), the Ontario governmental agency that regulates motor carrier transportation to, or from, Ontario, Canada. In addition to regulating operating authority, both the ICC and the OHTB regulate some other, but not all, aspects of motor carrier transportation. The ICC requires motor carriers transporting freight pursuant to operating authority to file, in Washington, D.C., tariffs that contain all rates for transportation, to make the tariffs available for public inspection, and to implement changes in rates only after thirty days notice to the ICC and the public, unless the ICC specifically grants permission for a shorter notice period. Although the ICC is empowered in certain circumstances to determine and prescribe just and reasonable rates for motor carriers, it does not dictate motor carriers' rates in the first instance. The OHTB also requires motor carriers to file tariffs, to adhere to the rates in the tariffs and to implement changes only after 30 days notice. The OHTB, however, does not prescribe rates.

Carriers holding ICC operating authority may form, by agreement, organizations known as rate bureaus, such as the NFTB, for the purpose of setting rates collectively. If the carriers' agreement is submitted to and approved by the ICC, the participating carriers enjoy limited immunity from the antitrust laws to fix rates collectively (49 U.S.C. 5b, currently codified at 49 U.S.C. 10706(b)(2)). The ICC requires carriers to set forth in their agreement the structure and functions of committees and the procedures by which rates are to be set. Additionally, each agreement must, by statute, reserve to each member the unfettered right to establish rates independently of the collectively fixed rates (49 U.S.C. 5b(6), currently codified at 49 U.S.C. 10706(b)(2)(E)(ii)).

The immunity granted by the ICC extends to actions taken in conformity with the approved ratemaking agreement. It does not extend to any actions that interfere with any carrier's statutory right to price independently or to any collective ratemaking conduct not authorized by the ratemaking agreement.

B. Defendants

The complaint names six defendants, the NFTB and five member motor carriers: Bondy Cartage Limited (Bondy), Dominion-Consolidated Truck Lines Limited (Dominion-Consolidated), ICL International Carriers, Ltd. (ICL), Inter-City Truck Lines (Canada), Inc. (Inter-City) and TNT Canada, Inc. (TNT).

The NFTB is a non-profit, no share incorporated motor carrier rate bureau organized and existing under the laws of the state of New York with offices in Williamsville, New York. The NFTB has authority from the ICC to engage in collective ratemaking in accordance with the terms and conditions of its ICC-approved agreement. The NFTB has immunity from the operation of the antitrust laws for the ratemaking activities described in its agreement.

The five motor carrier defendants are corporations headquartered in Canada. Each holds authority from the Ontario government to transport freight between Ontario and the United States and each has common carrier authority from the ICC. Each engages in the transportation of freight between the United States and Canada and each is a member of the NFTB.

Bondy is incorporated under the laws of the Province of Ontario, Canada and has its headquarters in Windsor, Ontario. Dominion-Consolidated, incorporated under the laws of the Province of Ontario, Canada, has its headquarters in Toronto, Ontario; it is a wholly-owned subsidiary of Dominion Consolidated Holdings Limited, also an Ontario corporation. ICL is incorporated under the laws of the Province of Ontario, Canada and is headquartered in Windsor, Ontario; it is a subsidary of Industrial Cartage Co., Inc., a Michigan corporation, which, in turn, is wholly-owned by Piggy Back Services, Inc., a Michigan corporation headquartered in Detroit, Michigan. Inter-City, incorporated under the laws of the Province of Ontario, Canada, is headquartered in Toronto, Ontario; it is a wholly-owned subsidiary of N.M. Davis Corporation Limited, an Ontario corporation. TNT is a corporation organized and existing under the federal laws of Canada with headquarters in Mississauga, Ontario; TNT is a subsidiary of All Trans Canada, Inc., an Ontario corporation which is owned by Thomas Nationwide Transport, Ltd. of Sydney, Australia.

C. The Terms of the Alleged Conspiracy

The Complaint alleges that the defendants and other co-conspirators who were not named as defendants combined and conspired to restrain interstate and foreign commerce beginning at least as early as 1966 until at least into 1981 in violation of Section 1 of the Sherman Act. The substantial terms of the alleged conspiracy were to fix, raise and maintain prices and to inhibit or eliminate competition for the transportation

of freight by motor carrier between the United States and Ontario, Canada. The Complaint alleges that the defendants and co-conspirators did not comply with the terms of the NFTB rate agreement and also engaged in conduct that either was not or could not be approved by the ICC.

As alleged in the Complaint, the defendants and co-conspirators, in furtherance of the conspiracy, engaged in the following conduct:

(1) They participated in the NFTB's Principals Committee, a group that was made up of the senior management officials of the NFTB carriers that operated between the United States and Ontario, Canada. Through the Principals Committee, the defendants and a number of co-cospirators jointly set rates and related policies and also agreed upon methods to inhibit competition. The defendants thus entered an array of agreements, established a variety of procedures and took particular actions to eliminate competitive threats from both within and without the NFTB. The Principals Committee was not in the NFTB agreement and thus was not authorized or approved by the ICC to fix rates.

(2) They set and controlled NFTB rate levels without complying with the procedural requirements of the NFTB agreement and ICC regulations. The NFTB is required under its own agreement and ICC regulations to take certain steps when it engages in collective ratemaking conduct. Those steps include public notice to all its members and interested shippers, public hearings on rate matters, and record keeping of ratemaking meetings. The defendants engaged in ratemaking conduct without complying with these procedures.

(3) They held Principals Committee meetings and other types of meetings where they planned threats, coercion and retaliation against an NFTB member carrier for establishing rates that were independent of the collectively fixed rates of the NFTB.

(4) They interfered with, restrained and restricted the statutory right of other carriers to price independently through pressure, coercion, threatening and taking retaliatory rate cuts, internal NFTB practices, and other means.

(5) They filed tariffs that were the product of their conspiratorial conduct with the ICC in Washington, D.C.

The Complaint alleges that the conspiracy had the following effects: (1) Rates for trucking services between the United States and Ontario, Canada, have been fixed, raised or maintained at artificial and non-competitive levels; (2) competition between and among the defendant motor carriers and other trucking firms in the United States-Ontario trade has been restrained; and (3) competition generally in the trucking industry between the United States and Ontario has been suppressed.

III.—Explanation of the Proposed Judgment

The United States and the defendants have stipulated that the Court may enter the proposed Final Judgment after compliance with the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h). The proposed Final Judgment provides that the entry of the Final Judgment does not constitute any evidence against or an admission by any party with respect to any issue of fact or law. Under the provisions of Section 2(e) of the Antitrust Procedures and Penalties Act, the proposed Final Judgment may not be entered until the Court determines that entry is in the public interest.

A. Prohibited Conduct

Overview

In 1948, Congress authorized motor carriers to form rate bureaus for the purpose of setting rates collectively. When Congress conferred this privilege on motor carriers, it recognized that the resultant rate bureau cartels could amass significant economic power to the detriment of the public and might engage in coercive or retaliatory rate conduct to protect that power. To forestall these possibilities, Congress included in the statutory scheme certain competitive checks for the protection of the public. One principal check is the guarantee that each member of a rate bureau has the absolute right to take independent action, that is, to set rates independent of the rate bureau's collectively set rates. 49 U.S.C. 5b(6), currently codified at 49 U.S.C. 10706(b)(2)(B)(ii); S. Rep. No. 44, 80th Cong., 1st Sess. 15 (1947). Although rate bureaus can set rates collectively, they cannot require adherence to their rates by members. Similarly, rate bureaus cannot force non-members to charge the same rates as bureau carriers. This right to price independently—unfettered by harassment or coercion—is a critical check on the economic power of rate bureau cartels; it is an important way that the shipping public can negotiate with a carrier to obtain rates lower than the collectively set level.

In addition to the right of independent action, Congress authorized the ICC to supervise the practices and procedures of rate bureaus. Congress required that motor carrier members of a rate bureau submit their ratemaking agreement to the ICC for its approval. Upon approval, the members of the rate bureau enjoy immunity from the antitrust laws to set rates collectively in accordance with the terms of their agreement and any additional terms and conditions imposed by the ICC under its continuing authority. 49 U.S.C. 5b(2), currently codified at 49 U.S.C. 10706(b)(2); *United States v. Bessemer and Lake Erie Railroad Co.*, 717 F.2d 593 (D.C. Cir. 1983).

Pursuant to its mandate, the ICC has over the years adopted a variety of rules governing rate bureau conduct. Among these are rules requiring that records be maintained of bureau meetings where rates are discussed and that public notice be given before decisions on rates are made. These rules are intended to ensure that the ICC can exercise its supervisory authority over rate bureaus and that the shipping public is aware of, and has input into ratemaking decisions. In addition to adopting procedural rules, the ICC throughout the years consistently has reinforced the right of rate bureau members to take independent action, forbidding rate bureau members and employees from discouraging independent pricing in any way.

The congressional scheme of collective rate setting thus places limits on the motor carriers' privilege to fix prices—limits that were designed to safeguard the public from monopolistic pricing. This case was brought because the defendants allegedly exceeded those limits and strengthened the economic power of their rate bureau in unauthorized ways. In substance and effect, the Complaint alleges that the defendants operated as if there were no congressionally-required competitive checks on their collective ratemaking power. Instead, the defendants allegedly treated independent action as an interference with collective ratemaking and sought, through a variety of means to deter independent rate filing and to discipline those who did file such rates. In addition, the defendants allegedly sought to evade public and regulatory scrutiny of their ratemaking conduct by not complying with notice and record keeping requirements.

Among the alleged means used by defendants to deter independent rates was the threat of collective rate cuts below independent rates, and, in some cases, the actual implementation of such cuts. In this regard, two types of rate cuts can be used to deter independent rates: (1) Collective rate cutting below the independent rate on the same commodity; and (2) collective rate cutting on a commodity not affected by the independent action. While collective rate cutting might appear to be always beneficial to the shipping public, that is not the case when the threat of rate cuts and the actual rate cuts themselves are used to discourage would-be independent actors and to discipline those who go forward with rate reductions. The end result of such activity is fewer independent actions and higher rates overall.

The proposed Final Judgment seeks to proscribe this important means of deterring independent ratemaking. At the same time, the proposed Judgement recognizes that in authorizing collective ratemaking, Congress has determined that there is an appropriate role for collective rate cutting. It thus bars strategic rate cutting, that is, collective rate cutting designed to deter independent ratemaking, while permitting collective rate cuts that are not strategic in nature, that is, reductions that are normal commercial responses to market forces within the rate bureau context. (*See* section VI (A) and (B), *infra.*)

The proposed Final Judgment also seeks to bar other means by which the rate bureau could deter independent ratemaking. It prohibits threats and other forms of coercion (*See* section VII, *infra*), and it enjoins rate bureau policies designed to undermine members' incentives to file reduced rates. (*See* section VIII, *infra.*) In addition, the proposed Judgment prohibits conduct that has the effect of eliminating the need for independent action, such as agreements among carriers not to solicit each other's traffic on the basis of price. (*See* section IX(B), *infra.*)

In regard to the other checks on collective ratemaking, the proposed Final Judgment seeks to ensure that the defendants' collective ratemaking activities take place in strict compliance with statutory and ICC procedures governing such conduct. It

accomplishes this goal in a number of ways, including requiring defendants to identify publicly all of their ratemaking committees (*See* section XII, *infra*); to tape record meetings of such committees (*See* section XIII, *infra*); and to prohibit all collective ratemaking discussion and agreements except in such committees (*See* section XII, *infra*). In sum, as described section by section below, the proposed Final Judgment parallels the objectives for filing the instant case and seeks to define clearly the limits of the defendants' rate bureau activities and to ensure that the defendants strictly adhere to those limits.

Section V

Section V of the proposed Judgment prohibits each motor carrier defendant from communicating with other carriers or the NFTB about either its own or any other carrier's planned independent rates before such rates are announced or made known to the public. This section also prohibits defendant NFTB from communicating with any motor carrier about its planned independent rate; the NFTB staff may, however, communicate with a member motor carrier that has submitted an independent action to the NFTB for the purpose of clarifying technical matters to facilitate publication of the independent action. The section further enjoins each motor carrier defendant from suggesting to or inviting any other motor carrier to file an independent rate.

Section V is intended to (1) Prevent any defendant from filing or arranging for the filing of an independent rate that is the product of collective decision-making, and (2) eliminate the possibility of any defendant trying to persuade any carrier to change its planned independent pricing decisions. Section V is not intended, however, to prohibit a defendant motor carrier from communicating with the NFTB for the purpose of obtaining factual information or technical advice that will enable the defendant motor carrier to decide whether to file an independent rate as long as the defendant carrier does not divulge its intention to establish an independent rate. Similarly, this section does not bar defendant NFTB from providing such factual or technical information to any requesting member carrier as long as defendant NFTB does not discuss the planned independent rate itself; after an independent rate has actually been submitted by a carrier, the NFTB staff may, if necessary, contact the carrier to obtain clarification of technical matters as provided by Section XI(A) of the Final Judgment.

The terms "announces" and "independent rate" are defined in Section II of the Final Judgment.

Section VI

Section VI seeks to prevent the defendants from planning or establishing strategic, collective rate reductions to discourage competitors' independent pricing decisions. This goal is accomplished by enjoining the defendants from discussing independent rates, taking collective rate cuts below independent rates and establishing any collective reduction that is designed to interfere with or discourage independent rates. While some of the conduct enjoined by Section VI is not necessarily by itself violative of the antitrust laws, it must nevertheless be prohibited, since it was allegedly among the primary means used by the defendants to eliminate and inhibit competition. Failure to enjoin these activities might facilitate perpetuation of the effects of the alleged illegal conspiracy.

Under section VI(A)(1), after any motor carrier makes public an independent rate on cross-border traffic that is below a corresponding, collectively set NFTB rate, each defendant is prohibited for a 90-day period following the issued date of the independent rate, from discussing the independent rate with any motor carrier, except that the defendants may discuss in an authorized rate bureau committee meeting establishing rates that match the independent rate. Thus, for a 90-day period the defendants may not discuss the independent rate except in terms of matching it, and that discussion may occur only at an authorized rate committee (or subcommittee) meeting the proceedings of which must be tape recorded. (*See* sections XII and XIII, *infra*.) Since subsection (A)(1) applies to the NFTB as well as the motor carrier defendants, the NFTB as a rate bureau is enjoined from engaging in the prohibited discussions. The NFTB staff, however, may contact a member that has submitted an independent rate for the purpose of clarifying technical matters to enable the NFTB to publish the rate.

Thus, subsection (A)(1) is intended to prevent opportunities for planning and coordinating collective rate reductions either on the same or on different commodities that could discourage or interfere with a carrier's independent pricing decisions. Subsection (A)(1) accomplishes this objective because it prohibits, for 90 days after an independent rate is announced, all collective discussions about the independent rate except for discussions to collectively match it. Discussions about matching are permitted because a carrier reducing its rates should reasonably expect its competitors in a rate bureau will do the same to protect their own market shares. Thus, the collective matching by competitors can be anticipated and planned for by the independent pricing carrier.

On the other hand, collective reductions below an independent rate are not reductions that a carrier pricing independently could reasonably anticipate since, in general, such reductions are not necessary to protect market share. Rather, collective rate cutting in these circumstances could well be used to discourage and interfere with independent pricing decisions of competitors. Faced with collective undercutting, the carrier that initially reduced rates independently would have to decide whether to reduce its rates further, perhaps to a non-compensatory level, or to negotiate with the bureau in order to get the bureau to raise its rates. In such circumstances, the independent carrier may have to promise to go along with future, collectively set rates. Thus, strategic, collective rate reductions can be used to discourage independent pricing and to interfere with carriers that are trying to establish and maintain independent rates that are lower than the collectively set level. For these reasons, subsection (A)(1) prohibits discussions where such plans or strategies to retaliate against an independent rate could be devised.

For 90 days after the issuance of an independent rate, section VI(A)(2) prohibits the NFTB from processing motor carriers' collective rate proposals or advance notice independent actions that would reduce NFTB rates below either the specific independent rate or any other corresponding, independent rate, whichever is lower. Under subsubsection (A)(2), the NFTB may contact a motor carrier that has submitted such a proposal or an advance notice independent action for the purpose of informing the carrier that the rate submitted to the NFTB is prohibited by the Final Judgment. Section VI(A)(2)'s ban on processing applies to proposals submitted by non-defendant member carriers, as well as by defendants. The section however, does not prohibit the defendants or other NFTB member carriers from collectively establishing rates that match those of an independent actor. Further, it does not prohibit an individual carrier from adopting any rate it chooses by a no notice independent action, that is an independent action in which other member carriers are not given an opportunity by the rate bureau to have the same rate published for their account with the same effective date.

Ninety days after the announcement of an independent rate, sections VI(A)(1) and (2) will no longer bar the defendants from discussing or taking collective reductions below the lower of either the specific independent rate of any other corresponding, independent rate. We believe a 90-day period is adequate to insure that the collective power of the rate bureau is not used against an independent actor. Even after the 90-day period, however, section VII of the proposed Final Judgment, *infra*, will continue to prohibit the defendants from targeting independent rates for strategic, collective ratemaking that would discourage or interfere with independent ratemaking by another motor carrier.

Subsection (B) requires that whenever a motor carrier defendant submits a rate to the NFTB for collective action, the carrier must certify that: (1) It has not communicated with other carriers outside of authorized rate bureau meetings concerning the rate; (2) the proposed rate reduction has not been conceived or docketed to induce any carrier to raise any independent rate. Subsection (C) prohibits defendant NFTB from processing any proposal for a collective rate reduction from any of the motor carrier defendants that is not accompanied by the required certification. Subsection (D) prohibits each motor carrier defendant from suggesting to or inviting any person, including a shipper, to file a rate reduction proposal for collective action that the defendant knows could not be processed by defendant NFTB under section VI(A)(2). Subsection (D) also prohibits each motor carrier defendant from suggesting to or inviting a non-defendant motor carrier to submit a rate proposal to NFTB for the

purpose of inducing any other carrier to raise its independent rates.

Subsections (B), (C), and (D) are intended to eliminate remaining opportunities for the planning or setting of rate reductions to discourage independent pricing decisions. Subsection (B) requires that the motor carrier defendants affirm that their collective ratemaking behavior is non-strategic, i.e., that it is not designed to induce any other carrier to raise an independent rate. As explained *supra*, the proposed Final Judgment seeks to bar two types of strategic, collective rate cutting in response to an independent rate: (1) Collective reductions below the same independent rate, and (2) collective reductions on other commodities or in other geographic areas. The first type of strategic collective cuts, i.e., undercutting on the same rate, is expressly barred by subsection (A)(2). It is not possible, however, to have a similar express bar against "off commodity" rate cutting because it is extraordinarily difficult, absent evidence other than the rates themselves, to distinguish "off commodity" collective rate cuts taken for nonstrategic, commercial reasons from those taken in retaliation for an independent rate. The certification requirement of subsection (B) is intended to address the issue of "off-commodity" rate cuts. It means that a defendant motor carrier will be unable without lying under oath to submit to the NFTB a strategic rate cut for collective action. (No attempt is made to address "strategic" rate cuts by individual firms since, as discussed *supra*, anticompetitive pricing in the motor carrier industry by single firms is neither empirically observable nor theoretically forseeable.) Both subsections (B) and (C) place on the defendants themselves the burden of policing their own conduct to prevent strategic, collective ratecutting behavior.

Subsection (D) proscribes conduct that if not otherwise prohibited might permit the defendant carriers to accomplish indirectly, through non-defendants, that which they are prohibited from doing directly. The first part of subsection (D) is intended to prevent the defendant carriers from suggesting to other persons, particularly shippers, that such persons file proposals that the NFTB could not process if filed by a motor carrier. Since subsection (A)(2) does not prevent the NFTB from processing shippers' proposals that would establish rates below those of the lowest independent action, subsection (D) is intended to insure that any such shipper proposals are in fact generated by shippers and are not a means of avoiding the prohibitions in subsection (A)(2). The second part of subsection (D) is aimed at preventing the motor carrier defendants from suggesting to or inviting non-defendant carriers to submit proposals for strategic, collective rate reductions that the defendant carriers themselves cannot submit under the certification requirement of section VI(B)(2).

The prohibitions and requirements of section VI cover a five-year period. The terms "issued date" and "cross-border traffic" are defined in section II of the Final Judgment.

Section VII

Section VII enjoins each defendants from interfering with any carrier's planned or actual independent rates. Specifically, it prohibits the defendants from harassing, discouraging, coercing, or threatening any motor carrier to withdraw, forbear from filing or modify in any way its planned or actual independent rates. This section mirrors existing statutory and case law which prohibits interference and coercion with respect to independent ratemaking within the context of immunized ratemaking agreements. This section is intended to preclude all types of harassment, discouragement and coercion, including oral and written threats, retaliatory rate conduct and the destruction of property.

Section VIII

Section VIII is intended to eliminate alleged past practices among the defendants that discouraged independent ratemaking and to bar prospectively the formulation of the same or different practices concerning independent rates and general rate increases that would discourage independent ratemaking.

Section VIII(A) prohibits the defendants from developing, adopting, or maintaining any predetermined policy to respond in any specified way to independently established rates. The reason for the prohibition is that the mere knowledge by a carrier of such a policy may be sufficient to dissuade it from engaging in independent rate conduct. Section VIII(B) enjoins the defendants from reconsidering automatically general rate increases whenever an NFTB carrier flags out of any portion of a general rate increase. A policy to withdraw a general rate increase automatically upon a flag-out reduces a carrier's incentive to flag out of any portion of the general rate increase in the first place and thus discourages independent ratemaking.

Section VIII bars the motor carrier defendants from joining with other carriers in establishing the prohibited policies but does not prohibit them from establishing such policies unilaterally. The NFTB as a rate bureau, however, is enjoined from engaging in the prohibited conduct.

Section IX

Section IX is intended to prohibit certain collaborative conduct among the defendant motor carriers that exceeds the scope of an ICC-approved ratemaking agreement and discourages independent actions.

Subsection (A) enjoins the defendant motor carriers from joining other carriers in an agreement not to take independent action. This provision makes clear, however, that authorized rate bureau decisions to approve or disapprove rate proposals do not constitute an agreement not to take independent action. Subsection (B) prohibits the carrier defendants from combining with other carriers to agree not to solicit the customers of any carrier. In subsection (C), the defendant carriers are barred from agreeing to provide shippers with certain rates in exchange for a shipper's promise not to negotiate with any other carriers or not to purchase transportation services at lower rates or from particular carriers. Subsection (C) does not bar the defendant carriers from unilaterally entering such arrangements with shippers; it simply bars agreements between two or more carriers and a shipper.

Subsection (D) prohibits the defendant carriers from agreeing not to offer any particular kind, type, class or category of transportation service. For example, subsection (D) would enjoin the defendants from agreeing to refrain from offering freight forwarder or consolidation services to shippers.

Subsection (E) bars the carrier defendants from agreeing not to establish certain kinds of rates. For example, subsection (E) would prohibit the defendants from agreeing not to establish freight-all-kinds rates.

Subsection (F) prohibits the carrier defendants from agreeing to prevent an NFTB member carrier from filing a rate proposal on traffic that the member has not already carried. This subsection is intended to reach all manner of conduct that could prevent a member from filing the rate proposal, including the physical destruction of rate proposals and oral or written communications to dissuade such filing.

Subsections (D), (E), and (F) make clear, however, that authorized rate bureau decisions that disapprove or approve rate proposals do not constitute the type of agreement prohibited by the subsections.

Section X

Section X enjoins the NFTB from engaging in or allowing its rate committees or staff to engage in particular types of conduct, most of which is outside of the scope of the NFTB's approved rate agreement.

Subsection (A) enjoins the NFTB from negotiating, or allowing any of its rate committees to negotiate, with a shipper for a particular level of NFTB rates on the condition that the shipper promise (1) not to negotiate with motor carriers for lower rates or (2) not to purchase transportation services at lower rates or from certain motor carriers. This subsection mirrors section IX(C), *supra*, and is intended to bar the NFTB from negotiating or entering into such an arrangement with shipper(s).

Subsection (B) prohibits the NFTB from preventing, or allowing any of it rate committees to prevent, an NFTB member carrier from submitting a rate proposal on traffic that the member has not carried. This subsection mirrors section IX(F), *supra*, and would prohibit the NFTB from allowing its general rate committee members to agree not to file proposals on traffic unless such members had been carrying the traffic for a certain period of time.

Subsection (C) in section X mirrors section IX(E), *supra*, and enjoins the NFTB and its rate committees from refusing to establish certain types of rates. This subsection would prohibit, for example, an authorized NFTB rate committee or subcommittee from agreeing not to establish freight-all-kinds rates, commodity column rates, or discount tariffs.

Subsections (B) and (C) make clear that when an authorized NFTB rate committee or subcommittee votes to approve or disapprove a particular proposal, the collective decision on the proposal does not constitute the prohibited conduct.

Subsection (D) enjoins the NFTB from permitting or allowing any of its employees to interfere with, control or direct any action taken or to be taken by any NFTB rate committee or subcommittee. The purpose of subsection (D) is to ensure that control or direction of the ratemaking activities of the NFTB member carriers rests with the carriers, not the NFTB staff.

Section XI

Section XI imposes certain restrictions on the NFTB's staff with respect to communications about and the handling of independent actions and the role of the staff in the initiation, development and disposition of NFTB rate proposals. The purpose of section XI is to limit the opportunities for the NFTB staff to involve itself in or influence the ratemaking process.

Subsection (A) enjoins the NFTB from allowing its staff to commence communications with an NFTB member that has submitted an independent action. This provision is intended to prevent NFTB employees from recommending that a member withdraw or change in any way its independent action or resubmit the independent action as a rate proposal. Subsection (A) permits the NFTB staff, however, to commence communication with such a member for the purpose of clarifying technical matters to facilitate publication of the independent action by the NFTB. This exception applies to situations where the NFTB staff is unable to publish the independent action because of substantive omissions or irreconcilable inconsistencies contained in the member carrier's instructions to the NFTB. As a further safeguard, this provision requires the NFTB staff to maintain a detailed log of each such communication.

Subsection (B) enjoins the NFTB from permitting its staff to take a position on whether a particular rate should be docketed or to initiate, docket or take a position on docketed proposals. This subsection is intended to remove the NFTB staff from any substantive involvement in the ratemaking process. The provision, however, permits the NFTB staff to provide NFTB members with its technical expertise. The NFTB staff may process members' rate proposals, and, upon request, may analyze and give advice to members to enable the members to docket their rate proposals. The NFTB staff may also, upon request of NFTB members, collect and present to rate committees and other interested parties, factual information related to rate proposals, although NFTB staff presentations may not include expressions of opinion or recommendations.

Subsection (C) enjoins the NFTB from allowing its staff to initiate or develop a collective response among NFTB members to any carrier's rates. This provision is intended to reach conduct such as the NFTB staff initiating a survey among members concerning how the NFTB can respond to a carrier's independent rates. It is the intent of this subsection that the carriers, not NFTB employees, initiate or develop responses to rates. Subsection (C) permits the NFTB staff to provide members with their technical expertise to the same extent and with the same restrictions as are contained in section XI(B).

Subsection (D) prohibits the NFTB from allowing its staff to handle or publish independent actions in any way other than the way that is explicitly described in the NFTB rate agreement. This provision is intended to eliminate any discretion by NFTB staff with respect to the way independent actions are handled or published. For example, if the NFTB agreement provides that carriers wishing to join an independent action must affirmatively indicate their intentions by flagging into the independent action, the NFTB staff may not use a procedure whereby all carriers are automatically included in an independent action and those carriers wishing to be excluded are required to indicate their intentions by flagging-out of the independent action.

Section XII

Section XII is intended to limit communications and discussions of rate matters to official rate bureau committees. This provision is intended to reach all rate matters about which the defendant carriers may communicate. In that regard, each of the defendant motor carriers is enjoined from communicating about non-NFTB rate matters with other carriers unless such communications take place in an authorized ratemaking body of an ICC-approved rate bureau. Defendant NFTB is similarly enjoined whenever it engages in discussions about rate matters with two or more carriers.

When the defendants communicate about rates in the NFTB, they must do so within (1) an NFTB rate committee that is explicitly authorized to consider rate matters in the NFTB agreement, or (2) an NFTB subcommittee created by an NFTB general rate committee resolution that explicitly describes the subcommittee and the nature of the rate matters it considers.

The terms "communications," "discussions," and "rate matters" are defined in section II of the proposed Final Judgment.

Section XIII

Section XIII requires that for a five year period, the NFTB tape record every meeting of any NFTB rate committee or subcommittee that is authorized to consider rates or rate matters in conformity with section XII. This provision imposes a recording requirement that is broader than existing ICC regulations on record keeping of rate committee meetings. As set forth in the Complaint, the lack of accurate record keeping at NFTB meetings during the period covered by the Complaint was one of the means used by defendants to further the alleged illegal conspiracy. Thus, this provision is intended to insure that the most accurate record possible be made of NFTB rate committee or subcommittee meetings. Defendant NFTB is required to maintain the tapes for a period of five years and must make them available to the Justice Department upon written request.

B. Permissible Business Transactions

Section XIV

Section XIV of the proposed Final Judgment makes clear that the Judgment would not prohibit communications or agreements between a defendant and another carrier for the sole purpose of achieving interline operations or interline rates. Interline operations involve an exchange of equipment and/or freight between two or more connecting carriers. It is a means by which carriers can serve points for which they do not possess the requisite operating authority from the respective regulatory agencies or for which they do not ordinarily offer direct service themselves. The relationship is thus end-to-end or vertical in nature and does not involve parallel or horizontal competition.

Section XV

Section XV makes clear that the mere announcing or establishing of an independent rate with no advance notice does not constitute a communication, discussion, or other conduct prohibited by sections V, VI, or VII of the Judgment. As we explained, *supra*, the Final Judgment places no impediments on such pricing.

Section XVI

Section XVI makes clear that the proposed Final Judgment would not prohibit the NFTB staff from carrying on the legitimate business of the NFTB. This section provides that upon request of any rate committee or subcommittee member, it is permissible for the NFTB staff to collect and present factual information to the general rate committee or subcommittee that will enable the committee to develop proposals for (1) the simplification of tariffs, (2) the removal of obsolete tariff items, (3) general rate increases or decreases, (4) broad changes in tariff structure, or (5) changes in general rules or regulations. Under this section, however, the NFTB staff is barred from expressing opinions or making recommendations in any of its presentations to the general rate committee or subcommittee.

Section XVII

Section XVII makes clear that the proposed Final Judgment applies only to rates or rate matters for the transportation of freight that originates or terminates in the United States. This section means that the proposed Final Judgment would not apply, for example, to rates or rate matters for the transportation of freight that originates and terminates wholly within Canada.

C. Affirmative Obligations

Sections IV, XVIII, and XIX(A) and XX of the proposed Final Judgment impose a number of affirmative obligations upon the defendants. Section IV requires that each motor carrier defendant give at least 60 days notice to the Antitrust Division of any plans to sell or transfer its assets as a motor carrier. The purpose of this section is to ensure that the plaintiff will have notice of any such planned transaction so that the government can take appropriate action to protect its interests in securing compliance with this Judgment.

Section IV is different from provisions routinely included in other final judgments concerning the sale or disposition of a defendant's assets. Usually, a defendant is

enjoined from selling or disposing of assets unless the buyer agrees as a condition of the transaction to be bound by the final judgment. In the instant case, most of the defendants' assets are located in Canada, thereby presenting unique issues of jurisdiction and comity. For this reason, section IV imposes a notice requirement so that the government can take whatever action would be appropriate at the time to protect its interest.

Section XVIII(A) requires each defendant within 60 days of the date of the Final Judgment to furnish a copy of the Judgment to each of its (1) officers and directors, (2) agents and employees who are supervisors or managers or who have responsibility over rates or rate matters, and (3) the officers and directors of its parent and subsidiary corporations. Within 70 days of the date this Final Judgment is entered, each defendant must certify to the Clerk of the Court that it has complied with Section XVIII(A).

Section XVIII(B) requires the defendants to initiate a compliance program for their respective employees.

Section XVIII(C) requires each of the defendants to furnish the government periodically with an account of all steps taken by each defendant to fulfill its obligations under sections XVIII (A) and (B). The first accounting must be made within 120 days from the entry date of the Judgment. Thereafter, the accountings must be made annually for a period of 5 years.

Section XIX(A)(1)(a) places an obligation on each defendant to cooperate with the plantiff's efforts to monitor compliance with the proposed Judgment. The defendants must permit duly authorized representatives of the Department of Justice access to inspect and copy documents in the United States-located offices and terminals of each defendant. Further, upon 60 days notice, under section XIX(A)(1)(b) the defendants must provide to the Department of Justice copies of documents in their possession or under their control that relate to the subjects covered by this proposed Judgment. This requirement is not restricted to United States-located documents.

Under section XIX(A)(1)(c), each defendant must provide written reports, under oath, if requested, with respect to compliance matters. Section XIX(A)(1)(d) requires that each defendant permit the Department of Justice to interview its officers, employees, and agents regarding subjects covered by the Judgment.

Section XIX(A)(1)(e) makes clear that nothing in sections XIX(A)(1)(a)–(d) requires any defendant to violate Canadian federal or provincial law. This section imposes a requirement on each defendant that it try in good faith to obtain permission to engage in the conduct that it believes is prohibited by foreign law.

Section XX

Under section XX, each defendant must appoint an agent (and successor agents if needed) for service of process in any proceeding related to this Final Judgment.

D. Obligations of the United States

Section XXI(B)

Under section XIX(B), the Department of Justice is barred from divulging information obtained under section XIX(A) to anyone except a duly authorized representative of the Executive Branch of the United States government. Such disclosure is not barred, however, in any legal proceeding to which the United States is a party or for the purpose of securing compliance with the Final Judgment or as otherwise provided by law. Under this section, the Department of Justice may also disclose practices that it believes violate the Interstate Commerce Act to the Office of Compliance and Consumer Assistance of the ICC.

Section XIX(C)

Under section XIX(C) each defendant may assert a claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure when such defendant provides to the Justice Department information or documents required under the compliance provisions of the Final Judgment. If any defendant asserts such a claim, the plaintiff will provide the defendant with 10 days notice prior to disclosing such material.

B. Scope of the Proposed Judgment

Duration of the Judgment—Section XXII

Except as otherwise provided, the proposed Final Judgment will remain in effect for a period of ten (10) years from the date of entry. Time prohibitions for less than the 10 year period are provided for in two general types of situations: (1) where prohibitions are imposed on conduct not in and of itself unlawful, for example, discussions of and collective reductions below independent rates in section VI; or (2) where affirmative obligations are imposed on defendants which treat them differently than others in the industry, for example, the tape recording requirement in section XIII. The specific provisions that have time limitations are the following: sections VI, XIII, and XVIII(C).

Persons Bound by the Judgment—Section III

Section III of the proposed Final Judgment provides that its terms shall apply to the defendants and to each of their respective subsidiaries, successors, assigns, officers, directors, employees, and agents, and to all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

Effect of the Proposed Judgment on Competition

The proposed Judgment is intended to prevent the defendants from continuing their unlawful conspiracy or resuming their unlawful conduct. The Judgment is intended to ensure that defendants will comply with the provisions of the antitrust laws. The proposed Judgment also seeks to ensure through its negative prohibitions that not only will the alleged conspiracy be terminated and opportunities for its resumption be eliminated, but also that competition will be restored to the motor carrier industry between the United States and Ontario. The affirmative obligations are designed to ensure that each defendant's employees are aware of their obligations under the decree in order to avoid a repetition of the behavior that allegedly occured.

The Department of Justice believes that the proposed Final Judgment contains adequate provisions to prevent further violations by the defendants of the type upon which the Complaint is based. The Department believes that disposition of the lawsuit without further litigation is appropriate because the proposed Judgment provides all the relief that the United States sought in its Complaint, and the additional expense of litigation would not result in additional public benefit.

IV.—Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act (15 U.S.C. 15) provides that any person who has been injured in his or her business or property as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages such person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment in this proceeding will neither impair nor assist the bringing of any such private antitrust action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. 16(a), this Final Judgment has no *prima facie* effect in any subsequent private lawsuit that may be brought against these defendants.

V.—Procedures Available for Modification of the Proposed Consent Judgment

As provided by the Antitrust Procedures and Penalties Act, any person who wishes to comment upon the proposed Final Judgment may submit written comments to Elliott M. Seiden, Chief, Transportation Section, Antitrust Division, Department of Justice, Washington, D.C. 20530, within the 60-day period provided by the Act. These comments and the responses to them will be filed with the Court and published in the **Federal Register**. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed Judgment at any time prior to entry of the Judgment if it should determine that some modification is necessary.

After the proposed Judgment has been entered, this Court will retain jurisdiction for the purpose of enabling any of the parties to apply to the Court for such further orders and directions as may be necessary to interpret, apply, modify, or enforce the judgment, or to seek punishment for any violation of its terms.

VI.—Alternatives to the Proposed Consent Judgment

In negotiating this decree, the United States originally sought to apply section VI(A)(2) to both the carrier defendants and the NFTB. That is, the United States sought to enjoin each of the major carrier defendants from submitting to the NFTB rate proposals for collective action or advance notice independent action that were reductions below an independent rate.

The provision enjoining the defendant carriers from submitting the aforementioned rate cuts to the NFTB was deleted during

negotiations. The defendants claimed that the NFTB was in a better position than each of the carrier defendants to investigate and adopt procedures to assure that the collective undercutting prohibited by the decree did not occur. Further, the defendants claimed that the application of section VI(A)(2) to each carrier defendant could discourage the defendant carriers from making *any* proposals for collective reductions. Ultimately, the Department determined that the strategic, collective undercutting that it sought to enjoin could be accomplished by the bar against the NFTB's processing of the prohibited rate cuts.

Further, the Department determined that other sections of the proposed Final Judgment also protect the public from strategic undercutting by the defendant carriers. For example, sections V and VI(A)(1) prohibit collective discussions about planned or actual independent rates and section VI(B) requires each defendant motor carrier to swear that any rate reductions for collective action are not strategic in nature. Thus, the Department determined that the public was adequately protected from strategic collective undercutting by the carrier defendants.

VII.—Determine Materials

There are no materials or documents which the Government regards as determinative in formulating this proposed Judgment. Therefore, none are being filed with this Competitive Impact Statement pursuant to Section B of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b).

Respectfully submitted,

Barbara B. Anthony,

Donna N. Kooperstein,

Priscilla R. Budeiri,

Attorneys, U.S. Department of Justice, P.O. Box 481, Washington, D.C. 20530, (202) 724–6523.

Dated: January 18, 1984.

[FR Doc. 84–3858 Filed 2–10–84; 8:45 am]

BILLING CODE 4410–01–M

United States v. Tribune Company and Sentinel Star Company; Proposed Consent Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed consent decree and competitive impact statement have been filed with the United States District Court for the Middle District of Florida, Orlando Division, in the case of *United States v. Tribune Company and Sentinel Star Company*, Civil Action No. 82–260–ORL–CIV–R.

The complaint in this case alleged that the acquisition by the Tribune Company and its wholly-owned subsidiary, the Sentinel Star Company, of the Kissimmee Gazette, the St. Cloud News, This Week in Osceola County, the Osceola Shopper, and the St. Cloud Shopper from Richard L. Luzadder and Peggy S. Luzadder substantially lessened competition in the markets for local advertising directed at Osceola County, Florida, and local print advertising directed at Osceola County, in violation of section 7 of the Clayton Act, 15 U.S.C. 18. The Sentinel Star Company, now known as the Sentinel Communications Company, publishes the Orlando Sentinel, a daily newspaper of general circulation in Orlando, Florida.

The proposed judgment would require the defendants to sell the former Luzadder publications within twelve months. It would also enjoin them for ten years from acquiring print media carrying local advertising in the Orlando area.

Public comment on the proposed judgment is invited for a period of 60 days from the date of this notice. Comments should be directed to Alan L. Marx, Chief, General Litigation Section, Antitrust Division, United States Department of Justice, Washington, D.C. 20530. All comments will be filed with the Court and published in the **Federal Register**.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

United States District Court for the Middle District of Florida, Orlando Division

United States of America, Plaintiff, v. *Tribune Company and Sentinel Star Company*, Defendants: Civil No. 82–260–ORL–CIV–R.

Filed: January 20, 1984.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

(1) The parties consent that final judgment in the form attached hereto may be filed and entered by the Court upon the motion of any party or upon the Court's own motion at any time after compliance with the requirement of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed final judgment by serving notice thereof on defendants and by filing that notice with the Court.

(2) In the event plaintiff withdraws its consent, or if the proposed final judgment is not entered pursuant to this stipulation, this stipulation shall be of no effect whatever, and the making of this stipulation shall be without prejudice to any party in this or any other proceeding.

For the plaintiff: J. Paul McGrath, *Assistant Attorney General;* Mark Leddy, Alan L. Marx, *Attorneys, U.S. Department of Justice.* Steven C. Douse, Margaret H. Fitzsimmons, *Attorneys, U.S. Department of Justice, Antitrust Division, Washington, D.C. 20530, (202) 724–6329.*

For the defendents: Don H. Reuben, William G. Schopf, Jr., Rene A. Torrado, Jr., Daniel A. Edelman, Reuben & Proctor, 19 South La Salle Street, Chicago, Illinois 60603, (312) 558–5500. *Attorneys for Tribune Company and Sentinel Star Company*, William G. Mateer, Mateer, Harbert, Bechtel & Phalin, P.A., 100 East Robinson Street, Orlando, Florida 32802, (305) 425–9044.

United States District Court for the Middle District of Florida, Orlando Division

United States of America, Plaintiff v. *Tribune Company and Sentinel Star Company*, Defendants; Civil No. 82–260–ORL–CIV–R.

Filed: January 20, 1984.

Final Judgment

Plaintiff, United States of America, having filed its complaint herein on May 26, 1982, and plaintiff and defendants, by their respective attorneys, having consented to the entry of this final judgment without trial or adjudication of any issue of fact or law herein:

Now, Therefore, before the taking of any testimony, upon consent of the parties hereto, and without this final judgment constituting evidence against or an admission by any party with respect to any issue of fact or law herein, it is hereby Ordered, Adjudged, and Decreed:

I

This Court has jurisdiction of the subject matter of this action and of the parties hereto. The complaint states a claim upon which relief may be granted against the defendants under section 7 of the Clayton Act, as amended, 15 U.S.C. 18.

II

As used in this final judgment:

A. "Person" means any natural person or any corporation, partnership, company, sole proprietorship, association, institute, joint venture, firm, or other legal or business entity.

B. "Osceola publications" means the Osceola Shopper (both the Kissimmee and St. Cloud editions), This Week in Osceola County, the Kissimmee Gazette, and the St. Cloud News.

C. "Local advertising" means both retail advertising placed by a merchant or business offering to sell a product or service to the public through one or more retail stores or offices in or near the area to which the advertising is directed, and classified advertising, such as that for employment, sale of real estate, sale of automobiles, purchase or sale of other services or merchandise, and personal messages, that commonly appears in the classified advertising section of a newspaper.

III

The provisions of this final judgment shall apply to the defendants, Tribune Company and Sentinel Communications Company (formerly Sentinel Star Company); to each of their directors, officers, employees, agents, subsidiaries, divisions, branches, affiliates, successors, and assigns; and to all other

persons in active concert or participation with any of them who shall have received actual notice of this final judgment by personal service or otherwise.

IV

Defendants shall require, as a condition of the sale or disposition of the Orlando Sentinel or any successor publication, or of all or substantially all the assets used to publish the Orlando Sentinel or any successor publication, that the acquiring party agree to be bound by the provisions of this final judgment, and that such agreement be filed with the Court.

V

A. Defendants shall divest their entire interest in the Osceola publications within twelve months of the date of entry of this final judgment. This obligation shall be satisfied if, within the twelve-month period, defendants enter into a binding contract for sale or trade of the Osceola publications that is contingent only upon compliance with the terms of this final judgment and that specifies a prompt and reasonable closing date, and if the sale or trade is completed pursuant to the contract. Divestiture shall be absolute and unconditional and shall be made to a purchaser or purchasers not owned or controlled by defendants. Both the purchaser and the terms and conditions of sale or trade must be approved by plaintiff or, failing such approval, by the Court. Defendants may satisfy the requirements of this paragraph by divesting less than all of the Osceola publications only if such partial divestiture is specifically approved by plaintiff as constituting substantial compliance with the terms of this final judgment.

B. Upon a showing by defendants that they have vigorously and persistently sought to sell the Osceola publications, that despite their best efforts no reasonable offer has been made, and that appointment of a trustee pursuant to section VI would serve no valid purpose, plaintiff or, if plaintiff does not consent, the Court may extend the period during which defendants must divest the Osceola publications by up to six months.

C. Until the divestiture is completed, defendants shall continue to operate the Osceola publications as going concerns and shall use their best efforts to maintain each publication as a competitive entity.

VI

A. If defendants have not divested all of the Osceola publications within the period specified in section V, the Court shall, upon application of plaintiff, appoint a trustee to effect the divestiture. The trustee shall have full power and authority to sell the Osceola publications for any reasonable price and on any reasonable terms and conditions then obtainable, subject to the provisions of section VIII of this final judgment, and shall have such other powers as the Court deems appropriate. Defendants shall use their best efforts to assist the trustee in accomplishing a sale.

B. Following an application to the Court by plaintiff seeking appointment of a trustee, plaintiff and defendant shall promptly seek a mutually acceptable candidate for trustee. Should the parties agree on a candidate, the candidate's name will be submitted to the Court. Should the parties fail to agree on a candidate within fifteen days of the date the application is filed, each party shall propose two candidates for trustee no later than thirty days after the date the application is filed with the Court. The Court shall appoint a trustee from the names submitted.

C. The trustee shall serve at the expense of defendants on such terms and conditions as the Court may prescribe, and shall account for all monies derived from the sale of the Osceola publications and all expenses incurred in the sale. The trustee's compensation shall be structured so as to provide an incentive for the trustee to sell the publications as soon as possible. After approval by the Court of the trustee's accounting, including fees for its services, all remaining monies shall be paid to defendants and the trust shall then be terminated.

VII

Defendants shall maintain a record of their efforts to divest the Osceola publications, including identification of any person or persons to whom the Osceola publications have been offered or who has expressed an interest in acquiring the publications, the terms and conditions of each offer to purchase or sell, and all correspondence between defendants and prospective purchasers. Plaintiff shall have the right to inspect this information upon request and shall receive a copy of this record every sixty days until divestiture is accomplished.

VIII

At least fifteen days prior to the closing date of any proposed divestiture pursuant to this final judgment, or two days after execution of a contract for sale or trade of the Osceola publications, whichever is earlier, defendants or the trustee, whichever is then responsible for effecting the divestiture, shall notify the plaintiff of the proposed divestiture. If a trustee is responsible, it shall simultaneously notify defendants. The notice shall set forth the details of the proposed transaction and list the name, address, and telephone number of each person not previously reported who offered or expressed an interest in acquiring the Osceola publications, together with full details of the offer or expression of interest. Within seven days of receipt by plaintiff of such notice, plaintiff may request additional information concerning the proposed divestiture. Defendants or the trustee, whichever is then responsible for effecting the divestiture, shall furnish the additional information within seven days of receipt of the request. Within fifteen days after receipt of the notice, or within seven days after receipt of the additional information, whichever is later, plaintiff shall notify defendants and the trustee, if there is one, if it objects to the proposed divestiture. If the plaintiff does not object, the sale may be consummated. If plaintiff objects, the proposed sale may not be consummated unless approved by the Court after a hearing. If there is a trustee, the Court shall provide defendants with the opportunity for a hearing on the proposed divestiture should defendants object within fifteen days after the trustee has notified defendants of the proposed sale. If defendants object, the proposed sale may not be consummated unless approved by the Court after a hearing. In the event a hearing is required, the Court shall allow the parties a reasonable period to conduct any necessary discovery.

Defendants are enjoined from acquiring the stock or assets of any person engaged in publishing, distributing, or selling local advertising in print media in any portion of the primary market area of the Orlando Sentinel, or of any successor publication, as defined by the Audit Bureau of Circulation at the time of the acquisition.

X

For the purpose of determining or securing compliance with this final judgment, and subject to any legally recognized privilege:

A. Duly authorized representatives of the Department of Justice upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendants, shall be permitted:

1. Access during office hours of defendants to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of defendants, who may have counsel present, relating to any matters contained in this final judgement; and

2. Subject to the reasonable convenience of defendants and without restraint or interference from them, to interview officers, employees, and agents of defendants, who may have counsel present, regarding any such matters.

B. Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, defendants shall submit such written reports, under oath if requested, with respect to any of the matters contained in this final judgment as may be requested.

C. No information or documents obtained by the means provided in this section shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the executive branch of the United States government, except in the course or legal proceedings to which the United States is a party or for the purpose of securing compliance with this final judgment or as otherwise required by law.

D. If at the time information or documents are furnished to plaintiff, defendants represent and identify in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and defendants mark each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then ten days notice shall be given by plaintiff to defendants prior to divulging such material in any legal proceeding to which neither of the defendants is a party, other than a grand jury proceeding.

XI

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this final judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction, implementation, or modification of any of the provisions of this final judgment, for the enforcement of compliance herewith, and for the punishment of violations hereof.

XII

This final judgment will expire ten years from its date of entry.

XIII

Entry of this final judgment is in the public interest.

United States District Court for the Middle District of Florida, Orlando Division

United States of America, Plaintiff, v. *Tribune Company and Sentinel Star Company*, Defendants; Civil No. 82–260–ORL–CIV–R.

Filed: January 20, 1984.

Competitive Impact Statement

This competitive impact statement, relating to the proposed consent judgment submitted for entry in this civil antitrust proceeding, is filed by the United States pursuant to section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b).

I. The Nature and Purpose of the Proceeding

On May 26, 1982, the United States filed this civil antitrust action against the Tribune Company and the Sentinel Star Company challenging defendants' acquisition of two shoppers and three weekly newspapers in Osceola County, Florida. The Tribune Company is a privately-held media conglomerate engaged in newspaper publishing, radio and television broadcasting, and production of newsprint and forest products. The Sentinel Communications Company, formerly the Sentinel Star Company, is a wholly-owned subsidiary of the Tribune Company. It publishes the Orlando Sentinel, formerly the Sentinel Star, a daily and Sunday newspaper distributed primarily in the Orlando metropolitan area, including Osceola County.

The complaint alleged that the probable effect of the Sentinel Star Company's acquisition of the five Osceola County publications would be substantially to lessen competition in the markets for local advertising directed at Osceola County and local print advertising directed at Osceola County. The complaint sought divestiture of the unlawfully-acquired stock and assets and an injunction against further acquisitions of competing local advertising media within the Sentinel Star's primary market area. Following discovery and the Court's denial of defendants' motion to dismiss for lack of subject matter jurisdiction, which contended that the acquired publications were not engaged in activities substantially affecting interstate commerce, the parties reached an agreement settling the case.

II. The Nature of the Alleged Violation

The Orlando Sentinel is the largest newspaper in central Florida in both circulation and advertising revenues. In 1980 it had an average daily circulation in its primary market area of 198,497 on Sundays and 168,257 on weekdays. The Sentinel Star's primary market area at the time of the acquisition consisted of Lake, Orange, Osceola, Seminole, and southwest Volusia Counties.

The Orlando Sentinel publishes zoned editions, in the form of "little sentinels," containing local news, features, and other information of special interest to its readers within each zone. The Sentinel sells advertising space in its zoned sections to retailers and others who desire to reach only the paper's readers in a particular zone or zones.

Osceola County is a retail trading area and residential community south of Orlando. It is a predominantly rural area with approximately 50,000 residents, the majority of whom live in and around the cities of Kissimmee and St. Cloud. These cities are separated from Orlando and other population centers by miles of sparsely populated ranch and farm land.

The Orlando Sentinel publishes a little sentinel for Osceola County. At the time of the complaint the Osceola little sentinel was included in all copies of the Sentinel Star distributed in Osceola County every day except Saturday and Monday. In 1980 the Sentinel Star had an average daily circulation in Osceola County of 9,835 and an average Sunday circulation of 12,199.

The five Osceola County publications—the Kissimmee Gazette, the St. Cloud News, This Week in Osceola County, the Osceola Shopper, and the St. Cloud Shopper—were acquired by the Sentinel Star Company in 1980 from Richard L. Luzadder and Peggy S. Luzadder.

The Kissimmee Gazette and the St. Cloud News are paid-circulation weekly newspapers published and distributed within Osceola County. In 1980 they had a combined weekly circulation of approximately 3,400 copies. This Week in Osceola County is a free-circulation weekly newspaper published and distributed within Osceola County. Its average weekly circulation was 15,200 in 1980. The Osceola Shopper, a shopping guide containing only advertising, is distributed free to all households in Osceola County on a weekly basis. Its average circulation in 1980 was approximately 22,000. The St. Cloud Shopper, at the time of the acquisition, was distributed free weekly to all households in the St. Cloud area of Osceola County. Its 1980 average weekly circulation was approximately 7,000. It has since become a zoned edition of the Osceola Shopper.

All five of the former Luzadder publications sell advertising to local retailers and others who desire to reach an Osceola County audience. Prior to the sale of these publications to the Sentinel Star Company, they were the only substantial competitors of the Sentinel Star in the sale of local print advertising directed at Osceola County.

On October 15, 1980, the Tribune Company, through its wholly-owned subsidiary, the Sentinel Star Company, acquired the Luzadder publications for $4,139,289. The effect of the acquisition was to increase the level of concentration in markets that were already highly concentrated. The complaint alleged that in 1979 the Sentinel Star received nearly two-thirds of the total amount spent for local print advertising directed at Osceola County residents, and the Luzadder publications accounted for substantially all of the remainder. Even including all other forms of local advertising directed at Osceola County, the complaint alleged that the Sentinel Star and the Luzadder publications accounted for well over half of the market, with the Sentinel Star having a market share of approximately 40 percent and the Luzadder publications approximately 20 percent.

The probable effect of an increase of this magnitude in the level of concentration in the markets for local advertising and local print advertising aimed at residents of Osceola County was a substantial lessening of competition in violation of section 7 of the Clayton Act, 15 U.S.C. 18.

III. The Proposal for a Consent Judgment and its Anticipated Effect on Competition

A. Explanation of the Proposed Final Judgment

The proposed consent decree by which the parties would settle this case requires defendants to divest their entire interest in the former Luzadder pubications within twelve months, with a possible six-month extension. Divestiture must be unconditional, to a purchaser or purchasers not owned or controlled by defendants. Both the purchaser and the terms of sale must be approved by plaintiff or, failing such approval, by the Court. Defendants must maintain a record of their efforts to sell the publications, including identification of persons to whom the publications have been offered or who have expressed an interest in acquiring the publications and the terms of each offer to sell or purchase. Defendants may divest less than all of the former Luzadder publications only if such partial divestiture is specifically approved by plaintiff as constituting substantial compliance with the terms of the judgment.

If defendants have not divested all of the publications within the specified period, the proposed final judgment establishes a procedure for the appointment of a trustee to effect the divestiture. The trustee would be authorized to sell the publications for any reasonable price and on any reasonable terms then available.

The decree provides that plaintiff and, if a trustee is responsible for the divestiture, defendants will receive advance notice and an opportunity to object to any proposed divestiture. If one of the parties objects, the proposed sale may not be consummated unless approved by the Court after a hearing.

Defendants also are enjoined by the decree from acquiring the stock or assets of any person engaged in publishing, distributing, or selling local advertising in print media in any portion of the Orlando Sentinel's primary market area. This provision expires ten years from the date of entry of the decree.

B. Competitive Effect of the Proposed Final Judgment

The proposed final judgment gives the government substantially all the relief sought in the complaint. It would undo the merger and restore competition to the market.[1] The only difference between the relief provided by the decree and that requested in the complaint is that the injunction against further acquisitions is limited to print media rather than extending to all media carrying local advertising. The government believes this concession was reasonable in light of the relief obtained.

Although Osceola County is a relatively small market, the relief obtained here is important both in restoring a competitive marketplace for local advertisers and consumers affected by this acquisition and for the effect it may have in inhibiting similar acquisitions in other markets. Today there are relatively few areas with directly competing metropolitan daily newspapers. Much of the competition faced by daily newspapers comes from weeklies and shoppers. As competition between daily newspapers decreases, and the competition provided by other publications such as weekly newspapers and shoppers increases in importance, the need to protect against a substantial lessening of competition through acquisitions by daily newspapers of their weekly and shopper competitors also becomes more important.

IV. Remedies Available to Private Parties

Entry of the proposed consent judgment will have no effect on the rights of persons who may have been injured by the alleged violation. Private plaintiffs may sue for money damages or any other legal or equitable remedy. However, this judgment may not be used as prima facie evidence in private litigation pursuant to section 5(a) of the Clayton Act, 15 U.S.C. 16(a).

V. Procedures Available for Modification of the Proposed Consent Judgment

For a period of 60 days following the filing of the proposed consent judgment and its publication in the **Federal Register**, interested persons may submit written comments concerning the proposed judgment to Alan L. Marx, Chief, General Litigation Section, Antitrust Division, United States Department of Justice, Washington, D.C. 20530. These comments and the government's response will be filed with the Court and published in the **Federal Register**. The government will carefully consider all comments to determine if there is any reason for withdrawing its consent to the proposed judgment, which it may do at any time before the decree is entered by the Court. The Court will retain jurisdiction over the judgment following its entry so as to permit any of the parties to apply for orders modifying or enforcing the decree.

VI. Alternatives Actually Considered

Because the decree grants substantially all the relief requested in the complaint, no alternative to the proposed decree was considered by the government.

VII. Determinative Documents and Materials

There are no materials or documents that the United States considered determinative in formulating this proposed final judgment. Accordingly, none are being filed with this competitive impact statement.

Respectfully submitted,

Steven C. Douse,

Margaret H. Fitzsimmons,

Miriam J. Cutler,

Attorneys, United States Department of Justice, Antitrust Division, Washington, D.C. 20530, (202) 724–6329.

[FR Doc. 84–3857 Filed 2–10–84; 8:45 am]

BILLING CODE 4410–01–M

[1] Another shopping guide directed at Osceola County residents began publishing after this case was filed, but its entry into the market did not offset the anticompetitive impact of the acquisition.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 84–14]

Agency Report Forms Under OMB Review

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Agency Report Forms Under OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed information collection requests to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made the submission. The NASA Procurement Regulation has been previously cleared by OMB (2700–0041), but that regulation will be replaced, in part, by the NASA Federal Acquisition Regulation (FAR) Supplement on April 1, 1984.

Copies of the proposed forms, the request for clearance (S.F. 83), supporting statement, instructions, transmittal letters, and other documents submitted to OMB for review, may be obtained from the Agency Clearance Officer. Comments on the items listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

DATE: Comments must be received in writing by February 23, 1984. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB Reviewer and the Agency Clearance Officer of your intent as early as possible.

ADDRESS: Carl Steinmetz, NASA Agency Clearance Officer, Code NIM, NASA Headquarters, Washington, DC 20546; Kenneth Allen, Office of Information and Regulatory Affairs, OMB Room 3208, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Carl Steinmetz, NASA Agency Clearance Officer, (202) 453–2921.

Reports

Title: NASA FAR Supplement
Type of Request: Revision of a currently approved collection
Frequency of Report: As Required
Type of Respondent: Individuals, Small and Large Businesses, State and Local Governments and Non-Profit Institutions
Annual Responses: 398,452
Annual Reporting Hours: 2,390,712
Number Recordkeeping Hours: 28,060
Total Annual Burden: 2,418,772

Abstract-Needs/Users: The contract forms and recordkeeping requirements used in collecting information from the public provide management data to NASA, allow contract monitoring and meet other Executive and Legislative Branch Information levies.

Dated: February 7, 1984.

L. W. Vogel,

Director, Logistics Management and Information Programs Division.

[FR Doc. 84–3776 Filed 2–10–84; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL COMMUNICATIONS SYSTEM

Industry Executive Subcommittee of the National Security Telecommunications Advisory Committee

A closed meeting of the Industry Executive Subcommittee of the National Security Telecommunications Advisory Committee (NSTAC) will be held beginning at 9 a.m. on Wednesday, February 29, 1984. The meeting will be held in the Westgate Building of the MITRE Corporation, 1820 Dolley Madison Boulevard, McLean, Virginia. The agenda is as follows:

a. Opening Remarks
b. Briefing on National Coordinating Mechanism Report
c. Briefing on Commercial Satellite Survivability Addendum Report
d. Status Report on Automated Information Processing Issue
e. Status Report on Total Systems Survivability Issue
f. Status of International Diplomatic Telecommunications Issue
g. Formulation of Recommendations to be presented at 3rd NSTAC Meeting

Any person desiring information about the meeting may telephone (202–

692–9274) or write the Manager, National Communications System, Washington, DC 20305.

James F. Mullen,

Lieutenant Colonel, USA NCS Joint Secretariat.

[FR Doc. 84–3799 Filed 2–10–84; 8:45 am]

BILLING CODE 3610–05–M

NATIONAL LABOR RELATIONS BOARD

Appointments of Individuals to Serve as Members of Performance Review Boards

5 U.S.C. 4314(c)(4) requires that the appointments of individuals to serve as members of performance review boards be published in the Federal Register. Therefore, in compliance with this requirement, notice is hereby given that the individuals whose names and position titles appear below have been appointed to serve as members of performance review boards in the National Labor Relations Board for the rating year beginning January 1, 1983 and ending December 31, 1983.

Name and Title

Jack B. Albanese—Chief Counsel to the Chairman
Robert E. Allen—Associate General Counsel, Enforcement Litigation
Joseph A. Latham—Chief Counsel to Board Member
Harold J. Datz—Associate General Counsel, Advice
Joseph E. DeSio—Associate General Counsel, Operations Management
John E. Higgins, Jr.—Deputy General Counsel
Harry M. Leet—Chief Counsel to Board Member
Paul E. Long—Deputy Director of Administration
Eugene D. Orza—Chief Counsel to Board Member
Hugh L. Reilly—Solicitor
Peter B. Robb—Chief Counsel to Board Member
Eugene L. Rosenfeld—Deputy Associate General Counsel, Operations Management
Ernest Russell—Director of Administration
Berton B. Subrin—Director, Office of Representation Appeals
John C. Truesdale—Executive Secretary
Robert F. Volger—Deputy Executive Secretary
Melvin J. Welles—Chief Administrative Law Judge

Dated: Washington, D.C., February 7, 1984.

By Direction of the Board.

John C. Truesdale,

Executive Secretary, National Labor Relations Board.

[FR Doc. 84–3797 Filed 2–10–84; 8:45 am]

BILLING CODE 7545–01–M

NUCLEAR REGULATORY COMMISSION

Operator's Licenses; Information Collection Requirements Submitted to OMB for Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, revision, or extension: Extension.

2. The title of the information collection: 10 CFR Part 55, Operator's Licenses.

3. The form number if applicable: NA.

4. How often the collection is required: On occasion and biennially.

5. Who will be required or asked to report: Individuals requiring a license to operate the controls at a nuclear facility.

6. An estimate of the number of responses: 2,911.

7. An estimate of the total number of hours needed to complete the requirement or request: 496.

8. Section 3504(h), Pub. L. 96–511 does not apply.

9. *Abstract:* 10 CFR 55 requests detailed information of an applicant applying for requalification as a reactor operator. 10 CFR 55.41 requires that the licensee notify the U.S. Nuclear Regulatory Commission after its occurrance of any disability which occurs after the submission of his medical form.

ADDRESSES: Copies of the submittal will be made available for inspection or copying for a fee at the NRC Public Document Room, 1717 H Street, NW., Washington, D.C. 20555.

FOR FURTHER INFORMATION CONTACT: Comments and questions should be directed to the OMB, reviewer, Jefferson B. Hill, (202) 395–7340.

NRC Clearance Officer, R. Stephen Scott, (301) 492–8585. Dated at Bethesda, Maryland, this 8th day of February 1984.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 84–3889 Filed 2–10–84; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–483A]

Union Electric Co., Finding of No Significant Antitrust Changes and Time for Filing Requests for Reevaluation

The Director of Nuclear Reactor Regulation has made an initial finding in accordance with Section 105c(2) of the Atomic Energy Act of 1954, as amended, that no significant (antitrust) changes in the licensee's activities or proposed activities have occurred subsequent to the previous construction permit review of Unit 1 of the Callaway Nuclear Plant by the Attorney General and the Commission. The finding is as follows:

Section 105c(2) of the Atomic Energy Act of 1954, as amended, provides for an antitrust review of an application for an operating license if the Commission determines that significant changes in the licensee's activities or proposed activities have occurred subsequent to the previous construction permit review. The Commission has delegated the authority to make the "significant change" determination to the Director, Office of Nuclear Reactor Regulation. Based upon an examination of the events since issuance of the Callaway 1 construction permit to the Union Electric Company, the staffs of the Antitrust and Economic Analysis Section of the Site Analysis Branch, Office of Nuclear Reactor Regulation and the Antitrust Section of the Office of the Executive Legal Director, hereafter referred to as "staff", have jointly concluded, after consultation with the Department of Justice, that the changes that have occurred since the antitrust construction permit review are not of the nature to require a second antitrust review at the operating license stage of the application.

In reaching this conclusion, the staff considered the structure of the electric utility industry in the State of Missouri, the events relevant to the Callaway construction permit review and the events that have occurred subsequent to the construction permit review.

The conclusion of the staff's analysis is as follows:

Many changes with competitive implications have occurred in the applicant's service area since the initial antitrust review at the construction permit stage: (1) The applicant, at the suggestion of the Department of Justice, revised many of its wholesale power contracts with the effect of freeing up competitive options for wholesale customers; (2) Anticipated growth in demand for electricity did not materialize and the high cost of money along with escalating construction costs all provided the impetus for cancellation of Unit 2 of the Callaway Nuclear Plant; (3)

State legislation provided the means for smaller municipal power systems to band together to form joint action agencies, thereby enhancing their bargaining positions in negotiating bulk power supply agreements throughout the State of Missouri; (4) Antitrust litigation involving the applicant was initiated; and (5) The applicant consummated an acquisition and initiated a merger involving its three electric subsidiaries during the interim period since the initial antitrust review at the construction permit (CP) stage.

The competitive ramifications of each of these changes have been addressed *supra* and in only one instance, that involving negotiations between Union Electric and its smaller wholesale power customers regarding "wheeling", did staff have misgivings about the effect upon competition as a result of applicant's changed activities. After review of the available data and contact with industry members in the field, staff believes that present negotiations between the affected parties will result in the applicant offering meaningful transmission arrangements to various wholesale customers throughout the applicant's service area. Moreover, staff is aware of the continuing District Court proceeding, involving the applicant and the City of Kirkwood, Missouri, that will address parallel issues being discussed in negotiations by the applicant and its wholesale power customers. Staff believes the District Court proceeding and existing substantive negotiations between Union Electric and its smaller wholesale power customers will resolve outstanding issues, i.e., principally "wheeling", that have arisen since the initial CP antitrust review. Although staff will continue to monitor these developments as they evolve, staff is recommending that no affirmative significant change determination be made pursuant to the application for an operating license for Unit 1 of the Callaway Nuclear Plant.

Based on the staff's analysis, it is my finding that a formal operating license antitrust review of the Callaway Nuclear Plant, Unit 1 is not required.

Signed on January 24, 1984 by Harold R. Denton, Director of Nuclear Reactor Regulation.

Any person whose interest may be affected by this finding may file with full particulars a request for reevaluation with the Director of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 for a period of 30 days after the date of the **Federal Register** notice. Requests for a reevaluation of the no significant change determination will be accepted after the date when the Director's finding becomes final but before the issuance of the OL only if the requests contain new information, such as information about facts or events of antitrust significance that have occurred since that date, or information that could not reasonably have been submitted prior to that date.

For the Nuclear Regulatory Commission.

Wm. H. Regan, Jr.,

Chief Site Analysis Branch, Office of Nuclear Reactor Regulation.

[FR Doc. 84-3876 Filed 2-10-84; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Structural Engineering; Changes in Meeting

The following items noted below have been changed regarding the ACRS Subcommittee meeting on Structural Engineering scheduled for February 16 and 17, 1984:

Wednesday, February 15, 1984—1:00 p.m.–4:30 p.m. at the Los Alamos National Laboratory, Reactor Safety Conference Room TA–52, Los Alamos, NM.

Thursday, February 16, 1984—1:00 p.m.–6:00 p.m. at the Marriott Hotel, 2101 Louisiana Blvd., Albuquerque, NM.

Friday, February 17, 1984—Cancelled.

The Subcommittee will review the containment integrity and Seismic Category I Components research programs. Other related matters may also be discussed.

All other items regarding this meeting remain the same as announced in the **Federal Register** published Thursday, February 2, 1984 (49 FR 4168).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Elpidio Igne (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m., EST.

Dated: February 8, 1984.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 84-3877 Filed 2-10-84; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301-45]

The Motion Picture Export Association of America: Initiation of an Investigation Under Section 301

On December 19, 1983, The Motion Picture Export Association of America filed a petition under Section 301 of the Trade Act of 1974, as amended (19 U.S.C. 2411, *et seq.*) alleging that Taiwan authorities have reduced the number of film distribution licenses granted to members that distribute films in Taiwan to a level that makes it uneconomical to remain in business there. The petitioner alleges that the action is unjustifiable and unreasonable and burdens U.S. commerce.

On January 30, 1984, pursuant to 19 U.S.C. 2412(a), the United States Trade Representative decided to initiate an investigation on the basis of this petition.

Interested parties are invited to submit written comments regarding the issues raised by the petition. The comments should be filed in accordance with the regulations in 15 CFR 2006.8 and are due no later than March 2, 1984. Comments should be submitted to Chairman, Section 301 Committee, Office of the United States Trade Representative, Room 223, 600 17th Street, NW., Washington, D.C. 20506. Copies of the petition are available at the address above.

Jeanne S. Archibald,

Chairman, Section 301 Committee.

[FR Doc. 84-3838 Filed 2-10-84; 8:45 am]

BILLING CODE 3190-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 23217; 70-6947]

Northeast Utilities, et al.; Proposed Issuance and Sale of Common Stock and Capital Contributions to Subsidiaries

Northeast Utilities ("Northeast"), a registered holding company, and The Connecticut Light and Power Company ("CL&P") Selden Street, Berlin, Connecticut 06037, and Western Massachusetts Electric Company ("WMECO") 174 Brush Hill Avenue, West Springfield, Massachusetts 01089, electric utility subsidiaries of Northeast, have filed a declaration with this Commission pursuant to Sections 6(a), 7, and 12(b) of the Public Utility Holding Company Act of 1935 ("Act") and rules 45 and 50 promulgated thereunder.

Northeast proposes to issue and sell, at any time or from time to time through March 31, 1985, up to an additional 4,500,000 of its authorized common shares, $5 par value ("Additional Common Stock"). Northeast intends to offer up to 4,500,000 shares of the Additional Common Stock ("Delayed Offering Stock") through the delayed offering process, and up to 2,500,000 shares of the Additional Common Stock ("Continuous Offering Stock") through the use of a continuous offering

program. In no event would the total aggregate number of shares of both the Delayed Offering Stock and the Continuous Offering Stock exceed the 4,500,000 shares of Additional Common Stock. If Northeast elects to offer any of the Additional Common Stock through the continuous offering program, it may seek an exception from the competitive bidding requirements of Rule 50 for certain activities related to a continuous offering program. The Delayed Offering Stock will be offered according to the guidelines set forth in the Commission's Statement of Policy concerning the application of Rule 50 (HCAR No. 22623 (September 2, 1982)).

If Northeast decides to implement a continuous offering shelf registration program, it will enter into a Sales Agency Agreement ("Agency Agreement") with an investment banking firm (the "Agent"), under which the Agent will act as Northeast's exclusive agent for the purpose of offering and selling the Continuous Offering Stock by means of (i) ordinary broker's regular way transactions in the auction market on the floor of the New York Stock Exchange, or any regional exchange on which Northeast's common stock may be listed or admitted to trading; (ii) block transactions (which may involve crosses) on such exchanges or in the over-the-counter market, in which the Agent may act as a principal for its own account; (iii) "fixed-price offerings" off the floors of such exchanges, or "special offerings" and "exchange distributions" in accordance with the rules of such exchanges; or (iv) a combination of any such methods. Sales will be made at market prices prevailing at the time of sale in the case of transactions on exchanges and at prices negotiated by the Agent and related to prevailing market prices in the case of transactions off the floor of the exchanges. The terms of any offering pursuant to (iii) above would be subject to the prior approval of Northeast. Northeast will comply with the requirements of Rule 50, as modified by HCAR No. 22623 in connection with sales pursuant to the methods outlined in (i) and (ii) above, and either will so comply or by amendment will request an exception from such requirements in connection with sales pursuant to (iii) above.

It is also proposed that Northeast, from time to time, but in any event not later than March 31, 1985, make capital contributions of up to $70 million to CL&P and up to $30 million to WMECO.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by March 7, 1984, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarants at the addresses specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Office of Public Utility Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-3876 Filed 2-10-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20624; File No. SR-BSE-83-10]

Self-Regulatory Organizations; Proposed Change by Boston Stock Exchange, Inc., Relating to the Amendment of the Disciplinary Rule

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on August 15, 1983 the Boston Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed change as described in Item I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement on the Terms of Substance of the Proposed Rule Change

Attached as Exhibit A are the proposed amendments to Chapter XXX of the Rules.

II. Self-Regulatory Organizations Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements governing the purpose of and basis for the proposed rule change and discussed any comments it received. The text of these statements may be examined at the places specified in Item IV. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspect of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) The proposed amendment incorporates certain procedures to be followed by the Hearing Committee in conducting hearings in disciplinary proceedings brought by the Exchange against a member or member-organization. The procedures also specifically contain the rights and privileges of respondents in the hearing process.

(b) The basis under the Act for the proposed procedures is Section 6(b)(1) since it relates to the organization of the Exchange, its designated Committees, and its capacity to be able to carry out the purposes of the Securities Exchange Act of 1934, as amended.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe the proposed amendment imposes any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the

submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: February 6, 1984.

George A. Fitzsimmons,

Secretary.

Additions italicized [Deletions bracketed]

Exhibit A

Chapter XXX—Rules of Board of Governors

Disciplining of Members-Denial of Membership

The following are the procedures to be followed in connection with the disciplining of members and persons associated with members, the denial of membership to any person seeking membership in the Exhange, the barring of any person from becoming associated with a member of the Exchange, and the prohibition or limitation by the Exchange of any person with respect to access to services offered by the Exchange or a member thereof.

Section 1. Notification. The notices required by Section 6(d) of the Securities Exchange Act of 1934 as amended [the "1934" Act] and Sec. 9 hereof shall be given by certified or registered receipt requested, addressed to the member or person to receive such notice at such member's or person's address as appearing on the records of the Exchange. Such notice under said Section 6[d][2] and shall [a] contain the specific charges against, or specific grounds for denial, bar, prohibition or limitation ("denial") of, such member or person, [b] in case of disciplinary charges, set forth the date, time and place at which the member may be heard with respect to such charges, [c] set forth the board, committee or individual ("Panel") before which the member may be heard with respect to such charge or denial, and [d] advise such member or person of his right to file an answer to Sec. 2 of this rule or request a hearing regarding any such denial.

Sec 2. *Charges. [a] Notice of specific disciplinary charges as required by 1[a] above shall be in the form of a written statement ("charge memorandum") and shall be signed by an authorized officer of the Exchange. The charge memorandum shall set forth the specific facts upon which the charges are based, the specific provisions of the Exchange Constitution and Rules alleged to have been violated and the persons or organization alleged to have committee each of the violations ("respondents").* [b] Answer or Request for Hearing. A member or person against whom charges have been made or who has been the subject of a denial shall have twenty-five [25] days from the date of receipt of the notice referred to in Sec. 1 hereof to file an answer to said charge or request a hearing concerning such denial with the Secretary of the Exchange. Any such answer or request shall be in writing, signed by or on behalf of the member or other person involved. *The answer to a charge memorandum* shall admit or deny *each of* the specific allegations set forth in [any charge] the charge memorandum and contain, in reasonable detail, any affirmative defense or explanatory material which [said member or person] *the respondent* wishes to set forth. Any allegation in [charge] *the charge memorandum* not specifically denied in the answer [shall] may for all purposes, be deemed admitted and failure to file an answer within the specified time or such other extended time period as may be approved by the Hearing Officer may be deemed an admission of any facts and charges asserted in the charge memorandum.

[c][3] Forwarding of charges. The Sectretary of the Exchange shall forward copies of the charges and any answer received in the case of disciplinary proceedings and the specific grounds in the case of any other proceedings, to the member or members of the Panel which is to hear the matter.

Sec. *3. Hearing Panels. Hearings with respect to a charge memorandum shall be held before a Hearing Panel consisting of at least three persons: A Hearing Officer who shall be the Chairman of the Panel and at least two members of the Hearing Committee.*

The Chairman of the Board shall, from time to time, subject to the approval of the Board of Governors, appoint members of the Hearing Committee as the Chairman may deem necessary. Subject to the approval of the Board of Governors, the Chairman of the Board shall appoint a Chairman of the Hearing Committee who shall also serve as the Chief Hearing Officer.

Prior to a hearing, the Chief Hearing Officer shall select at least two prospective panelists to serve on the Hearing Panel. Such prospective Panelists may not have any direct or indirect interest in the outcome of the matter to be heard or any knowledge, opinions or relationship which would make their services on the Panel inappropriate. In the event that the Chief Hearing Officer is disqualified from serving on a Panel he should appoint a member of the Hearing Committee to serve as Hearing Officer for the hearing. Parties to the hearing (the respondent and an authorized officer of the Exchange) shall be sent a list of prospective Panelists and the name of the Hearing Officer. Following such notification, the parties may, within ten days, file with the Hearing Officer one obligation for cause as to any or all of ther prospective Panelists, or as to the Hearing Officer. The parties are prohibited from contacting , directly or indirectly, the prospective members of the Hearing Panel. The Chief Hearing Officer, or the Hearing Officer appointed by him, shall rule on all such objections and shall determine which of the remaining prospective Panelists shall serve on the Hearing Panel. In the event that the Chief Hearing Officer, or the Hearing Officer appointed by him, is thus disqualified, the Chief Hearing Officer shall appoint another member of the Hearing Committee to serve as the Hearing Officer.

A final notice of the Hearing, listing the date, time and location of the Hearing and the names of the members of the Panel shall then be sent to the respondent by the Exchange in the same manner as notice of charges was provided under section 1. above.

Sec. 4. Hearings. Hearings shall be conducted in accordance with the following procedures:

(a) Time and Place for Hearings. No hearing shall be held on any matter prior to five [5] days following [a] the last date upon which an answer may be filed in case of disciplinary matters or [b] the date upon which a person requests a hearing in other matters. The time and place for any such hearing shall be set by the *Executive Vice-President* of the Exchange except in cases of hearings before the Board of Governors, in which case the time and place shall be set by the Chairman of the Board.

[(b) Panels. The panel before which any matter shall be heard shall be determined according to the Constitution and Rules of the Exchange.]

[(c) Presiding Officer. The presiding officer at any hearing shall be chosen by the Panel before whom the hearing is held. The presiding officer shall determine on the record for such hearing all questions of the admission or exclusion of evidence or other precedural matters including the regulation or restriction of testimony and questioning in the interest of good order and just and efficient production of testimony.]

(b) Either party, prior to the hearing, may apply to the Chief Hearing Officer to resolve procedural matters relating to the case. After the hearing has begun such application should be made to the Hearing Officer assigned to the Hearing. Such applications must be made through the Hearing Committee with notice to all parties. Ex parte communications with any Panelist or Hearing Officer are forbidden. The Chief Hearing Officer or a Hearing Officer designated by him shall, upon request, permit a respondent or the Exchange to inspect and copy documents or records in possession of either party which are material to the defense or are intended for use as evidence at the hearing. This does not authorize the discovery or inspection of reports, memoranda or other internal Exchange documents prepared by the Exchange in connection with the proceedings. Similarly, the respondent may be required by the Hearing Officer to permit access by the Exchange to documents or records in his possession or control. A Hearing Officer may require a pre-hearing conference on any case. Any appeal of procedural

determinations of the Hearing Officer may only be made after a Panel has issued its final decision on the charges.

The Exchange and any member or person shall be entitled to be represented by counsel at any hearing held hereunder. The Hearing Board may assist in attempting to obtain at the Hearing the presence of witnesses from the member firm community whose testimony is relevant and necessary.

(c) Conduct of Hearing. The Hearing Officer shall determine all questions concerning the admissibility of evidence and shall otherwise regulate the conduct of the Hearing. Formal rules of evidence shall not apply. The charges shall be presented by a representative of the Exchange who, along with respondent may present evidence and produce witnesses who shall testify under oath shall be subject to cross examination and questioning by the Hearing Panel. The Hearing Panel may, on its own motion, request the production of documentary evidence and witnesses. A transcript of the hearing shall be made and shall become a part of the record and one copy shall be made avoiable to each party.

(d) In lieu of the procedures set forth in paragraph (c) above, a Hearing Panel, at a Hearing called for that purpose, shall also conduct disciplinary hearings on the basis of a written Stipulation of Consent entered into between the respondent and any authorized officer of the Exchange. Any such Stipulation and Consent shall contain a stipulation with respect to the facts, or the basis for findings of fact by the Hearing Panel: a consent to findings of fact by the Hearing Panel, including a finding that a specified offense had been committed; and a consent to the imposition of a specified penalty. Neither of the parties will be permitted to offer any agrument which is inconsistent with the stipulated facts or to ask for the imposition of any penalty other than that agreed upon in the stipulation.

In any such Hearing, if the Hearing Panel determines that the respondent has committed an offense, it may impose the penalty agreed to in such Stipulation and Consent or any penalty which is less severe than the stipulated penalty, as it deems appropriate. In addition, a Hearing Panel may reject such stipulation and Consent.

Such rejection shall not preclude the parties to the proceeding from entering into a modified Stipulation and Consent which shall be presented to a Hearing Panel in accordance with the provisions of this section nor shall such rejection preclude the Exchange from bringing or presenting the same or different charges to a Hearing Panel in accordance with the provisions of paragraph (c) above.

[(d) Presentation of Testimony. In any proceeding in which the Exchange has presented charges against a member or person the Exchange shall, unless such charges are not denied, present its evidence at the request of any person, that person shall present such evidence as such person may have to show why such denial should not be imposed. In both cases, the other party shall have the opportunity to present rebuttal evidence and, after all evidence has been heard, the presiding officer may, in such officer's descretion, allow the presentation of oral arguments and written briefs concerning the matter. Each party shall be permitted to cross-examine the witness of the other.]

[(e) Transcripts. A verbatim transcript shall be kept of all hearings held pursuant hereto and, in the case of disciplinary proceedings, the cost thereof in whole or in part may be assessed to the member or person charged as part of the decision of the Panel.]

[(f) (e) Counsel. The Exchange and any member or person shall be entitled to be represented by counsel at any hearing held hereunder.

[5. Decision. After a hearing held pursuant to para. 4 hereof, the Panel shall, by majority vote, or by such other vote as may be specified for any action in these Rules or in the Constitution, determine (a) in the case of disciplinary matters, whether or not to impose a disciplinary sanction and if so the sanction to be imposed or, in cases where the Panel recommends a sanction which it is not empowered to impose, the panel shall refer the charges, answer, transcript and any other documents pertaining to the matter to such Panel as is empowered to impose the recommended sanction for hearing pursuant to these rules and (b), in the case of any denial, whether or not such denial shall be upheld or modified. In both cases, the Panel shall accompany such determination with the appropriate statement required pursuant to Section 6 (d) (1) or (2) of the 1934 Act. All such determinations and statements, together with the transcript of the hearing shall be filed with the Secretary of the Exchange and copy sent by the Secretary to the member or person affected.]

Sec. *5. Decision. After a hearing held pursuant to Sec. 4 hereof, the Panel shall:*

(a) In the case of disciplinary hearings, not resulting from a Stipulation and Consent, determine by majority vote of all members of the Panel whether the respondent is guilty or not guilty with respect to each specific charge. If the Panel determines that the respondent is guilty with respect to one or more charges, the Panel shall reconverse with the parties, announce their decision and state whether it was by majority or unanimous vote. The parties shall then be given an opportunity to present to the Panel their recommendation as to the appropriate penalty including arguments in support of such penalty and mitigating or aggravating circumstances. The Panel shall then, by majority vote of all members of the Panel, determine the penalty to be imposed.

(b) In the case of a disciplinary hearing to consider a Stipulation and Consent, determine by majority vote whether to accept the Stipulation and Consent, reduce the penalty or reject it.

(c) In the case of denial hearings, pursuant to the denial of membership to any person seeking membership in the Exchange, the barring of any person from becoming associated with a member of the Exchange, and the prohibition or limitation by the Exchange of any person with respect to access to services offered by the Exchange or a member thereof, determine by majority vote of all members of the Panel whether or not such denial should be upheld or modified.

In all cases the Panel shall accompany such determination with the appropriate statement required pursuant to Section 6(d) (1) or (2) of the 1934 Act.

In the case of disciplinary hearings the Hearing Panel shall issue a written decision including a statement of findings and conclusions, with the reasons therefore, upon all material issues, presented in the record, and whether each violation alleged in the charge memorandum has occurred.

Statements and written decisions of the Panel shall be promptly served to the parties to the Hearing in accordance with section 1. contained therein.

Sec. 6. Request for Review. Except for decisions made by the Board of Governors, which shall become final when made, any determination made pursuant to Sec. 5. shall become final within twenty (20) days after its filing with the Secretary of the Exchange unless a request for review thereof by the Board of Governors is filed with the Secretary prior to the end of such period. Such requests may be filed either by or on behalf of the Board or committee originally bringing the disciplinary charges or making the decision of denial or the member or person subject of such charges or denial. Upon such request the Secretary shall make the record of the proceedings available to the Board of Governors.

Sec. 7. Review. Upon review the Board of Governors may, by majority vote, sustain any such determination including any sanction imposed or reverse, modify, limit or increase such determination or return the matter to the Panel for further findings. The decision of the Board shall be final and conclusive.

Sec. 8. Summary Proceedings. Summary action to be taken by the Exchange under Section 6(d)(3) of the 1934 Act may be administered by the Executive Committee of the Board of Governors.

Sec. 9. Notice of Decisions. The Secretary of the Exchange shall file notice of any final decision hereunder or under Sec. 6 hereof with the Securities and Exchange Commission.

[FR Doc. 84-3872 Filed 2-10-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20618; File No. SR-CSE-84-1]

Self-Regulatory Organizations; Proposed Rule Change by the Cincinnati Stock Exchange Relating to Market Maker Net Capital

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on January 11, 1984, The Cincinnati Stock Exchange (the "Exchange") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit

comments on the proposed rule change from interested persons.

I. The Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Effective January 11, 1984, the Board of Trustees of The Cincinnati Stock Exchange revised paragraphs (a)(2) and (a)(3) of Rule 11.9 (National Securities Trading System) to read as follows (new language italicized—deleted language in brackets):

Rule 11.9. National Securities Trading System

(a) When used in Rule 11.9, unless the context otherwise requires—

(2) The term "Contributing Dealer" means a Proprietary Member who (i) maintains a minimum net capital of at least [$250,000 computed pursuant to the provisions of Commission Rule 15c3–1] *the greater of $50,000 or the amount required under Rule 15c3–1 of the Securities and Exchange Commission, as amended;* (ii) is registered with the Exchange with respect to one or more Designated Issues; and (iii) provides to all Users through the System, during Exchange trading hours, regular bids and offers for round lots of Designated Issues for which he is registered.

(3) The term "Designated Dealer" means a Proprietary Member who maintains a minimum net capital of at least [$500,000 computed pursuant to the provisions of Commission Rule 15c3–1] *the greater of $50,000 or the amount required under Rule 15c3–1 of the Securities and Exchange Commission, as amended,* and who has been approved by the Securities Committee to perform market making functions by entering bids and offers for Designated Issues into the System.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Board of Trustees determined that the Proposed Changes will broaden and deepen the market offered to investors by permitting more members to become Contributing Dealers and Designated Dealers. The Exchange's present net capital requirements for its market makers are significantly higher than those of other regional exchanges and have operated as a burden on competition and as a disincentive to membership by market makers. The Proposed Change will bring the Exchange, primarily a small order system, to comparable minimum net capital levels with the other regional exchanges without compromising investor protection (*See Philadelphia Stock Exchange Guide,* Rule 706; *Midwest Stock Exchange Guide,* Article XI, Rule 3(b); *Boston Stock Exchange Guide,* Chapter XXII, Sec. 2(b); *Pacific Stock Exchange Guide,* Rule V, Sec. 2(a).)

The Exchange has experienced no problem with surveillance or operation related to its market maker net capital requirements and believes that no problems will arise as a result of the adoption of the proposed rule change. Upon consultation with the Exchange's Dealers, the Board of Trustees believes that the Proposed Change will enhance competition within the Exchange's multiple dealer system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the Proposed Change will enhance competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received comments on the Proposed Change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 5th Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: February 3, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–3873 Filed 2–10–84; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 20626; SR–PSE–83–22]

Self-Regulatory Organizations; Pacific Stock Exchange, Inc.; Order Approving Proposed Rule Change

The Pacific Stock Exchange, Inc. ("PSE") 301 Pine Street, San Francisco CA 94104, submitted on December 6, 1983, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b–4 thereunder, to amend Article III ("Election, Meetings, Term of Office, Proxies") of the PSE's Constitution in the following two ways: (1) Section 1(a) of Article III would be amended to change the date of the PSE's annual meeting from the third Thursday in January to the fourth Thursday in January in order to eliminate a conflict between the present meeting date and the expiration of an options cycle, which the PSE states has made it difficult for some of its members to attend the annual meetings; (2) Section 1(c), 4(d), 4(e), 5(a), and 6 of Article III would be amended to authorize the PSE's Board of Governors to appoint dates of record for determining whether members are in good standing and authorized to be present and vote at the annual meetings and other meetings.[1]

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by

[1] The PSE has notified the Commission that these proposed changes to the PSE's Constitution were ratified by the PSE membership by the required two/thirds affirmative vote at a duly noticed meeting of the membership on January 19, 1984

the issuance of a Commission Release (Securities Exchange Act Release No. 20477, December 13, 1983) and by publication in the **Federal Register** (48 FR 56295, December 20, 1983). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6, and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-3875 Filed 2-10-84; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirement Under OMB Review

ACTION: Notice of Reporting Requirements Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirement to OMB for review and approval, and to publish notice in the **Federal Register** that the agency has made such a submission.

DATE: Comments must be received on or before March 23, 1984. If you anticipate commenting on a submission but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB reviewer and the Agency Clearance Officer of your intent as early as possible.

Copies: Copies of the proposed forms, the requests for clearance (S.F. 83), supporting statements, instructions, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Comments on the item listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Elizabeth M. Zaic, Small Business Administration, 1441 L Street, NW., Room 200, Washington, D.C. 20416, Telephone: (202) 653-8538

OMB Reviewer: J. Timothy Sprehe, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, New Executive Office Building, Washington, D.C. 20503, Telephone: (202) 395-4814.

Forms Submitted for Review

Title: Compliance Review Report
Form No. SBA 747
Frequency: Once during the life of the loan
Description of Respondents: Employees and officials of the recipient's business
Annual Responses: 1,000
Annual Burden Hours: 2,000
Type of Request: Reinstatement

Title: Application for Certification as a Certified Development Company
Form No. SBA 1246
Frequency: One for each application for certification
Description of Respondents: Applicant wishing to become certified
Annual Reponses: 178
Annual Burden Hours: 1,424
Type of Request: Extension.

Dated: February 8, 1984.

Elizabeth M. Zaic,

Chief, Paperwork Management Branch, Small Business Administration.

[FR Doc. 84-3879 Filed 2-10-84; 8:45 am]

BILLING CODE 8025-01-M

Action Subject to Intergovernmental Review

AGENCY: Small Business Administration.

ACTION: Notice of action subject to intergovernmental review under Executive Order 12372.

SUMMARY: This notice provides for public awareness of SBA's intention to refund one of our 28 Small Business Development Centers (SBDC's) for fiscal year 1985. It also provides a description of the SBDC program by setting forth a condensed version of the program announcement which has been furnished to the SBDC to be refunded. This publication is being made to provide the State single point of contact, designated pursuant to Executive Order 12372, and other interested State and local entities, the opportunity to comment on the proposed refunding in accord with the Executive Order and SBA's regulations found at 13 CFR Part 135.

DATE: Comments will be received for a period of 120 days from the date of publication of this notice.

ADDRESS: Comments should be addressed to Mrs. Johnnie L. Albertson, Deputy Associated Administrator for SBDC Programs, U.S. Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Same as above.

SUPPLEMENTARY INFORMATION: SBA is bound by the provisions of Executive Order 12372, "Intergovernmental Review of Federal Programs." SBA has promulgated regulations spelling out its obligations under that Executive Order. See 13 CFR Part 135, effective September 30, 1983.

In accord with these regulations, specifically § 135.4, SBA is publishing this notice to provide public awareness of the pending application of presently existent Small Business Development Centers (SBDC's) for refunding. Also, published herewith is an annotated program announcement describing the SBDC program in detail.

This notice is being published eight months in advance of the date of refunding of this existent SBDC. Relevant information identifying this SBDC and providing its mailing address is provided below. In addition to this publication, a copy of this notice is being simultaneously furnished to the affected State single point of contact which has been established under the Executive Order.

The State single point of contact and other interested State and local entities are expected to advise the relevant SBDC of their comments regarding the proposed refunding in writing as soon as possible. Copies of such written comments should also be furnished to Mrs. Johnnie L. Albertson, Deputy Associate Administrator for SBDC Programs, U.S. Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416. Comments will be accepted by the relevant SBDC and SBA for a period of four months (120 days) from the date of publication of this notice. The relevant SBDC will make every effort to accommodate these comments during the 120 day period. If the comments cannot be accommodated by the relevant SBDC, SBA will, prior to refunding the SBDC, either attain accommodation of any comments or furnish an explanation of why accommodation cannot be attained to the commentor prior to refunding the SBDC.

Description of the SBDC Program

The Small Business Development Center Program is a major management assistance delivery program of the U.S. Small Business Administration. SBDC's are authorized under section 21 of the Small Business Act (15 U.S.C. 648).

SBDC's operate pursuant to the provisions of section 21, a Notice of Award (Cooperative Agreement) issued by SBA, and a Program Announcement. The Program represents a partnership between SBA and the State-endorsed organization receiving Federal assistance for its operation. SBDC's operate on the basis of a State plan which provides small business assistance throughout the State. As a condition to any financial award made to an applicant, an additional amount equal to the amount of assistance provided by SBA must be provided to the SBDC from sources other than the Federal Government.

Purpose and Scope

The SBDC Program has been designed to meet the specialized and complex management and technical assistance needs of the small business community. SBDC's focus on providing indepth quality assistance to small businesses in all areas which promote growth, expansion, innovation, increased productivity and management improvement. SBDC's act in an advocacy role to promote local small business interests. SBDC's concentrate on developing the unique resources of the university system, the private sector, and State and local governments to provide services to the small business community which are not available elsewhere. SBDC's coordinate with other SBA programs of management assistance and utilize the expertise of these affiliated resources to expand services and avoid duplication of effort.

Program Objectives

The overall objective of the SBDC Program is to leverage Federal dollars and resources with those of the State academic community and private sector to:

(a) Strengthen the small business community;

(b) Contribute to the economic growth of the communities served;

(c) Make assistance available to more small businesses than is now possible with present Federal resources; and

(d) Create a broader based delivery system to the small business community.

SBDC Program Organization

SBDC's are organized to provide maximum services to the local small business community. The lead SBDC receives financial assistance from the SBA to operate a statewide SBDC Program. In states where more than one organization receives SBA financial assistance to operate an SBDC, each lead SBDC is responsible for Program operations throughout a specific regional area to be served by the SBDC. The lead SBDC is responsible for establishing a network of SBDC subcenters to offer service coverage to the small business community. The SBDC network is managed and directed by a single full-time Director. SBDC's must ensure that at least 80 percent of Federal funds provided are used to provide services to small businesses. To the extent possible, SBDC's provide services by enlisting volunteer and other low cost resources on a statewide basis.

SBDC Services

The specific types of services to be offered are developed in coordination with the SBA district office which has jurisdiction over a given SBDC. SBDC's emphasize the provision of indepth, high-quality assistance to small business owners or prospective small business owners in complex areas that require specialized expertise. These areas may include, but are not limited to: management, marketing, financing, accounting, strategic planning, regulation and taxation, capital formation, procurement assistance, human resource management, production, operations, economic and business data analysis, engineering, technology transfer, innovation and research, new product development, product analaysis, plant layout and design, agribusiness, computer application, business law information, and referral (any legal services beyond basic legal information and referral require the endorsement of the State Bar Association), exporting, office automation, site selection, or any other areas of assistance required to promote small business growth, expansion, and productivity within the State.

The degree to which SBDC resources are directed towards specific areas of assistance is determined by local community needs, SBA priorities and SBDC Program objectives and agreed upon by the SBA district office and the SBDC.

The SBDC must offer quality training to improve the skills and knowledge of existing and prospective small business owners. As a general guideline, SBDC's should emphasize the provision of training in specialized areas other than basic small business management subjects. SBDC's should also emphasize training designed to reach particular audiences such as members of SBA priority and special emphasis groups.

SBDC Program Requirements

The SBDC is responsible to the SBA for ensuring that all programmatic and financial requirements imposed upon them by statute or agreement are met. The SBDC must assure that quality assistance and training in management and technical areas is provided to the State small business community through the State SBDC network. As a condition of this agreement, the SBDC must perform but not be limited to the following activities.

(a) The SBDC ensures that services are provided as close as possible to small business population centers. This is accomplished through the establishment of SBDC subcenters.

(b) The SBDC ensures that lists of local and regional private consultants are maintained at the lead SBDC and each SBDC subcenter. The SBDC utilizes and provides compensation to qualified small business vendors such as private management consultants, private consulting engineers, and private testing laboratories.

(c) The SBDC is responsible for the development and expansion of resources within the State, particularly the development of new resources to assist small business that are not presently associated with the SBA district office.

(d) The SBDC ensures that working relationships and open communications exist within the financial and investment communities, and with legal associations, private consultants, as well as small business groups and associations to help address the needs of the small business community.

(e) The SBDC ensures that assistance is provided to SBA special emphasis groups throughout the SBDC network. This assistance shall be provided to veterans, women, exporters, the handicapped, and minorities as well as any other groups designated a priority by SBA. Services provided to special emphasis groups shall be performed as part of the Cooperative Agreement.

Advance Understandings

(a) Lead SBDC's shall operate on a 40-hour week basis, or during normal State business hours, with National holidays or State holidays as applicable excluded.

(b) SBDC subcenters shall be operated on a full-time basis. The lead SBDC shall ensure that staffing is adequate to meet the needs of the small business community.

(c) All counseling assistance offered through the Small Business Development Center network shall be provided at no cost to the client.

Dated: February 1, 1984.

James C. Sanders,

Administrator.

Address of SBDC Subject to this Notice

Dr. Charles H. Davis, (316) 689-3367, SBDC Director, Wichita State University, College of Business Administration, 1845 Fairmont, Wichita, KN 67208.

[FR Doc. 84-3888 Filed 2-10-84; 8:45 am]

BILLING CODE 8025-01-M

[License No. 06/06-0274]

Equity Capital Corp.; Issuance of a License To Operate as a Small Business Investment Company

On November 22, 1983, a notice was published in the **Federal Register** (48 FR 52796), stating that Equity Capital Corporation located at 231 Washington Avenue, Suite 2, Santa Fe, New Mexico 87501, had filed an application with the Small Business Administration pursuant to 13 CFR 107.102(1984), for a license to operate as a small business investment company under the provisions of Section 301(c) of the Small Business Investment Act of 1958, as amended.

The period for comment expired on December 7, 1983, and no significant comments were received.

Notice is hereby given that considering the application and other information, SBA has issued License No. 06/06-0274 to Equity Capital Corporation.

Dated: February 2, 1984.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84-3884 Filed 2-10-84; 8:45 am]

BILLING CODE 8025-01-M

[License Application No. 4/4-0229

Equity Lenders International, Inc.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1983)), under the name of Equity Lenders International, Inc., 220 Sycamore Street, Gainesville, Georgia 30501, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act) (15 U.S.C. 661 et seq.), and the Rules and Regulations promulgated thereunder.

The proposed officers, directors and shareholders of the Applicant are as follows:

Robert C. Bowden, Route 7, Green Apple Road, Gainesville, Georgia 30506—President, Director, 46 percent shareholder.

Shirley S. Bowden, Route 7, Green Apple Road, Gainesville, Georgia 30506—Secretary, Director, 44 percent shareholder.

Raymond F. Shuder, 2224 Riverside Drive, Gainesville, Georgia 30501—Vice President, Director, 10 percent shareholder.

Alexander Grant & Company, Atlanta, Georgia—Investment Advisor.

The Applicant will begin operations with $1,005,000 of private capital derived from the sale of 50,250 shares of its common stock, the only class of stock authorized.

The Applicant will conduct its operations principally in northern Georgia.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed officers, directors, and shareholders, and the probability of successful operation of the Applicant in accordance with the Act and Regulations.

Notice is further given that any person may, not later than (fifteen days from the date of publication of this notice), submit to SBA, in writing, comments on the proposed licensing of this company. Any such communications should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

A copy of this notice shall be published by the Applicant in a newspaper of general circulation in Gainesville, Georgia.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: February 7, 1984.

Robert G. Lineberry

Deputy Associate Administrator for Investment.

[FR Doc. 84-3885 Filed 2-10-84; 8:45 am]

BILLING CODE 8025-01-M

[Delegation of Authority No. 12; Rev. 2, Amdt. 3]

Authority Delegation; Associate Administrator for Finance and Investment

Associate Administrator for Finance and Investment Delegation of Authority No. 12 (47 FR 14995) as amended (48 FR 9979, 48 FR 28599) is hereby amended to incorporate authority delegated by memo from the Administrator to the Associate Administrator for Finance and Investment dated March 31, 1982; to certify development companies for participation in the 503 program. Since the authority has been in effect since the date of the above memorandum this delegation is retroactive to include any actions taken during that period. The amended paragraph reads as follows:

I

A. Financial Assistance Activities

8. To take all necessary actions to certify, suspend or revoke the certification of, development companies for participation in the 503 Certified Development Company Program.

* * * * *

Effective Date: March 31, 1982.

Dated: February 6, 1984.

James C. Sanders,

Administrator.

[FR Doc. 84-3887 Filed 2-10-84; 8:45 am]

BILLING CODE 8025-01-M

[Delegation of Authority No. 12-A; Rev. 3, Amdt.1]

Authority Delegation; Deputy Associate Administrator for Financial Assistance

Delegation of Authority No. 12-A (48 FR 14461) is hereby amended to delegate authority to the Deputy Associate Administrator for Financial Assistance to certify development companies for participation in the 503 Development Company Program, and to reflect the reorganization of the Financial Assistance Division. Delegation of Authority No. 12-A is amended to read as follows:

I

A. Deputy Associate Administrator for Financial Assistance

1. Financial Assistance Program.

* * * * *

h. To take all necessary actions to certify, suspend or revoke the certification of, development companies for participation in the 503 Certified Development Company Program.

* * * * *

B. Director, Office of Business Loans

* * * * *

4. To take all necessary actions in connection with determinations of eligibility for lending institutions to participate in SBA lending and financial

assistance programs, under the Small Business Act and Section 503 of the SBI Act, including the suspension or revocation of such eligibility provided, however, final determination of eligibility, suspension or revocation of such eligibility will be retained by the Deputy Associate Administrator for Financial Assistance.

5. To take all necessary actions in connection with the regulation of lending institutions participating in SBA lending and financial assistance programs, in accordance with the Small Business Act, as amended and Title V of the Small Business Investment Act, as amended, and the Regulations thereunder as amended from time to time.

6. To take all necessary actions in connection with the promotion and development of the Agency's financial assistance activities as they relate to participating lending institutions.

* * * * *

F. Director, Office of Economic Development

1. To approve or decline development company (Sections 501, 502, 503) loan applications, including reconsiderations thereof, and to execute authorizations and modifications pertaining to such loans.

2. To cancel, reinstate, modify and amend authorizations for fully, undisbursed loans. To take all necessary actions in connection with the sale of the SBA guaranteed Certified Development Company debentures from time to time to the Federal Financing Bank or any other duly qualified purchaser as determined by SBA.

* * * * *

Effective Date: February 13, 1984.

Dated: February 7, 1984.

Edwin T. Holloway,

Associate Administrator for Finance and Investment.

[FR Doc. 84-3886 Filed 2-10-84; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 3032]

North Dakota; Declaration of Physical Disaster Loan Area; Pursuant to Pub. L. 98-166

Pursuant to the Secretary of Agriculture's Designation, Farmers Home Administration (FmHA) has authorized the acceptance of emergency loan applications in the following area:

State of North Dakota

Authorized by FmHA		Incident and date
Number	Date	
S117	1/06/84	Damages and losses to crops caused by winds, drought and high temperatures beginning on April 1, 1983; and continuing through August 31, 1983; and hailstorms occurring April 1, 1983 through June 30, 1983; July 17-19 and August 24, 1983.

Counties

Divide, Dunn, Emmons, Golden Valley, Hettinger, McLean, Pembina, Sheridan, Sioux, Slope, and Wells.

As a result of this designation, I have determined the above counties in the State of North Dakota constitute a disaster loan area for agricultural enterprises which are ineligible for disaster assistance from the FmHA because of alien status; corporations, partnerships and cooperatives not being primarily engaged in farming, farm owners who do not operate their farms, etc., and for Economic Injury Disaster loans for non-farm small business concerns.

The interest rates for eligible applicants under this designation are as follows:

	Percent
Agricultural enterprises with credit available elsewhere	10.5
Agricultural enterprises without credit available elsewhere	8.0
Non-farm small businesses (economic injury)	8.0

Loan applications for Physical Disaster Loans from eligible agricultural enterprises may be filed for a period not to exceed thirty days from the date of the letter of referral from FmHA, provided that the application for EM assistance from FmHA or the formal writen request for a letter of referral by FmHA was filed within the time limits set forth in the FmHA designation. Loan applications for Economic Injury for non-farm small businesses may be filed until the close of business on July 6, 1984. The number assigned to this disaster is 3032 for Physical damage to eligible agricultural enterprises and for Economic Injury 612701. Eligible enterprises may file applications for loans for physical damage or economic injury at: U.S. Small Business Administration, Area 4 Disaster Office, 77 Cadillac Drive, Suite 158, Sacramento, California 95825, (800) 468-1710 and in California (800) 468-1713 or other locally announced locations.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: February 7, 1984.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 84-3882 Filed 2-10-84; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 3033]

Wisconsin; Declaration of Physical Disaster Loan Area, Pursuant to Pub. L. 98-166

Pursuant to the Secretary of Agriculture's Designation, Farmers Home Administration (FmHA) has authorized the acceptance of emergency loan applications in the following area:

State of Wisconsin

FmHA		Incident and date
Number	Date	
S114	12/15/83	Drought and high temperatures beginning June 1, 1983, and continuing through October 1, 1983. *Lossses also due to high winds and hail occurring on August 10, 1983.

Counties

Green, Iowa, Racine, Rock, and Waukesha. *Lafayette.

S114	1/17/84	Drought and high temperatures beginning June 1, 1983 and continuing through October 1, 1983.

Counties

Dane and Grant.

As a result of this designation, I have determined the above counties in the State of Wisconsin constitute a disaster loan area for agricultural enterprises which are ineligible for disaster assistance from the FmHA because of alien status; corporations, partnerships and cooperatives not being primarily engaged in farming, farm owners who do not operate their farms, etc., and for Economic Injury Disaster loans for non-farm small business concerns.

The interest rates for eligible applicants under this designation are as follows:

	Percent
Agricultural enterprises with credit available elsewhere	10.5
Agricultural enterprises without credit available elsewhere	8.0
Non-farm small businesses (economic injury)	8.0

Loan applications for Physical Disaster Loans from eligible agricultural enterprises may be filed for a period not to exceed thirty days from the date for the letter of referral from FmHA, provided that the application for EM assistance from FmHA or the formal written request for a letter of referral by FmHA was filed within the time limits

set forth in the FmHA designation. Loan applications for Economic Injury for non-farm small businesses may be filed until the close of business on June 15, 1984 in the counties of Green, Iowa, Racine, Rock, Waukesha, and Lafayette and on July 17, 1984 in the counties of Dane and Grant. The number assigned to this disaster is 3033 for Physical damage to eligible agricultural enterprises and for Economic Injury 612801. Eligible enterprises may file applications for loans for physical damage or economic injury at: U.S. Small Business Administration, Area 2 Disaster Office, 75 Spring Street SW., Suite 822, Atlanta, Georgia 30303, (800) 554–3455 and in Georgia (800) 241–5625 or other locally announced locations.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: February 7, 1984.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 84–3883 Filed 2–10–84; 8:45 am]

BILLING CODE 8025–01–M

Alabama; Region IV; Advisory Council Public Meeting

The Small Business Administration, Region IV Advisory Council located in the geographical area of Birmingham, Alabama, will hold a public meeting 10:00 a.m.–12:00 Noon, on Wednesday, March 7, 1984, in the Alabama House of Representatives, Alabama State Capitol, Montgomery, Alabama 36130, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call James C. Barksdale, District Director, U.S. Small Business Administration, 908 South 20th Street, Room 202, Birmingham, Alabama, 35226, (205) 254–1341.

Dated: February 6, 1984.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 84–3881 Filed 2–10–84; 8:45 am]

BILLING CODE 8025–01–M

New Hampshire; Region I; Advisory Council Public Meeting

The Small Business Administration, Region I Advisory Council located in the geographical area of Concord, New Hampshire, will hold a public meeting 10:00 A.M., on Wednesday, March 7, 1984, in the Federal Building, 55 Pleasant Street, Concord, New Hampshire, Room 304, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call William Phillips, District Director, U.S. Small Business Administration, 55 Pleasant Street, Concord, New Hampshire 03301, (603) 224–4041.

Dated: February 8, 1984.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 84–3880 Filed 2–10–84; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA Waiver Petition Docket Number HS–84–1]

Petition for Exemption From the Hours of Service Act; Amador Central Railroad Co.

In accordance with 49 CFR §§ 211.41 and 211.9, notice is hereby given that the Amador Central Railroad Company has petitioned the Federal Railroad Administration (FRA) for an exemption from the Hours of Service Act (83 Stat. 464, Pub. L. 91–169, 45 U.S.C. 64 a(e)). The petition requests that the Amador Central Railroad Company be granted authority to permit certain employees to remain on duty for in excess of twelve hours.

The Hours of Service Act currently makes it unlawful for a railroad to require or permit specified employees to remain on duty for a period in excess of twelve hours. However, the Hours of Service Act contains a provision that permits a railroad, which employs no more than fifteen employees who are subject to the statute, to seek an exemption from the twelve hour limitation.

The Amador Central Railroad seeks this exemption so that it can permit certain empolyees to remain on duty not more than sixteen hours in any twenty-four hour period. The petitioner indicates that granting the exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it empolys no more than fifteen employees and has demonstrated good cause for granting this exemption.

Interested persons are invited to participate in these proceedings by submitting written views and comments. FRA has not scheduled an opportunity for oral comment since the facts do not appear to warrant it. Communications concerning the proceedings should identify this docket number and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

Communications received before March 23, 1984, will be considered by FRA before final action is taken. Comments received after that will be considered as far as practicable. All comments received will be available for examination both before and after the closing date for comments, during regular business hours in Room 7330, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

(Sec. 5 of the Hours of Service Act of 1969 (45 U.S.C. 64(a), 1.49(d))

Issued in Washington, D.C. on January 26, 1984.

J. W. Walsh,

Associate Administrator for Safety.

[FR Doc. 84–3858 Filed 2–10–84; 8:45 am]

BILLING CODE 4910–06–M

[BS–Ap–No. 2228]

Consolidated Rail Corp.; Petition for Discontinuance of Traffic Controls

The Consolidated Rail Corporation has petitioned the Federal Railroad Administration (FRA) seeking approval of the proposed discontinuance of the traffic control and the automatic block signal systems between Union City and Kenneth, Indiana, on its Columbus to Chicago Main Line, a distance of about 100 miles, and the discontinuance of the traffic control system between Van and Clymers, Indiana, on its Frankfort Secondary Track, a distance of about 5 miles. This proceeding is identified as FRA Block Signal Application No. 2228.

After examining the carrier's proposal and the available facts, the FRA has determined that a public hearing is necessary before a final decision is made on this proposal.

Accordingly, a public hearing is hereby set for 10:00 a.m. on April 5, 1984, in Room 402 of the U.S. Post Office and Court House at 46 East Ohio Street, Indianapolis, Indiana.

The hearing will be an informal one, and will be conducted in accordance with Rule 25 of the FRA Rules of Practice (49 CFR 211.25), by a representative designated by the FRA.

The hearing will be a nonadversary proceeding and, therefore, there will be no cross-examination of persons presenting statements. The FRA representative will make an opening statement outlining the scope of the hearing. After all initial statements have been completed, those persons who wish to make brief rebuttal statements

will be given the opportunity to do so in the same order in which they made their initial statements. Additional procedures, if necessary for the conduct of the hearing will be announced at the hearing.

Issued in Washington, D.C. on February 8, 1984.

Philip Olekszyk,

Deputy Associate Administrator for Safety.

[FR Doc. 84-3854 Filed 2-10-84; 8:45 am]

BILLING CODE 4910-06-M

Maritime Administration

[Docket S-750]

American President Lines, Ltd.; Application to Amend Contract MA/MSB-417 to Provide Service at the Gulf of Aden, Red Sea, and Ports in Somalia on the Indian Ocean

Notice is hereby given that American President Lines, Ltd., has requested amendment of its Line B Extension service as set forth in its Operating-Differential Subsidy Agreement, Contract MA/MSB-417 so as to permit its subsidized vessels operating on Line B Extension to provide service at the Gulf of Aden, Red Sea, and ports in Somalia on the Indian Ocean.

American President Lines currently provides service on Line B Extension between Washington-Oregon and the Far East and South Asia with six full containerships in line haul service operating in conjunction with three full containerships in feeder service, and with four breakbulk C5 vessels providing direct service between Washington-Oregon and the Far East and South Asia, which may serve as far westward as the Persian Gulf and Oman. Breakbulk vessels operating on Line B Extension service may call at California on up to 20 sailings per year. Minimum sailing requirements on Line B Extension are six sailings per year; maximum sailings permitted are 80 sailings per year.

Any person, firm, or corporation having any interest in such application and desiring to offer views and comments thereon for consideration by the Maritime Subsidy Board should submit them in writing, in triplicate, to the Secretary, Maritime Subsidy Board, Washington, D.C. 20590 by close of business on February 24, 1984.

The Maritime Subsidy Board will consider these views and comments and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 20.804 Operating-Differential Subsidies (ODS))

Dated: February 8, 1984.

By Order of the Maritime Subsidy Board.

Georgia P. Stamas,

Secretary.

[FR Doc. 84-3833 Filed 2-10-84; 8:45 am]

BILLING CODE 4910-81-M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 30
Monday, February 13, 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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1

AFRICAN DEVELOPMENT FOUNDATION

TIME AND DATE: 1:00 p.m., February 17, 1984.

PLACE: African Development Foundation, 1724 Massachusetts Avenue, NW., Washington, D.C.

SUBJECT: General Business.

STATUS: Open.

PERSON TO CONTACT: Douglas Robbins, ADF Liaison Office, (703) 235–1882.

Dated: February 7, 1984.

Douglas Robertson,

Acting General Counsel of the African Development Foundation.

[FR Doc. 84–3960 Filed 2–9–84; 3:18 pm]

BILLING CODE 6116–01–M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 3:20 p.m. on Wednesday, February 8, 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 Heritage Bank of Bureau County, Depue, Illinois, which was closed by the Commissioner of Banks and Trust Companies for the State of Illinois on Wednesday, February 8, 184; (2) accept the bid for the transaction submitted by The Colonial Trust and Savings Bank of Bureau County, Depue, Illinois, a newly-chartered State nonmember bank subsidiary of Colonial Bancorporation, Inc., Peru, Illinois; (3) approve the applications of The Colonial Trust and Savings Bank of Bureau County, Depue, Illinois, for Federal deposit insurance, for consent to purchase the assets of and to assume the liability to pay deposits made in Heritage Bank of Bureau County, Depue, Illinois, and for consent to establish the one existing branch and one approved but unopened branch of Heritage Bank of Bureau County as branches of The Colonial Trust and Savings Bank of Bureau County; 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 facilitate the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Director Irvine H. Sprague (Appointive), seconded 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)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: February 9, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84–3982 Filed 2–9–84; 3:40 pm]

BILLING CODE 6714–01–M

3

NUCLEAR REGULATORY COMMISSION

DATE: Tuesday, February 14, 1984.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE DISCUSSED:

Tuesday, February 14

10:00 a.m.
Discussion of Staff Recommendations on DOE Siting Guidelines (Public Meeting)

2:00 p.m.
Briefing on BWR Pipe Cracks—Status of Plants (Public Meeting)

ADDITIONAL INFORMATION: Briefing by Executive Branch scheduled for February 7, *cncelled.*

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.

[FR Doc. 84–3897 Filed 2–9–84; 9:37 am]

BILLING CODE 7590–01–M

4

NUCLEAR REGULATORY COMMISSION

DATE: Week of February 13, 1984.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE DISCUSSED:

Tuesday, February 14

10:00 a.m.
Discussion of Staff Recommendations on DOE Siting Guidelines (Public Meeting) (As Announced)

2:00 p.m.
Briefing on BWR Pipe Cracks—Status of Plants (Public Meeting) (As Announced)

Wednesday, February 15

2:00 p.m.
Discussion of Pending Investigation (Closed—Ex. 5, 7 and 10)

Thursday, February 16

2:00 p.m.
Discussion of Advance Notice of Rulemaking on Backfitting (Public Meeting)

ADDITIONAL INFORMATION: Discussion of Management-Organization and Internal Personnel Matters scheduled for February 9, *cncelled.*

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.

[FR Doc. 84–3958 Filed 2–9–84; 3:18 pm]

BILLING CODE 7590–01–M

federal register

Monday
February 13, 1984

Part II

Department of Housing and Urban Development

Office of the Assistant Secretary for Community Planning and Development

Urban Development Action Grants; Revised Minimum Standards for Small Cities; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-84-1341; FR-1945]

Urban Development Action Grants; Revised Minimum Standards for Small Cities

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: In accordance with 24 CFR 570.452(b)(1), the Department is providing Notice of the most current minimum standards of physical and economic distress for small cities for the Urban Development Action Grant program.

This Notice revises the Notice published March 1, 1983 (48 FR 8758). The changes to eligibility in this Notice principally result from a regulation change to the minimum distress standards published January 25, 1984 (49 FR 3074). The change provides an additional minimum standard of distress based on long term high unemployment as used by the Department of Labor to identify Labor Surplus Areas. The changes also result from the use of updated 1980 age of housing data and poverty data as well as from revised eligibility thresholds.

This Notice contains five lists: One list (see Part II of this Notice) identifies those cities which qualify as distressed communities based upon the new minimum standards; a second list (see Part III of this Notice) identifies those cities which did not qualify when the March 1, 1983 list was published but which do qualify now; a third list (see Part IV of this Notice) identifies those cities which were classified as distressed on the March 1, 1983 list, but which no longer qualify under the new minimum standards; a fourth list (see Part V of this Notice) identifies those cities which were classified as distressed on June 8, 1982 list but no longer qualified when March 1, 1983 list was published; finally, a fifth list (See Part VI of this Notice) identifies those towns and townships which qualify as distressed communities based upon the new minimum standards.

EFFECTIVE DATE: March 7, 1984.

FOR FUTHER INFORMATION CONTACT: Frank Ridenour, Office of Urban Development Action Grants, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, Telephone: 202-755-6784. For information on minimum distress standards or the data used to determine whether a community qualifies as distressed contact: Robert Brever, Telephone: 202/755-6042.

SUPPLEMENTARY INFORMATION: A Notice published by the Department on March 1, 1983 provided the mimimim standards of physical and economic distress which were applicable up to the effective date of this Notice for small cities which met the standards published at that time.

Part I of this Notice now specifies the new minimum standards of physical and economic distress. Parts II through VI contain the lists enumerated in the Summary section of this Notice. Part II of this Notice contains a revised list of all the small cities which meet the new standards. Part III of this Notice lists those small which, based upon the new minimum standards, appear on the list in Part II but did not qualify when the March 1, 1983 list was published. Part IV is a list of those cities which were classified as distressed on the March 1, 1983 list but which no longer qualify under the minimum standards. These cities listed in Part IV have a period of time, as specified in Part IV, during which they may submit Action Grant applications. Part V is a list of cities that were continued on as being eligible by the 1983 amendments to the Housing and Community Development Act of 1974 after they were identified in the March 1, 1983 list as losing their qualification as of August 31, 1983. None of these cities are listed in Part III of this Notice as having regained eligibility. The final submission date for these small cities will be August 31, 1984. Part VI is a revised list of eligible towns and townships.

A regulation change published January 25, 1984 added a seventh minimum standard of economic distress (six of which are used for small cities). A small city meets the standard if it is within an area that meets the unemployment criterion required for designation as a Labor Surplus Area (LSA). Since the number of criteria required for distress designation remained the same, this regulation change did not result in the loss of distress designation for any small city.

In general, LSAs are high unemployment cities with a population greater than 50,000, counties and county balances which are designated by the Department of Labor for the purpose of targeting Federal procurements. an area receives the LSA designation if it surpases a threshold. This threshold is calculated by utilizing the national average unemployment rate. An area receives the LSA designation if it exceeds 120 percent of the national average unemployment rate over the last two years. The range of the threshold cannot exceed 10 percent or go below 6 percent. The specified unemployment rate for the 1981-1982 period is ten percent.

A list of eligible labor surplus areas was published in the **Federal Register** on September 29, 1983 (48 FR 44676).

The minimum standard for age of housing is revised based on the 1980 Census. Previously, 1970 housing counts were used (adjusted for boundary changes through 1980). The minimum distress thresholds for population lag/decline, job lag/decline and per capita income growth have changed slightly to reflect small corrections and additions to the data.

Also, the standards were changed as a result of two other factors: First, there was a revision to the method for calculating the percentage of poverty. The new method uses the same percent as reported by the Bureau of the census. The previous method gave a different result since the denominator was the latest population estimate or count, and was not adjusted to exclude certain people such as those living in group quarters. Second, the data and thresholds are rounded to one decimal place instead of two. Thus, the data corresponds to the number of decimal places used by the Bureau of the Census and Labor Statistics.

This Notice is published pursuant to 24 CFR § 570.452(b)(1).

Part I

A small city must pass three minimum standards of physical and economic distress for the categories appropriate to their size, except that if the percentage of poverty is less than half the minimum standard, the city must pass four standards. The most current minimum standards of physical and economic distress are:

A. *Age of Housing.* At least 21.0 percent of the applicant's year-round housing units must have been constructed prior to 1940, based on 1980 U.S. Census data, in order to meet this minimum standard;

B. *Per Capita Income Change.* The net increase in per capita income for the period of 1969-1979 must have been $4036 or less, based on U.S. Census data, in order to meet this minimum standard;

C. *Population Growth Lag/Decline.* For the period 1970-1980 the percentage rate of population growth (based on corporate boundaries in 1970 and as of the 1980 Census) must have been 1.7

percent or less, based on U.S. Census data, in order to meet the minimum standards;

D. *Job Lag/Decline.* The rate of growth in retail and manufacturing employment for the period 1972–1977 must have increased by 6.9 prcent or less, based on U.S. Census data, in order to meet this minimum standard. If neither data source is available this standard will not be considered;

E. *Poverty.* The percentage of persons within the applicant's jurisdication at or below the poverty level must be 12.4 percent or more, based on 1980 U.S. Census data, in order to meet this minimum standard.

F. *Labor Surplus Area.* The small city must either be entirely within or partially within an area which meets the criteria for designation as a Labor Surplus Area as of October 1983. These areas include cities with populations of 50,000 or more, counties or county balances with an unemployment rate of ten percent for calendar years 1981–1982.

II. The following small cities meet the current minimum standards of physical and economic distress appropriate to their class.

Alabama

Abberille
Addison
Akron
Albertivlle
Alexander City
Aliceville
All Good
Altoona
Andalusia
Anderson
Ardmore
Ariton
Arley
Ashford
Ashland
Ashville
Athens
Atmore
Attalla
Auburn
Autaugaville
Baileyton
Banks
Bay Minette
Bayou La Batre
Bear Creek
Beatrice
Beaverton
Benton
Billingsley
Black
Blountsville
Blue Mountain
Blue Springs
Boaz
Boligee
Bon Air
Brantley
Brent
Brewton
Bridgeport
Brighton
Brilliant
Brundidge
Calera
Camden
Camp Hill
Carbon Hill
Cardiff
Carolina
Carrollton
Carrville
Castleberry
Cedar Bluff
Centre
Centreville
Chatom
Chickasaw
Childersburg
Citronelle
Clanton
Clayhatchee
Clayton
Cleveland
Clio
Coffee Springs
Coffeeville
Collinsville
Colony
Columbia
Columbiana
Coodsada
Cordova
Cottonwood
County Line
County Line
Courtland
Crossville
Cuba
Dadeville
Daleville
Daphne
Daviston
Dayton
Demopolis
Detroit
Dora
Double Springs
Douglas
Dozier
Dutton
East Brewton
Eclectic
Edwardsville
Elba
Elberta
Eldridge
Elkmont
Enterprise
Epes
Ethelsville
Eufaula
Eundla
Eutaw
Evergreen
Excel
Fairfield
Fairview
Falkville
Faunsdale
Five points
Flomaton
Florala
Forkland
Fort Deposit
Fort Payne
Franklin
Frisco City
Fruithurst
Fulton
Fyffe
Gainesville
Gantt
Gantts Quarry
Garden City
Gaylesville
Geiger
Geneva
Georgiana
Geraldine
Gilbertown
Glen Allen
Glenwood
Goldville
Good Hope
Goodwater
Gordo
Gordon
Goshen
Graysville
Greensboro
Greenville
Grove Hill
Guin
Guntersville
Gurley
Guwin
Hackleburg
Haleburg
Haleyville
Hamilton
Hammondville
Hanceville
Harpersville
Hartford
Hartselle
Hayden
Hayneville
Headland
Heath
Heflin
Hillsboro
Hobson City
Hodges
Holly Pond
Hollywood
Hurtsboro
Jackson's Gap
Jacksonville
Jasper
Jemison
Kansas
Kennedy
Killen
Kinston
Lafayette
Lakeview
Lanett
Langston
Leighton
Lester
Level Plains
Lexington
Libertyville
Lincoln
Linden
Lineville
Lipscomb
Lisman
Livingston
Loachapoka
Lockhart
Louisville
Lowndesboro
Loxely
Luverne
Lynn
McKenzie
McMullen
Madrid
Mapleville
Margaret
Marion
Maytown
Memphis
Mentone
Midland City
Midway
Millport
Millry
Montevallo
Mooresville
Mosses
Moulton
Moundville
Mountainboro
Mount Vernon
Mulga
Myrtlewood
Napier Field
Nauvoo
Nectar
Needham
Newbern
New Brockton
New Site
Newton
Newville
North Courtland
North Johns
Northport
Notasulga
Oak Grove
Oak Hill
Oakman
Odenville
Ohatchee
Oneonta
Onycha
Opp
Orrville
Ozark
Paint Rock
Parrish
Pell City
Pennington
Petrey
Phil Campbell
Pickensville
Piedmont
Pinckard
Pine Apple
Pine Hill
Pisgan
Pollard
Powells Crossroads
Prichard
Providence
Ragland
Rainsville
Red Bay
Red Level
Reform
Repton
Ridgeville
River Falls
Riverside
Roanoke
Rockford
Rogersville
Roosevelt City
Rosa
Russellville
Rutledge
Samson
Sanford
Sardis City
Section
Selma
Sheffield
Silas
Sipsey
Slocomb
Snead
Somerville
South Vinemont
Springville
Steele
Stevenson
Sulligent
Summerdale
Sweetwater
Sylacauga
Sylvania
Talladega
Talladega Springs
Tallassee
Tarrant City
Thomaston
Thomasville
Thorsby
Town Creek
Toxey
Trafford
Triana
Troy
Tuscumbia
Tuskegee
Union
Union Grove
Union Springs
Uniontown
Valley Head
Vernon
Vina
Vincent
Vredenburgh
Wadley
Waldo
Walnut Grove
Wateloo
Waverly
Wedowee
West Blocton
West Point
Wetumpka
Whitehall
Whites Chapel
Wilton
Woodland
Woodville
York

Alaska

Akhiok
Akiak
Akolmiut
Akutan
Alakanuk
Allakaket
Anaktuvuk Pass
Aniak
Anvik
Atmautluak
Brevig Mission
Buckland
Chefornak
Chevak
Chuathbaluk
Clark's Point
Deering
Diomede
Eagle
Eek
Ekwok
Elim
Emmonak
Fortuna Ledge
Fort Yukon
Gambell
Golovin
Goodnews Bay
Grayling
Holy Cross
Hooper Bay
Hughes
Huslia
Kaltag
Kiana
Kivalina
Kobuk
Kotlik
Koyuk
Koyukuk
Kwethluk
Lower Kalskag
Mekoryuk
Mountain Village
Napakiak
Napaskiak
Nenana
New Stuyahok
Newtok
Nightmute
Nikolai
Nondalton
Noorvik
Nulato
Old Harbor
Pilot Station
Platinum
Port Alexander
Port Lions
Quinhagak
Ruby
Russian Mission
St Mary's
St Michael
Savoonga
Scammon Bay
Selawik
Shageluk
Shaktoolik
Sheldon Point
Shishmaref
Shungnak
Stebbins
Tanana
Teller
Tenakee Springs
Togiak
Toksook Bay
Tuluksak
Tununak
Unalakleet
Upper Kalskag
Wales
White Mountain

Arizona

Apache Junction
Avondale
Benson
Bisbee
Casa Grande
Clarkdale
Clifton
Coolidge
Douglas
Duncan
El Mirage
Eloy
Florence
Globe
Guadalupe
Hayden
Holbrook
Jerome
Mammoth
Miami
Nogales
Patagonia
Payson
Pima
Safford
St Johns
San Luis
Show Low
Somerton
South Tucson
Superior
Surprise
Thatcher
Tombstone
Wellton
Wilcox
Williams
Winkelman
Winslow

Arkansas

Adona
Alicia
Allport
Alma
Almyra
Alpena
Altheimer
Altus
Amagon
Amity
Antoine
Arkadelphia
Arkansas City
Ash Flat
Atkins
Aubrey
Augusta
Avoca
Bald Knob
Banks
Barling
Bassett
Batesville
Bauxite
Bearden
Beaver
Beebe
Beedeville
Belleville
Ben Lomond
Berryville
Bigelow
Big Flat
Biggers
Black Oak
Black Rock
Black Springs
Blevins
Blue Eye
Blue Mountain
Bluff
Blytheville
Bodcaw
Bonanza
Booneville
Bradford
Bradley
Branch
Brinkley
Buckner
Burdette
Caldwell
Cale
Calico Rock
Calion
Camden
Campbells Station
Caraway
Carlisle
Carthage
Casa
Caulksville
Cave Springs
Charleston
Chester
Chidester
Clarendon
Clarksville
Clinton
Coal Hill
College City
Colt
Concord
Corning
Cotter
Cotton Plant
Cove
Coy
Crawfordsville
Cushman
Daisy
Damascus
Datto
Delaplaine
Delight
Dell
Denning
De Queen
Dermott
Des Arc
De Valls Bluff
De Witt
Diaz
Dierks
Dover
Dumas
Dyer
Dyess
Earle
Edmonson
Elaine
El Dorado
Elkins
Emerson
England
Enola
Eudora
Eureka Springs
Evening Shade
Everton
Fisher
Fordyce
Foreman
Forrest City
Franklin
Biscoe Town
Fulton
Garfield
Garland
Garner
Gateway
Gentry
Gilbert
Gillett
Gilmore
Glenwood
Gosnell
Gould
Grady
Grannis
Gravette
Green Forest
Greenway
Greenwood
Greers Ferry
Griffithville
Grubbs
Guion
Gum Springs
Gurdon
Guy
Hackett
Hamburg
Hardy
Harrell
Harrisburg
Hartford
Hatfield
Havana
Haynes
Hazen
Hector
Helena
Hermitage
Higden
Higginson
Holly Grove
Horatio
Hot Springs
Houston
Hoxie
Hughes
Humnoke
Humphrey
Hunter
Huntington
Imboden
Jacksonport
Jasper
Johnson
Joiner
Judsonia
Junction City
Keiser
Kensett
Keo
Kibler
Kingsland
Knobel
Lafe
Lake View
Lake Village
Lamar
Leachville
Leola
Lepanto
Leslie
Letona
Lewisville
Lincoln
Lockesburg
Lonsdale
Louann
Luxora
Lynn
McCrory
McDougal
McGehee
McNeil
McRae
Madison
Magazine
Magness
Magnolia
Malvern
Mammoth Springs
Manila
Mansfield
Marianna
Marie
Marked Tree
Marmaduke
Marshall
Marvell
Maynard
Mena
Menifee
Midland
Minturn
Mitchellville
Monette
Monticello
Montrose
Moro
Morrilton
Morrison Bluff
Mountainburg
Mountain Pine
Mountainview
Mount Ida
Mount Vernon
Mulberry
Murfreesboro
Nashville
Newark
Newport
Nimmons
Norfolk
Norman
Norphlet
Oak Grove
Oak Grove Heights
Oden
Ogden
Oil Trough
O'Kean
Okolona
Ola
Omaha
Osceola
Oxford
Ozan
Ozark
Palestine
Pangburn
Paragould
Paris
Parkdale
Parkin
Patmos
Patterson
Peach Orchard
Perla
Perry
Perryville
Piggott
Plainview
Plumerville
Pocahontas
Pollard
Portia
Portland
Pottsville
Powhatan
Prairie Grove
Prattsville
Prescott
Pyatt
Quitman
Ratcliff
Ravenden
Ravenden Springs
Reader
Rector
Reed
Reyno
Rison
Rockport
Roe
Rondo
Rose Bud
Rosston
Rudy
Russell
St Charles
St Francis
St Paul
Salem
Scranton
Searcy
Sherrill
Shirley
Sidney
Smackover
Smithville
South Lead Hill
Sparkman
Stamps
Star City
Stephens
Strawberry
Strong
Subiaco
Success
Sulphur Springs
Summitt
Sunset
Swifton
Thornton
Tillar
Tollette
Trumann
Tuckerman
Tupelo
Turrell
Tyronza
Ulm
Valley Springs
Van Buren
Vandervoort
Victoria
Vilonia
Viola
Wabbaseka
Waldenburg
Waldo
Waldron
Walnut Ridge
Warren
Washington
Watson
Western Grove
West Helena
West Point
Wheatley
Wickes
Widener
Wiederkehr
Williford
Willisville
Wilmar
Wilmot
Wilson
Winchester
Winslow
Winthrop
Wooster
Yellville
Zinc

California

Adelanto
Amador
Anderson
Angels
Arcata
Arvin
Avenal
Banning
Barstow
Bell
Bell Gardens
Biggs
Blue Lake
Blythe
Brawley
Calexico
Calipatria
Clearlake
Coachella
Coalinga
Colfax
Colusa
Commerce
Corcoran
Corning
Crescent City
Cudahy
Delano
Dinuba
Dorris
Dos Palos
Dunsmuir
Etna
Eureka
Exeter
Farmersville
Ferndale
Firebaugh
Fort Bragg
Fort Jones
Fowler
Gonzales
Grass Valley
Greenfield
Gridley
Hanford
Hollister
Hughson
Huntington Park
Hurqn
Indio
Industry
Ione
Irwindale
Isleton
King City
Lake Elsinore
La Puente
Lawndale
Lincoln
Lindsay
Live Oak
Livingston
Los Banos
Loyalton
Lynwood
McFarland
Madera
Maricopa
Marina
Marysville
Mendota
Merced
Monrovia
Montague
National City
Needles
Nevada City
Orange Cove
Orland
Oroville
Pacific Grove
Paramount
Parlier
Patterson
Perris
Placerville
Plymouth
Point Arena
Portola
Red Bluff
Reedley
Rio Dell
Rio Vista
Riverbank
Sand City
San Gabriel
Sanger

San Jacinto
San Joaquin
San Pablo
Santa Paula
Selma
Soledad
Sonora
Susanville
Sutter Creek
Tehama
Tracy
Tulelake
Wasco
Waterford
Watsonville
Weed
Westmoreland
Wheatland
Williams
Willits
Willows
Winters
Woodlake

Colorado

Aguilar
Alamosa
Alma
Antonito
Arriba
Ault
Blanca
Boone
Branson
Brookside
Brush
Buena Vista
Calhan
Campo
Canon City
Cedaredge
Center
Central City
Cheyenne Wells
Coal Creek
Cokedale
Collbran
Commerce City
Crestone
Cripple Creek
Crowley
Del Norte
Delta
Dinosaur
Dolores
Eckley
Elizabeth
Flagler
Florence
Fort Lupton
Fowler
Frederick
Fruita
Garden City
Granada
Grover
Gunnison
Hartman
Haswell
Holly
Holyoke
Hooper
Hugo
Ignacio
Iliff
Julesburg
Keenesburg
Kim
Kiowa
Kit Carson
La Jara
La Junta
Lamar
Las Animas
La Veta
Limon
Manassa
Mancos
Manzanola
Moffat
Monte Vista
Naturita
Nunn
Oak Creek
Olathe
Olney Springs
Ophir
Orchard City
Ordway
Otis
Ouray
Ovid
Pagosa Springs
Palisade
Paoli
Peetz
Pierce
Pritchett
Ramah
Raymer
Rico
Ridgway
Rockvale
Rocky Ford
Romeo
Rosedale
Rye
Saguache
Salida
Sanford
San Luis
Sawpit
Sedgwick
Seibert
Sheridan Lake
Silver Cliff
Silver Plume
Silverton
Simla
Springfield
Starkville
Sugar City
Superior
Telluride
Trinidad
Two Buttes
Victor
Vilas
Walsenburg
Walsh
Ward
Westcliffe
Wiggins
Wiley
Williamsburg
Yampa
Yuma

Connecticut

Ansonia
Bantam
Colchester
Danielson
Jewett City
Naugatuck
Putnam
Stafford Springs
Torrington
Willimantic

Bethel
Blades
Bowers
Bridgeville
Cheswold
Clayton
Delaware City
Delmar
Ellendale
Farmington
Frankford
Frederica
Georgetown
Greenwood

Delaware

Harrington
Laurel
Leipsic
Lewes
Little Creek
Magnolia
Milford
Milton
Odessa
Seaford
Smyrna
Townsend
Woodside
Wyoming

Florida

Alachua
Alford
Altha
Apalachicola
Arcadia
Archer
Avon Park
Bartow
Bay Lake
Bell
Blountstown
Bonifay
Bowling Green
Branford
Bronson
Brooksville
Bunnell
Bushnell
Callahan
Campbellton
Carrabelle
Caryville
Cedar Grove
Cedar Key
Center Hill
South Flomaton
Chattahoochee
Chiefland
Chipley
Cinco Bayou
Coleman
Cottondale
Crescent City
Crestview
Cross City
Davenport
De Funiak Springs
De Land
Dundee
Eatonville
Esto
Everglades
Fanning Spring
Fellsmere
Florida City
Fort Meade
Fort White
Frostproof
Graceville
Greensboro
Greenville
Gretna
Groveland
Haines City
Hastings
Havana
Hawthorne
High Springs
Homestead
Horseshoe Beach
Indian Creek
Interlachen
Jasper
Jennings
Key West
Labelle
La Crosse
Lady Lake
Lake City
Lake Hamilton
Lake Helen
Lake Wales
Laurel Hill
Lawtey
Lee
Leesburg
Live Oak
Madison
Malone
Marianna
Mascotte
Mayo
Micanopy
Minneola
Monticello
Moore Haven
Mount Dora
Mulberry
Noma
Oak Hill
Oakland
Okeechobee
Opalocka
Otter Creek
Palatka
Paxton
Perry
Pierson
Polk City
Ponce de Leon
Port St Joe
Quincy
Reddick
St Augustine
St Leo
St Marks
Sopchoppy
South Bay
South Miami
Springfield
Starke
Sweetwater
Tavares
Umatilla
Vernon
Waldo
Wauchula
Wasau
Webster
Welaka
Westville
Wewahitchka
White Springs
Wildwood
Worthington Springs
Zolfo Springs

Georgia

Abbeville
Adairsville
Adrian
Ailey
Alamo
Alapaha
Aldora
Allenhurst
Allentown
Alma
Ambrose
Americus
Andersonville
Arabi
Aragon
Arcade
Argyle
Arlington
Ashburn
Attapulgus
Auburn
Avera
Baconton
Brainbridge
Ball Ground
Barnesville
Bartow
Barwick
Baxley
Between
Bibb City
Bishop
Blackshear
Blakely
Blue Ridge
Bluffton
Boston
Bostwick
Bowdon
Bowersville
Bowman
Braselton
Brinson
Bronwood
Brooklet
Brooks
Broxton
Brunswick
Buchanan
Buckhead
Buena Vista
Butler
Byromville
Byron
Cadwell
Cairo
Camak
Camilla
Canon
Canton
Carl
Carlton
Carnesville
Cartersville
Cave Spring
Cecil
Cedartown
Chatsworth
Chauncey
Chester
Claxton
Clermont
Climax
Cobbtown
Cochran
Cohutta
Colbert
Coleman
Collins
Colquitt
Comer
Concord
Coolidge
Cordele
Covington
Crawford
Crawfordville
Cusseta
Cuthbert
Daisy
Dallas
Damascus
Danielsville
Danville
Darien
Davisboro
Dawson
Dawsonville
Dearing
Decatur
Denton
De Soto
Dexter
Doerun
Du Pont
East Ellijay
Eastman
East Point
Eatonton
Edge Hill
Edison
Elberton
Ellaville
Ellenton
Ellijay
Emerson
Enigma
Ephesus
Eton
Euharlee
Fairmount
Fitzgerald
Flemington
Flovilla
Flowery Branch
Folkston
Forsyth
Fort Gaines
Fort Valley
Franklin
Garden City
Gay
Geneva
Georgetown
Gibson
Gillsville
Girard
Glennville
Glenwood
Gordon
Grantville
Greensboro
Greenville
Griffin
Guyton
Hahira
Hampton
Harlem
Harrison
Hartwell
Hawkinsville
Helena
Higgston
Hilltonia
Hoboken
Hogansville
Homer
Homerville
Ideal
Industrial City
Iron City
Irwinton
Jackson
Jacksonville
Jeffersonville
Jenkinsburg
Jersey
Junction City
Kingston
Kite
La Grange
Lakeland
Lake Park
Lavonia

Leary
Leesburg
Lenox
Leslie
Lexington
Lilly
Lincolnton
Linwood
Lithonia
Locust Grove
Lone Oak
Louisville
Lovejoy
Ludowici
Lula
Lumber City
Lumpkin
Luthersville
Lyerly
Lyons
McCaysville
McDonough
McIntyre
McRae
Madison
Manassas
Manchester
Mansfield
Marshallville
Maxeys
Meansville
Meigs
Menlo
Metter
Midville
Millen
Milner
Mineral Bluff
Michell
Molena
Monroe
Montezuma
Monticello
Montrose
Morganton
Morven
Moultrie
Mount Airy
Mount Vernon
Nahunta
Naylor
Nelson
Newborn
Newington
Newnan
Newton
Nicholls
Norman Park
Norwood
Ochlocknee
Ocilla
Odum
Oglethrope
Oliver
Omaha
Omega
Parrott
Patterson
Pavo
Payne
Pearson
Pelham
Pembroke
Pinehurst
Pineview
Pitts
Plains
Portal
Porterdale
Poulan
Preston
Pulaski
Quitman
Ranger
Rayle
Rebecca
Remerton
Rentz
Rest Haven
Reynolds
Rine
Riceboro
Richland
Riddleville
Riverside
Roberta
Rochelle
Rockmart
Rocky Ford
Rome
Rossville
Royston
Rutledge
Sale City
Sandersville
Sardis
Sasser
Scotland
Screven
Senoia
Shady Dale
Sharon
Shellman
Shiloh
Siloam
Smithville
Social Circle
Sparks
Sparta
Stapleton
Stillmore
Summertown
Summerville
Sumner
Sunny Side
Surrency
Sycamore
Sylvania
Sylvester
Talbotton
Talking Rock
Tallapoosa
Terrytown
Taylorsville
Tennille
The Rock
Thomaston
Thomasville
Thomson
Tiger
Tignall
Toomsboro
Trion
Ty Ty
Unadilla
Union Point
Uvalda
Varnell
Vienna
Villa Rica
Wadley
Waleska
Walthourville
Warm Springs
Warrenton
Warwick
Washington
Waverly Hall
Waycross
Waynesboro
Weston
West Point
Whigham
White
White Plains
Whitesburg
Willacoochee
Williamson
Winder
Woodbine
Woodbury
Woodland
Woodville
Wrens
Wrightsville
Yatesville
Young Harris

Idaho

Aberdeen
Acequia
Albion
Arco
Ashton
Athol
Bancroft
Bellevue
Bonners Ferry
Buhl
Cascade
Castleford
Challis
Clark Fork
Clayton
Clifton
Coeur D'Alene
Cottonwood
Council
Craigmont
Crouch
Dalton Gardens
Dayton
Donnelly
Downey
Driggs
Dubois
East Hope
Elk River
Emmett
Ferdinand
Fernan Lake
Glenns Ferry
Gooding
Grand View
Grangeville
Hagerman
Harrison
Hauser Lake
Hayden
Hollister
Hope
Huetter
Idaho City
Jerome
Kamiah
Kellogg
Kendrick
Kooskia
Kootenai
Lapwai
Lava Hot Springs
Leadore
McCall
McCammon
Mackay
Malta
Melba
Menan
Midvale
Minidoka
Moscow
Moyie Springs
Mud Lake
Mullan
Nampa
Newdale
New Meadows
New Plymouth
Nezperce
Notus
Oakley
Oldtown
Orofindo
Oxford
Parma
Payette
Ponderay
Priest River
Rathdrum
Reubens
Rexburg
Rigby
Riggins
Ririe
Roberts
Rockland
Rupert
St Anthony
St Marie's
Salmon
Sandpoint
Shoshone
Smelterville
Spirit Lake
Stites
Tensed
Teton
Tetonia
Victor
Wallace
Wardner
Weippe
Weiser
Wendell
Weston
White Bird
Wilder
Worley

Illinois

Abingdon
Adeline
Alhambra
Allerton
Alma
Alorton
Alsey
Altona
Alto Pass
Alvin
Apple River
Arlington
Armington
Aroma Park
Ashley
Astoria
Augusta
Ava
Avon
Baldwin
Banner
Bannockburn
Bardolph
Barry
Bartelso
Bath
Baylis
Bay View Gardens
Beaverville
Beckemeyer
Beecher City
Belgium
Belknap
Belle Prairie City
Belle Rive
Belleflower
Belvidere
Benlo
Bently
Benton
Berlin
Bingham
Birds
Bishop Hill
Blandinsville
Blue Island
Bluffs
Bluford
Bonnie
Bowen
Bridgeport
Broadwell
Brocton
Brooklyn
Brookport
Broughton
Browing
Brownstown
Brussels
Buckner
Buda
Bulpitt
Buncombe
Bunker Hill
Bureau Junction
Burnt Pairie
Bush
Butler
Byron
Cabery
Cahokia
Cairo
Calhoun
Cambria
Camden
Camp Point
Capron
Carbondale
Carlinville
Carlyle
Carriers Mills
Carrollton
Carterville
Casey
Caseyville
Cave-In-Rock
Central City
Centralia
Centreville
Chandlerville
Charleston
Chesterfield
Chrisman
Christopher
Cisne
Claremont
Clay City
Clayton
Coalton
Coatsburg
Cobden
Colchester
Collinsville
Colp
Columbus
Cowden
Creal Springs
Creston
Cuba
Cutler
Cypress
Dahlgren
Dana
Danforth
Danville
Davis Junction
Deer Grove
De Kalb
Depue
Detroit
Dix
Dongola
Donnellson
Dorchester
Dover
Dowell
Du Bois
Dupo
Du Quoin
Durand
Eagarville
Earlville
East Alton
East Carondelet
East Chicago Heights
East Gillespie
East Moline
Easton
Eddyville
Edgewood
Edwardsville
Eldorado
Eldred
Elizabethtown
Elkville
Ellis Grove
Elsah
Energy
Enfield
Equality
Exeter
Fairfield
Fairmont City
Fairmount
Fairview
Farina
Farmer City
Farmington
Fayetteville
Fidelity
Fieldon
Fillmore
Fithian
Flat Rock
Flora
Florence
Forest City
Forreston
Freeburg
Freeman Spur
Freeport
Galatia
Galesburg
Garrett
Georgetown
Germantown
Gillespie
Girard
Gladstone
Godley
Golconda
Golden
Goreville
Gorham
Grafton
Grand Tower
Grandview
Grantfork
Greenfield
Greenup
Greenville
Griggsville
Hainesville
Hamburg
Hamletsburg
Hanaford
Hanover
Hardin
Harrisburg
Hartford
Harvel
Harvey
Havana
Henning
Herrick
Herrin
Hettick
Hidalgo
Hillsboro
Hillview
Hodgkins
Homer

Hoopeston
Hopedale
Hull
Hume
Hurst
Hutsonville
Ina
Indianola
Iola
Iroquois
Irving
Iuka
Ivesdale
Jeffersonville
Jeiseyville
Jerseyville
Jewett
Johnston City
Jonesboro
Joppa
Joy
Junction
Junction City
Kampsville
Kane
Kangley
Kansas
Karnak
Keenes
Keensburg
Keithsburg
Keel
Kewanee
Keyesport
Kilbourne
Kinderhook
Kinmundy
Kinsman
Kirkwook
La Harpe
La Prairie
La Salle
Lawrenceville
Leaf River
Lebanon
Leland
Lenzburg
Lewistown
Liberty
Lisbon
Litchfield
Littleton
Liverpool
Livingston
Loami
Loda
London Mills
Longview
Loraine
Louisville
Lovington
Ludlow
Macedonia
McLeansboro
Macomb
Madison
Maeystown
Magnolia
Manchester
Manito
Mapleton
Maquon
Marietta
Marissa
Mark
Marshall
Martinsville
Mascoutah
Matherville
Maunie
Maywood
Media
Mendon
Metcalf
Metropolis
Middletown
Milford
Mill Shoals
Milton
Modesto
Momence
Monmouth
Montrose
Mound City
Mound
Mound Station
Mount Carroll
Mount Clare
Mount Erie
Mount Morris
Mount Olive
Mount Sterling
Mount Vernon
Muddy
Mulberry Grove
Muncie
Murphysboro
Nason
National City
Nauvoo
Nebo
Neoga
New Athens
New Boston
New Burnside
New Canton
New Douglas
New Grand Chain
New Haven
New Minden
New Salem
Noble
Norris
Norris City
North City
North Henderson
North Pekin
Oakland
Oakwood
Oblong
Odin
Oglesby
Ohio
Ohlman
Old Ripley
Old Shawneetown
Olmstead
Olney
Omaha
Onarga
Oquawka
Oregon
Orient
Ottawa
Otterville
Palmer
Palmyra
Pana
Papineau
Paris
Patoka
Pearl
Pembroke
Phillipstown
Phoenix
Pittsburg
Plainville
Pleasant Hill
Plymouth
Pocahontas
Poplar Grove
Potomac
Prairie City
Pulaski
Quincy
Radom
Raleigh
Ramsey
Rankin
Reddick
Redmon
Richview
Ridge Farm
Ridgway
Ridott
Rio
Ripley
Robbins
Robinson
Rockbridge
Rockdale
Rockwood
Roodhouse
Rose Hill
Roseville
Rosiclare
Rossville
Roxana
Royal Lakes
Royalton
Rushville
Russellville
Rutland
Sadorus
Sailor Springs
St Anne
St Augustine
St David
St Elmo
St Johns
Salem
Sandoval
Sauget
Savanna
Sawyerville
Scales Mound
Sciota
Scottville
Seaton
Secor
Shawneetown
Sheffield
Sheldon
Sherrard
Shipman
Shumway
Sidell
Sigel
Silvis
Simpson
Sims
Smithboro
Smithfield
Sorento
South Beloit
South Pekin
Spillertown
Springerton
Standard City
Staunton
Sterling
Stewardson
Stonefort
Stoy
Strawn
Streator
Summerfield
Summit
Sumner
Table Grove
Tamaroa
Tamms
Tampico
Taylor Springs
Tennessee
Thawville
Thebes
Thompsonville
Tilton
Tiskilwa
Tonica
Topeka
Tower Hill
Ullin
Union Hill
Ursa
Valley City
Vandalia
Venice
Vermilion
Vermont
Vernon
Versailles
Victoria
Vienna
Virden
Virginia
Waggoner
Walnut
Wamac
Washington Park
Wataga
Watson
Wayne City
Waynesville
Weldon
Wenonah
West Brooklyn
West City
Westfield
West Frankfort
West Point
Westville
Wheeler
Whiteash
White City
White Hall
Williamson
Willisville
Willow Hill
Wilmington
Wilmington
Wilsonville
Winchester
Witt
Woodhull
Woodlawn
Wood River
Worden
Wyanet
Wyoming
Xenia
Zeigler

Indiana

Advance
Alamo
Albany
Albion
Alexandria
Alfordsville
Alton
Altona
Ambia
Amboy
Andrews
Angola
Argos
Ashley
Aurora
Austin
Avilla
Bainbridge
Bedford
Bethany
Bicknell
Bloomfield
Blountsville
Boston
Bourbon
Brazil
Brook
Brooklyn
Brooksburg
Brookville
Brownstown
Bruceville
Bryant
Bunker Hill
Burnettsville
Butler
Cadiz
Cambridge City
Campbellsburg
Cannelburg
Cannelton
Carbon
Carefree
Carlisle
Carthage
Cayuga
Cedar Grove
Cedar Lake
Center Point
Centerville
Chalmers
Charlestown
Chrisney
Churubusco
Clarks Hill
Clay City
Claypool
Clayton
Clinton
Connersville
Converse
Corunna
Corydon
Crandall
Crawfordsville
Cromwell
Crothersville
Culver
Dale
Dana
Decatur
Decker
Denver
Dillsboro
Dublin
Dugger
Dunkirk
Dunreith
Dupont
Earl Park
East Germantown
Eaton
Economy
Edinburg
Edwardsport
Elizabethtown
Elnora
Elwood
English
Fairmount
Fairview Park
Farmersburg
Farmland
Fountain City
Fowler
Fowlerton
Francisco
Frankfort
Franklin
Fredericksburg
French Lick
Fulton
Garrett
Gas City
Gaston
Geneva
Georgetown
Glenwood
Goodland
Gosport
Grandview
Greencastle
Greensboro
Greensburg
Greensfork
Griffin
Hagerstown
Hamilton
Hamlet
Hanover
Hardinsburg
Harmony
Hartford City
Hartsville
Hillsboro
Holton
Hope
Hudson
Huntington
Hymera
Ingalls
Jasonville
Jeffersonville
Jonesboro
Jonesville
Judson
Kempton
Kendallville
Kennard
Kewanna
Kingman
Kingsbury
Kirklin
Knightstown
Knightsville
Knox
Laconia
La Crosse
La Fontaine
Lagro
La Paz
La Porte
Laurel
Lawrenceburg
Leavenworth
Lewisville
Liberty
Ligonier
Linton
Little York
Livonia
Logansport
Loogootee
Losantville
Lynn
Lyons
Macy
Madison
Marengo
Marion
Markle
Markleville
Marshall
Martinsville
Matthews
Mauckport
Mecca
Medaryville
Medora
Mellott
Merom
Michigan City
Michigantown
Middletown
Milan
Milford
Milford
Milltown
Milton
Mitchell
Modoc
Monon
Monroe City
Montezuma
Montgomery
Montpelier
Mooreland
Moores Hill
Mooresville
Morgantown
Morocco
Mount Auburn

Mount Carmel
Mount Etna
Mount Summit
Mulberry
Napoleon
New Amsterdam
Newberry
New Castle
New Market
New Middletown
New Pekin
Newpoint
Newport
New Providence
Newtown
North Grove
North Judson
North Liberty
North Vernon
Oakland City
Oaktown
Odon
Oldenburg
Oolitic
Orestes
Orland
Orleans
Osgood
Palmyra
Paoli
Paragon
Parker City
Patriot
Pendleton
Pennville
Perrysville
Peru
Pierceton
Pine Village
Plainville
Plymouth
Porter
Portland
Ravenswood
Redkey
Reynolds
Richmond
Ridgeville
Rising Sun
Roachdale
Roann
Rochester
Rockport
Rockville
Rome City
Rosedale
Roseland
Rossville
Royal Center
Rushville
St Joe
Salamonia
Salem
Saltillo
Saratoga
Scottsburg
Sellersburg
Selma
Seymour
Sharpsville
Shelburn
Shelbyville
Shirley
Shoals
Sidney
Silver Lake
South Whitley
Spencer
Spiceland
Spring Grove
Springport
Stinesville
Straughn
Sullivan
Sulphur Springs
Summitville
Sunman
Switz City
Tell City
Tennyson
Thorntown
Tipton
Pines
Troy
Union City
Universal
Upland
Van Buren
Veedersburg
Vernon
Versailles
Vevay
Vincennes
Wabash
Walkerton
Wallace
Walton
Washington
Waterloo
Waveland
West Baden
West College Corner
West Harrison
West Lebanon
West Terre Haute
Wheatfield
Wheatland
Whitestown
Whitewater
Whiting
Williamsport
Winamac
Winchester
Windfall City
Wingate
Winona Lake
Winslow
Wolcott
Worthington

Iowa

Afton
Agency
Ainsworth
Akron
Albia
Albion
Alexander
Allerton
Alvord
Andover
Andrew
Anthon
Aredale
Arion
Arispe
Arlington
Armstrong
Ashton
Athelstan
Auburn
Aurora
Ayrshire
Bagley
Baldwin
Barnes City
Batavia
Bayard
Beaconsfield
Bedford
Belle Plaine
Bellevue
Bevington
Blakesburg
Blockton
Bloomfield
Bonaparte
Boxholm
Bradgate
Brandon
Bridgewater
Brighton
Burlington
Callender
Cantril
Carbon
Carpenter
Carson
Casey
Castalia
Castana
Center Junction
Centerville
Central City
Charles City
Charlotte
Charter Oak
Chatsworth
Chelsea
Cincinnati
Clare
Clarinda
Clayton
Clearfield
Clemons
Clermont
Clinton
Clutier
Coburg
Coggon
Coin
Colesburg
Colfax
Collins
Columbus City
Colwell
Conway
Corning
Correctionville
Corydon
Cotter
Crawfordsville
Cromwell
Cumberland
Curlew
Cylinder
Dallas
Danbury
Davis City
Dawson
Decatur City
Deep River
Delaware
Delhi
Deloit
Delta
Derby
Diagonal
Dickens
Dolliver
Dougherty
Dows
Drakesville
Dumont
Dundee
Dunlap
Eagle Grove
Earling
Earlville
Early
East Peru
Elberon
Eldon
Ellston
Ely
Estherville
Exira
Exline
Farnhamville
Fayette
Fenton
Floris
Fonda
Fontanelle
Fort Dodge
Fort Madison
Fraser
Fredericksburg
Fredonia
Galt
Garden Grove
Garrison
Gillett Grove
Gilmore City
Graettinger
Graf
Grafton
Grand Junction
Grand River
Grandview
Grant
Gravity
Gray
Greeley
Green Island
Greenville
Griswold
Guthrie Center
Hamilton
Hanlontown
Hardy
Harpers Ferry
Harvey
Hastings
Havelock
Hawkeye
Hayesville
Hedrick
Hillsboro
Holstein
Hopkinton
Hornick
Humeston
Hurstville
Imogene
Ionia
Ireton
Jackson Junction
Jolley
Kamrar
Kellerton
Kensett
Kent
Keokuk
Keota
Kinross
Kirkville
Kiron
Knierim
Lacona
Lamoni
Lamont
La Motte
Lanesboro
Lansing
Lawler
Leon
Le Roy
Letts
Lime Springs
Linden
Lineville
Linn Grove
Liscomb
Littleport
Litte Rock
Little Sioux
Livermore
Logan
Lohrville
Lorimor
Lost Nation
Lovilia
Lucas
Lu Verne
Luzerne
Lytton
McClelland
Macedonia
McGregor
McIntire
Macksburg
Madrid
Magnolia
Manchester
Mapleton
Maquoketa
Marathon
Marble Rock
Marcus
Marne
Marquette
Martinsburg
Marysville
Mason
Masonville
Massena
Maxwell
Maysville
Melcher
Melrose
Middletown
Miles
Millerton
Milton
Missouri Valley
Mondamin
Monmouth
Montrose
Moravia
Morley
Moulton
Mount Auburn
Mount Ayr
Mount Sterling
Murray
Mystic
Nashua
Neola
New Albin
New Liberty
New Market
New Vienna
New Virginia
Nichols
Nora Springs
Northboro
North Washington
Norway
Numa
Oakland
Oakville
Oelwein
Ollie
Onawa
Onslow
Orient
Oskaloosa
Ossian
Oto
Ottumwa
Oxford Junction
Oyens
Pacific Junction
Panora
Paton
Persia
Peterson
Pierson
Plain View
Pleasanton
Plover
Plymouth
Pocahontas
Pomeroy
Popejoy
Portsmouth
Postville
Preston
Primghar
Promise City
Protivin
Pulaski
Randolph
Rathbun
Redding
Renwick
Rhodes
Richland
Ricketts
Rinard
Ringsted
Riverside
Riverton
Rock Falls
Rodney
Rome
Rose Hill
Rudd
Russell
Sabula
St Anthony
St Donatus
St Lucas
St Olaf
St Paul
Scarville
Schleswig
Scranton
Searsbord
Seymour
Shannon City
Sharpsburg
Shelby
Shellsburg
Sibley
Sigourney
Sioux Rapids
Smithland
South English
Spillville
Spragueville
Springbrook
Stacyville
Steamboat Rock
Stratford
Strawberry Point
Swaledale
Tabor
Tama
Templeton
Tennant
Thayer
Thompson
Thor
Thornburg
Thurman
Tingley
Toronto
Udell
Unionville
Urbana
Ute
Vail
Valeria
Van Wert
Villisca
Vining
Vinton
Volga
Wadena
Walker
Wall Lake
Washta
Waterville
Waucoma
Webster
Weldon
Wellsburg
Welton
Westphalia
What Cheer
Wheatland
Whittemore
Whitten
Willey
Williams

Williamson
Winterset
Wiota
Woodburn
Yale
Yetter
Zwingle

Kansas

Abbyville
Abilene
Agenda
Albert
Alden
Alexander
Almena
Altoona
Anthony
Arcadia
Arlington
Arma
Atchison
Athol
Attica
Axtell
Balwin City
Barnard
Barnes
Bartlett
Bassett
Baxter Springs
Bazine
Belpre
Benedict
Bern
Bison
Blue Mound
Blue Rapids
Bluff City
Bronson
Brownell
Buffalo
Burns
Bushong
Caldwell
Caney
Cassoday
Cawker City
Cedar
Cedar Vale
Centralia
Chapman
Chautauqua
Cherokee
Cherryvale
Chetopa
Circleville
Clay Center
Clifton
Climax
Clyde
Coffeyville
Collyer
Colony
Columbus
Concordia
Collidge
Copeland
Corning
Council Grove
Courtland
Coyville
Cuba
Damar
Delphos
Denison
Denton
Dighton
Dorrance
Downs
Dresden
Dunlap
Durham
Dwight
Earlton
Edna
Elgin
Elk City
Elk Falls
Elsmore
Elwood
Englewood
Ensign
Enterprise
Erie
Eureka
Fairview
Fall River
Florence
Fontana
Ford
Formoso
Fort Scott
Fredonia
Fulton
Galena
Gaylord
Geneseo
Geuda Springs
Glade
Glasco
Goff
Gove City
Green
Greenleaf
Grenola
Haddam
Hamilton
Hamlin
Hanover
Hardtner
Hartford
Haviland
Hazelton
Herington
Highland
Hillsboro
Holyrood
Horace
Horton
Howard
Humboldt
Hunter
Huron
Jamestown
Jennings
Jewell
Junction City
Kanorado
Kincaid
Kingman
Kiowo
Kirwin
Labette
La Harpe
Lane
Langdon
Latham
Lebanon
Lenora
Leona
Leonardville
Leoti
Le Roy
Liebenthal
Lincoln Center
Lincolnville
Linn
Logan
Lone Elm
Lost Springs
Louisville
Lucas
Luray
McCracken
McCune
McDonald
McLouth
Mahaska
Mankato
Mapleton
Marquette
Meade
Menlo
Milan
Miltonvale
Minneapolis
Minneola
Moline
Morganville
Morland
Morrill
Morrowville
Moscow
Mound City
Mound Valley
Mulberry
Mullinville
Munden
Muscotah
Narka
Natoma
Neosho Falls
Netawaka
New Cambria
Niotaze
Norcatur
Norton
Nortonville
Oak Hill
Oakley
Offerle
Olivet
Olmitz
Olsburg
Onaga
Oneida
Oswego
Ottawa
Palmer
Paradise
Park
Parker
Parkerville
Parsons
Partridge
Pawnee Rock
Paxico
Peabody
Penalosa
Peru
Phillipsburg
Pittsburg
Plainville
Pleasanton
Plevna
Portis
Powhattan
Prarie View
Prescott
Preston
Protection
Quenemo
Ramona
Randall
Rantoul
Redfield
Republic
Reserve
Rexford
Richfield
Richmond
Russell Springs
St Francis
St John
Savonburg
Scammon
Scandia
Schoenchen
Scranton
Selden
Severance
Severy
Sharon Springs
Smith Center
Soldier
Solomon
Spearville
Stafford
Sterling
Strong City
Summerfield
Sun City
Susank
Sylvan Grove
Sylvia
Tampa
Tescott
Thayer
Toronto
Treece
Troy
Turon
Tyro
Utica
Vining
Virgil
Wakefield
Waldo
Waldron
Wallace
Walnut
Washington
Waverly
Weir
West Mineral
Wetmore
Wheaton
White City
White Cloud
Whiting
Willard
Williamsburg
Wilson
Winchester
Windom
Winona
Woodston
Yates Center
Zurich

Kentucky

Adairville
Albany
Allen
Arlington
Auburn
Augusta
Barbourville
Bardstown
Bardwell
Barlow
Beattyville
Bedford
Bellevue
Benham
Benton
Berry
Blaine
Bloodfield
Bonnieville
Booneville
Bowling Green
Bradfordsville
Bremen
Brodhead
Bromley
Brooksville
Brownsville
Burgin
Butler
Cadiz
Calhoun
California
Camargo
Campbellsburg
Campton
Caneyville
Carlisle
Carrollton
Carrsville
Catlettsburg
Cave City
Central
Clarkson
Clay
Clay City
Clinton
Cloverport
Columbia
Columbus
Concord
Corbin
Corinth
Corydon
Crab Orchard
Crofton
Cumberland
Cynthiana
Danville
Dawson Springs
Dayton
Dixon
Dover
Drakesboro
Dry Ridge
Earlington
Eddyville
Edmonton
Ekron
Elkhorn City
Elkton
Eminence
Eubank
Evarts
Ewing
Fairfield
Falmouth
Ferguson
Fleming-Neon
Flemingsburg
Fordsville
Foster
Fountain Run
Franklin
Fredonia
Frenchburg
Fulton
Georgetown
Germantown
Ghent
Glasgow
Glencoe
Grand Rivers
Gratz
Grayson
Greensburg
Greenup
Guthrie
Hardin
Hardinsburg
Harlan
Harrodsburg
Hartford
Hawesville
Hazard
Hazel
Hickman
Hindman
Hiseville
Hodgenville
Horse Cave
Hunter's Hollow
Hustonville
Hyden
Inez
Irvine
Irvington
Island
Jackson
Jamestown
Jeffersonville
Jenkins
Junction City
Kevil
La Center
La Fayette
Lancaster
Latonia Lakes
Lebanon
Lebanon Junction
Leitchfield
Lewisburg
Liberty
Livermore
Livingston
Lockport
London
Loretto
Louisa
Loyall
Ludlow
Lynch
Lynnview
McHenry
McKee
Manchester
Marion
Martin
Mayfield
Maysville
Melbourne
Middlesborough
Middletown City
Midway
Millersburg
Milton
Minor Lane Heights
Monterey
Monticello
Morehead
Morgantown
Mortons Gap
Mount Olivet
Mount Sterling
Mount Vernon
Muldraugh
Munfordville
Murray
Nebo
New Castle
New Haven
Newport
Oakland
Olive Hill
Owenton
Owingsville
Paducah
Paintsville
Paris
Park City
Parkway Village
Pembroke
Perryville
Pikeville
Pineville
Pleasureville
Prestonburg
Prestonville
Princeton
Providence
Raceland
Ravenna
Richmond
Rochester
Rockport
Russell Springs
Russellville
Sacramento
Sadieville
St Charles
Salem
Salt Lick
Salyersville

Sanders
Sandy Hook
Sardis
Science Hill
Scottsville
Sharpsburg
Shelbyville
Shepherdsville
Silver Grove
Smithfield
Smithland
Smiths Grove
Somerset
Sonora
South Carrolton
South Shore
Sparta
Springfield
Stamping Ground
Stanford
Stanton
Strathmoor Manor
Taylorsville
Tollesboro
Tompkinsville
Trenton
Upton
Vanceburg
Vicco
Visalia
Wallins Creek
Warsaw
Washington
Water Valley
Wayland
West Buechel
West Liberty
West Point
Wheatcroft
Wheelwright
Whipps Milgate
White Plains
Whitesburg
Wickliffe
Williamsburg
Willisburg
Wilmore
Winchester
Worthville
Wurtland

Louisiana

Abbeville
Abita Springs
Albany
Amite City
Anacoco
Angie
Arcadia
Arnaudville
Ashland
Basile
Baskin
Bastrop
Belcher
Bernice
Bienville
Bogalusa
Bonita
Boyce
Bryceland
Bunkie
Calvin
Campti
Castor
Chataignier
Chathman
Cheneyville
Choudrant
Church Point
Clarence
Clarks
Clayton
Clinton
Colfax
Collinston
Columbia
Converse
Cottonport
Cotton Valley
Coushatta
Crowley
Cullen
Delcambre
Delhi
Delta
De Quincy
De Ridder
Dixie Inn
Dodson
Donaldsonville
Doyline
Dry Prong
East Hodge
Elizabeth
Elton
Epps
Erath
Eros
Evergreen
Farmerville
Fenton
Ferriday
Fisher
Florien
Folsom
Fordoche
Forest
Forest Hill
Franklin
Franklinton
French Settlement
Georgetown
Gibsland
Gilbert
Gilliam
Glenmora
Golden Meadow
Goldonna
Grambling
Grand Cane
Grand Coteau
Grade Isle
Grayson
Greensburg
Gretna
Grosse Tete
Gueydan
Hall Summit
Hammond
Harrisonburg
Haughton
Haynesville
Heflin
Henderson
Hodge
Homer
Hornbeck
Hosston
Independence
Jackson
Jamestown
Jeanerette
Jennings
Jonesboro
Jonesville
Junction City
Kaplan
Keatchie
Kentwood
Kilbourne
Kinder
Krotz Springs
Lake Arthur
Lake Providence
Lecompte
Leesville
Leonville
Lillie
Lisbon
Livingston
Logansport
Longstreet
Lucky
Lutcher
McNary
Madisonville
Mamou
Mangham
Mansfield
Mansura
Many
Maringouin
Marion
Marksville
Maurice
Melville
Mer Rouge
Merryville
Minden
Montgomery
Montpelier
Moreauville
Morganza
Morse
Mound
Mount Lebanon
Napoleonville
Natchez
Natchitoches
Newellton
New Roads
North Hodge
Oakdale
Oak Grove
Oak Ridge
Oberlin
Oil City
Opelousas
Palmetto
Parks
Pine Prairie
Pioneer
Plain Dealing
Plaquemine
Plaucheville
Pleasant Hill
Pollock
Ponchatoula
Port Barre
Powhatan
Provencal
Rayne
Rayville
Reeves
Richmond
Richwood
Ridgecrest
Ringgold
Rodeline
Rodessa
Rosedale
Roseland
St. Francisville
St. Joseph
Saline
Sarepta
Shongaloo
Sibley
Sicily Island
Sikes
Simmesport
Simpson
Sorrento
South Mansfield
Spearsville
Springfield
Springhill
Stanley
Sun
Sunset
Tallulah
Tangipahoa
Tickfaw
Turkey Creek
Urania
Varnado
Vidalia
Ville Platte
Vivian
Walker
Washington
Waterproof
Welsh
West Monroe
White Castel
Wilson
Winnfield
Winnsboro
Wisner
Woodworth
Youngsville
Zwolle

Maine

Augusta
Belfast
Biddeford
Brewer
Calais
Caribou
Eastport
Gardiner
Hallowell
Old Town
Presque Isle
Rockland
South Portland
Waterville

Maryland

Aberdeen
Barclay
Barton
Berlin
Betterton
Brentwood
Brookeville
Brookview
Cambridge
Capitol Heights
Cecilton
Centreville
Charlestown
Chesapeake City
Chestertown
Church Creek
Church Hill
Colmar Manor
Crisfield
Deer Park
Delmar
Denton
East New Market
Edmonston
Eldorado
Elkton
Emmitsburg
Fairmount Heights
Federalsburg
Friendsville
Frostburg
Fruitland
Galena
Galestown
Goldsboro
Grantsville
Greensboro
Hancock
Havre de Grace
Herbron
Henderson
Hillsboro
Hurlock
Kitzmillerville
Loch Lynn Heights
Lonaconing
Luke
Mardela Springs
Marydel
Midland
Millington
Mountain Lake Park
Mount Rainier
New Windsor
North Beach
North Brentwood
North East
Oakland
Perryville
Pittsville
Pocomoke City
Port Deposit
Princess Anne
Queen Anne
Ridgely
Riverdale
Rock Hall
St Michaels
Salisbury
Secretary
Sharpsburg
Sharptown
Smithsburg
Snow Hill
Sudlersville
Templeville
Union Bridge
Vienna
Westernport
Willards
Williamsport

Massachusetts

Beverly
Chelsea
Everett
Gardner
North Adams
Revere
Taunton

Michigan

Addison
Adrian
Ahmeek
Akron
Alanson
Albion
Algonac
Allegan
Allen
Alma
Almont
Alpena
Alpha
Applegate
Ashley
Athens
Bad Axe
Baldwin
Bancroft
Bangor
Baraga
Barryton
Bear Lake
Beaverton
Belding
Bellaire
Bellevue
Benzonia
Berrien Springs
Bessemer
Beulah
Big Rapids
Bloomingdale
Boyne City
Boyne Falls
Breckenridge
Breedsville
Britton
Bronson
Brown City
Buchanan
Buckley
Burlington
Burr Oak
Byron
Cadillac
Calumet
Camden
Capac
Carleton
Carney
Caro
Carson City
Carsonville
Caseville
Casnovia
Caspian
Cassopolis
Cedar Springs
Cement City
Central Lake
Centreville
Charlevoix
Charlotte
Cheboygan
Clare
Clarksville
Clayton
Clifford
Clio
Coldwater
Coleman
Coloma
Colon
Columbiaville
Concord
Constantine
Copemish
Copper City
Corunna
Croswell
Crystal Falls
Custer
Daggett
Dansville
Decatur
Deckerville
Deerfield
de Tour Village
Dowagiac
Dryden
Durand
Eagle
East Jordan
East Lake
East Tawas
Eaton Rapids
Eau Claire
Ecorse
Edmore
Edwardsburg
Elberta
Elkton
Ells Worth
Emmett
Empire
Escanaba
Essexville
Estral Beach
Evart

Farwell
Fennville
Fenton
Ferndale
Fife Lake
Forestville
Fountain
Fowler
Fowlerville
Frankfort
Freeport
Fremont
Gaastra
Gagetown
Gaines
Galesburg
Galien
Garden
Gaylord
Gladstone
Gladwin
Gobles
Grant
Grayling
Greenville
Hamtramck
Hancock
Hanover
Harbor Beach
Harbor Springs
Harrietta
Harrison
Harrisville
Hart
Hartford
Hastings
Hazel Park
Hersey
Hesperia
Highland Park
Hillman
Hillsdale
Homer
Honor
Hopkins
Houghton
Howard City
Hubbardston
Hudson
Imlay City
Inkster
Ionia
Iron Mountain
Iron River
Ironwood
Ishpeming
Ithaca
Jonesville
Kalkaska
Keego Harbor
Kinde
Kingsford
Kingsley
Laingsburg
Lake Linden
Lake Odessa
Lakeview
Lakewood Club
Lanse
Lapeer
Laurium
Lawrence
Lawton
Lennon
Le Roy
Lexington
Lincoln
Linden
Litchfield
Ludington
Luna Pier
Luther
Lyons
McBain
McBride
Mackinac Island
Mackinaw City
Mancelona
Manistee
Manistique
Manton
Maple Rapids
Marcellus
Marine City
Marion
Marlette
Marquette
Marshall
Martin
Maybee
Mecosta
Melvin
Memphis
Mendon
Menominee
Merrill
Mesick
Metamora
Middleville
Millersburg
Milington
Minden City
Monroe
Montague
Montgomery
Morenci
Morley
Morrice
Mount Clemens
Mount Morris
Mount Pleasant
Muir
Mulliken
Munising
Nashville
Newaygo
Newberry
New Buffalo
New Era
New Haven
Niles
North Adams
North Branch
Northport
Norway
Oakley
Oak Park
Olivet
Omer
Onaway
Onekama
Onsted
Ontonagon
Ortonville
Otisville
Otsego
Otter Lake
Ovid
Owendale
Owosso
Parma
Paw Paw
Peck
Pellston
Perrinton
Perry
Petersburg
Petoskey
Pewamo
Pierson
Pigeon
Pinckney
Pinconning
Port Austin
Port Hope
Portland
Port Sanilac
Posen
Potterville
Powers
Prescott
Quincy
Ravenna
Reading
Reed City
River Rouge
Rogers City
Romeo
Roscommon
Rosebush
Rose City
Rothbury
St Charles
St Clair
St Ignace
St Joseph
St Louis
Sandusky
Saranac
Sault Sainte Marie
Scottville
Sebewaing
Shelby
Sheridan
Sherwood
South Haven
South Range
Springport
Stambaugh
Standish
Stanton
Stanwood
Stephenson
Sterling
Sunfield
Suttons Bay
Tawas City
Tekonsha
Thompsonville
Three Oaks
Three Rivers
Traverse
Turner
Tustin
Twining
Ubly
Union City
Unionville
Vandalia
Vanderbilt
Vassar
Vermontville
Vernon
Wakefield
Waldron
Walkerville
Watervliet
Wayland
West Branch
Westphalia
White Cloud
Whitehall
White Pigeon
Whittemore
Wolverine
Woodland
Wyandotte
Yale
Ypsilanti

Minnesota

Ada
Adrian
Aitkin
Akeley
Albany
Alberta
Aldrich
Alexandria
Alpha
Altura
Alvarado
Amboy
Argyle
Arlington
Askov
Audubon
Avoca
Backus
Badger
Bagley
Barnum
Barrett
Barry
Battle Lake
Baudette
Beardsley
Bejou
Belgrade
Bellchester
Bellingham
Beltrami
Bemidji
Bena
Bertha
Bethel
Bigelow
Big Falls
Bigfork
Bingham Lake
Biwabik
Blackduck
Blomkest
Bluffton
Bock
Bovey
Bowlus
Boyd
Boy River
Braham
Brainerd
Breckenridge
Brewster
Brook Park
Brooks
Brookston
Brooten
Browerville
Brownsdale
Browns Valley
Bruno
Buckman
Buffalo Lake
Callaway
Calumet
Canby
Canton
Carlton
Cass Lake
Cedar Mills
Chandler
Chisholm
Clarissa
Clearbrook
Clear Lake
Clements
Clitherall
Clontarf
Cloquet
Coates
Cobden
Comfrey
Conger
Cook
Correll
Cosmos
Cromwell
Crosby
Currie
Cyrus
Dalton
Danvers
Deer Creek
Deer River
Deerwood
De Graff
Delavan
Delhi
Denham
Dennison
Dent
Detroit Lakes
Donaldson
Dumont
Dundee
Dunnell
Eagle Bend
Echo
Eden Valley
Edgerton
Effie
Elbow Lake
Elmdale
Elmore
Ely
Emily
Emmons
Erhard
Erskine
Evan
Evansville
Fairfax
Faribault
Farwell
Federal Dam
Felton
Fergus Falls
Fertile
Fifty Lakes
Finlayson
Flensburg
Floodwood
Florence
Foreston
Fort Ripley
Fosston
Frazee
Freeport
Frost
Garvin
Gary
Genola
Georgetown
Ghent
Gilman
Glenwood
Glyndon
Gonvick
Goodridge
Grand Marais
Granite Falls
Grasston
Greenbush
Green Isle
Grey Eagle
Gully
Hackensack
Hadley
Hallock
Halma
Hammond
Hampton
Hanska
Harding
Hardwick
Harmony
Hatfield
Hawley
Hazel Run
Henderson
Hendricks
Henning
Henriette
Herman
Heron Lake
Hewitt
Hill City
Hillman
Hilltop
Hinckley
Hitterdal
Hoffman
Hokah
Holland
Holloway
Holt
Houston
Humboldt
Ihlen
International Falls
Iron Junction
Ironton
Jackson
Jasper
Jeffers
Jenkins
Johnson
Karlstad
Kelliher
Kellogg
Kennedy
Kenneth
Kensington
Kent
Kenyon
Kerrick
Kettle River
Kilkenny
Kimball
Kingston
Lake Benton
Lake Brownson
Lake Park
Lake Wilson
Lamberton
Lancaster
Lanesboro
La Porte
La Salle
Lastrup
Lengby
Leonard
Lewisville
Lismore
Little Falls
Littlefork
Long Beach
Longville
Lonsdale
Louisburg
Lowry
Lucan
Luverne
Mabel
McGrath
McGregor
McIntosh
McKinley
Madison
Madison Lake
Magnolia
Mahnomen
Manhattan Beach
Mankato
Maplewood
Marble
Marietta
Maynard
Meadowlands
Meire Grove
Menahga
Mendota
Mentor
Middle River
Milan
Millerville
Millville
Miltona
Minnesota City
Mizpah
Moose Lake
Mora
Morgan
Morris
Motley
Murdock
Nashua

Nashwauk
Nassau
Nelson
Nevis
New Auburn
Newfolden
New Germany
New Munich
New Trier
New York Mills
Nimrod
Norcross
Northfield
Northome
Odessa
Ogema
Ogilvie
Oklee
Onamia
Orr
Ortonville
Oslo
Ottertail
Palisade
Parkers Prairie
Park Rapids
Pelican Rapids
Pemberton
Pequot Lakes
Perham
Perley
Peterson
Pierz
Pillager
Pine City
Pipestone
Plummer
Porter
Quamba
Randall
Randolph
Ranier
Red Lake Falls
Regal
Remer
Revere
Richmond
Richville
Ronneby
Roscoe
Roseau
Rose Creek
Royalyton
Rushford Village
Ruthton
Rutledge
Sacred Heart
St Anthony
St Hilaire
St Leo
St Martin
St Rosa
St Vincent
Sandstone
Sauk Centre
Seaforth
Sebeka
Sedan
Shafer
Shelly
Shevlin
Slayton
Sobieski
Solway
Springfield
Spring Grove
Spring Hill
Spring Valley
Squaw Lake
Staples
Starbuck
Steen
Stephen
Stewart
Strandquist
Strathcona
Sturgeon Lake
Sunburg
Swanville
Taconite
Tamarack
Taopi
Taunton
Tenstrike
Thief River Falls
Thomson
Tower
Tracy
Trail
Trimont
Trommald
Turtle River
Twin Lakes
Twin Valley
Two Harbors
Tyler
Ulen
Underwood
Upsala
Vergas
Verndale
Vernon Center
Vesta
Villard
Vining
Virginia
Wabasha
Wabasso
Wadena
Waldorf
Walker
Walnut Grove
Walters
Waltham
Wanda
Warba
Warren
Warroad
Watkins
Waubun
Waverly
Wells
Westbrook
Westport
West Union
Whalan
Wheaton
Williams
Willow River
Wilmont
Winger
Winona
Winthrop
Wolf Lake
Wright
Wykoff
Zemple

Mississippi

Aberdeen
Ackerman
Alligator
Amory
Anguilla
Arcola
Artesia
Ashland
Bassfield
Batesville
Bay St Louis
Bay Springs
Beaumont
Beauregard
Belzoni
Benoit
Bentonia
Beulah
Big Creek
Blue Mountain
Blue Springs
Bolton
Boyle
Braxton
Brookhaven
Brooksville
Bruce
Bude
Burnsville
Byhalia
Calhoun City
Canton
Carrollton
Cary
Centreville
Charleston
Chunky
Clarksdale
Cleveland
Coffeeville
Coldwater
Collins
Columbia
Columbus
Como
Corinth
Courtland
Crawford
Crenshaw
Crosby
Crowder
Crouger
Crystal Springs
Decatur
De Kalb
Derma
D'Lo
Doddsville
Drew
Duck Hill
Dumas
Duncan
Durant
Ecru
Eden
Edwards
Ellisville
Ethel
Eupora
Falcon
Falkner
Fayette
Flora
Forest
French Camp
Friars Point
Gattman
Georgetown
Glendora
Gloster
Golden
Goodman
Greenville
Greenwood
Grenada
Gunnison
Guntown
Hattiesburg
Hazlehurst
Heidelberg
Hickory
Hickory Flat
Hollandale
Holly Springs
Houston
Indianola
Inverness
Isola
Itta Bena
Iuka
Jonestown
Kilmichael
Kosciusko
Kossuth
Lake Center
Lambert
Laurel
Leakesville
Leland
Lena
Lexington
Louin
Louise
Louisville
Lucedale
Lula
Lumberton
Lyon
Maben
McComb
McCool
McLain
Macon
Magnolia
Marks
Mathiston
Mayersville
Memphis
Meridian
Merigold
Metcalfe
Mize
Montrose
Moorhead
Morgan City
Mound Bayou
Mount Olive
Myrtle
Natchez
New Albany
New Augusta
New Houlka
Newport
Newton
North Carrollton
Noxapater
Oakland
Okolona
Osyka
Pace
Paden
Pass Christian
Philadelphia
Picayune
Pickens
Pittsboro
Plantersville
Polkville
Pontotoc
Pope
Poplarville
Port Gibson
Potts Camp
Prentiss
Puckett
Quitman
Raleigh
Renova
Richton
Rienzi
Rolling Fork
Rosedale
Roxie
Ruleville
Sallis
Satartia
Schlater
Scooba
Seminary
Senatobia
Shannon
Shaw
Shelby
Sherman
Shubuta
Shuqualak
Siddon
Silver City
Silver Creek
Slate Spring
Sledge
Starkville
State Line
Stonewall
Sturgis
Summit
Sumner
Sunflower
Taylorsville
Tchula
Terry
Thaxton
Tishomingo
Toccopola
Tunica
Tutwiler
Tylertown
Union
Utica
Vaiden
Vardaman
Vicksburg
Walnut
Walnut Grove
Water Valley
Waynesboro
Webb
Weir
Wesson
West
West Point
Wiggins
Winona
Winstonville
Woodland
Woodville
Yazoo City

Missouri

Adrian
Albany
Aldrich
Alexandria
Allendale
Altamont
Alton
Amazonia
Amity
Amoret
Amsterdam
Anderson
Annada
Annapolis
Anniston
Appleton City
Arbyrd
Arcadia
Arcola
Argyle
Armstrong
Arrow Rock
Asbury
Ash Grove
Atlanta
Augusta
Aurora
Ava
Aville
Bakersfield
Baldwin Park
Baring
Barnard
Barnett
Bates City
Bell City
Belle
Bellflower
Benton
Benton City
Berger
Bernie
Bethany
Beverly Hills
Bevier
Bigelow
Billings
Brich Tree
Birmingham
Bismarck
Blackwater
Bland
Blodgett
Bloomfield
Blue Eye
Blythedale
Bogard
Bolckow
Bolivar
Bonne Terre
Boonville
Bowling Green
Bragg City
Brandsville
Braymer
Breckenridge
Brimson
Bronaugh
Brookfield
Brookline
Browning
Brownington
Brumley
Brunswick
Bucklin
Buffalo
Bunceton
Bunker
Burgess
Burlington Junction
Butler
Cabool
Cainsville
Caledonia
Calhoun
California
Callao
Camden
Campbell
Canalou
Canton
Cardwell
Carrollton
Carterville
Carthage
Caruthersville
Carytown
Cassville
Catron
Cedar
Centertown
Centerview
Centerville
Centralia
Chaffee
Chamois
Charlack
Charleston
Chilhowee
Chillicothe
Clarence
Clark
Clarksburg
Clarkton
Clever
Climax Springs
Clinton
Clyde
Cobalt City
Coffey
Cole Camp
Collins
Commerce
Conway
Cooter
Corder

Corning
Cosby
Craig
Crane
Creighton
Crocker
Cross Timbers
Crystal City
Cuba
Curryville
Dalton
Darlington
Deepwater
Delta
Dennis Acres
Denver
Des Arc
Desloge
De Soto
De Witt
Dexter
Diamond
Diehlstadt
Diggins
Dixon
Doniphan
Downing
Dudley
Eagleville
East Lynne
East Prairie
Edina
Eldon
El Dorado Springs
Ellsinore
Elmer
Elmo
Elsberry
Elvins
Eminence
Eolia
Essex
Esther
Ethel
Eugene
Everton
Ewing
Excelsior Springs
Exeter
Fairfax
Fair Grove
Fair Play
Fairview
Fairview Acres
Farber
Farmington
Fayette
Festus
Fillmore
Fisk
Flat River
Fleming
Flemington
Flordell Hills
Foley
Fordland
Foristell
Foster
Frankford
Franklin
Fredericktown
Freeburg
Freistatt
Fulton
Gainesville
Galena
Gallatin
Galt
Garden City
Gasconade
Gentry
Gerald
Gerster
Gideon
Gilliam
Gilman City
Glasgow
Glenallen
Glenwood
Golden City
Goodman
Graham
Granby
Grandin
Grand Pass
Granger
Grant City
Greencastle
Green City
Greenfield
Green Ridge
Greentop
Greenville
Guilford
Hale
Halfway
Hamilton
Hannibal
Hardin
Harris
Hartsburg
Hartville
Hayti
Hayti Heights
Hayward
Hawood City
Henrietta
Hermann
Higbee
Hillsdale
Hoberg
Holcomb
Holden
Holland
Holiday
Holt
Homestown
Hopkins
Hornersville
Houston
Houstonia
Howardville
Humansville
Hume
Humphreys
Hunnewell
Huntsville
Hurdland
Hurley
Iberia
Ionia
Irondale
Iron Gates
Ironton
Jacksonville
Jameson
Jamesport
Jamestown
Jerico Springs
Jonesburg
Junction City
Kahoka
Kelso
Kennett
Keytesville
King City
Kingston
Kinloch
Kirksville
Knox City
Koshkonong
La Belle
Laddonia
La Grange
Lakeside
Lakeview
Lamar
Lambert
La Monte
Lanagan
Lancaster
La Plata
Laredo
La Russell
Latour
Leadington
Leadwood
Leasburg
Lebanon
Leeton
Leslie
Lewistown
Lexington
Liberal
Licking
Lilbourn
Linn
Linn Creek
Linneus
Lithium
Livonia
Lock Spring
Lockwood
Longtown
Louisiana
Lowry City
Lucerne
Ludlow
Lupus
Luray
Lutesville
McFall
Macks Creek
Macon
Madison
Malden
Malta Bend
Mansfield
Maplewood
Marble Hill
Marionville
Marquand
Marshfield
Marston
Marthasville
Martinsburg
Maryville
Matthews
Maysville
Mayview
Meadville
Memphis
Mercer
Meta
Metz
Mexico
Miami
Middletown
Midway
Milan
Millard
Miller
Mill Spring
Mindenmines
Miner
Mineral Point
Moberly
Montgomery City
Montrose
Morehouse
Morley
Morrison
Mosby
Moscow Mills
Mound City
Moundville
Mountain Grove
Mountain View
Mount Leonard
Mount Moriah
Mount Vernon
Naylor
Neck City
Neelyville
Nelson
Neosho
Nevada
Newark
Newburg
New Cambria
New Florence
New Hampton
New Haven
New Madrid
New Melle
Newtonia
Newtown
Niangua
Noel
Norborne
Normandy
North Lilbourn
Northmoor
North Wardell
Norwood
Novinger
Oakland Park
Oak Ridge
Olean
Oran
Oronogo
Osborn
Osceola
Osgood
Owensville
Pagedale
Paris
Parma
Parnell
Pascola
Pattonsburg
Paynesville
Penermon
Perry
Perryville
Phillipsburg
Pickering
Piedmont
Pierce City
Pilot Knob
Pine Lawn
Pineville
Pocahontas
Pollock
Popular Bluff
Portageville
Potosi
Powersville
Prairie Home
Prathersville
Preston
Princeton
Purcell
Purdin
Purdy
Puxico
Queen City
Quitman
Qulin
East Kansas City
Raymondville
Rayville
Rea
Reeds
Reeds Spring
Revere
Richards
Rich Hill
Richland
Ridgeway
Risco
Ritchey
Rivermines
Riverview
Rocheport
Rockville
Rogersville
Rolla
Roscoe
Rosendale
Rush Hill
Russellville
Rutledge
St Clair
St Elizabeth
St James
St John
St Mary's
Salem
Sarcoxie
Schell City
Scott City
Sedalia
Sedgewickville
Seligman
Senath
Seneca
Seymour
Shelbina
Shelbyville
Sheldon
Sheridan
Sikeston
Silex
Skidmore
Slater
South Gifford
South Gorin
South Greenfield
South Lineville
South West City
Sparta
Spickardsville
Spring Valley
Stanberry
Stark City
Steele
Steelville
Stella
Stewartsville
Stockton
Stotesbury
Stotts City
Stoutland
Stoutsville
Stover
Strasburg
Sullivan
Summersville
Sumner
Sweet Springs
Syracuse
Tallapoosa
Taneyville
Tarkio
Thayer
Theodosia
Trenton
Triplett
Truesdail
Tuscumbia
Union
Union Star
Unionville
Unity Village
University City
Urbana
Valley Park
Van Buren
Vandalia
Vanduser
Velda Village
Verona
Versailles
Vienna
Vinita Park
Vista
Waco
Wakenda
Walker
Walnut
Walnut Grove
Wardell
Warrensburg
Warrenton
Warsaw
Washburn
Watson
Waverly
Wayland
Waynesville
Weaubleau
Webb City
Wellston
Wellsville
West Line
Westphalia
West Plains
Wheatland
Wheaton
Whiteside
Williamsville
Willow Springs
Wilson City
Winfield
Winona
Winston
Worth
Worthington
Wyaconda
Wyatt
Zalma

Montana

Alberton
Anaconda-Deer Lodge
Big Sandy
Boulder
Bozeman
Bridger
Broadus
Broadview
Brockton
Browning
Butte-Silver Bow
Cascade
Chinook
Choteau
Circle
Clyde Park
Columbus
Darby
Deer Lodge
Denton
Dillon
Drummond
Dutton
Ekalaka
Eureka
Flaxville
Fromberg
Geraldine
Grass Range
Hamilton
Hardin
Harlem
Harlowton
Hingham
Hobson
Hot Springs
Ismay
Joliet
Jordan
Kalispell
Kevin
Lewistown
Libby
Lima
Lodge Grass
Melstone
Missoula
Neihart
Outlook
Philipsburg
Plains
Plevna
Polson
Poplar

Red Lodge
Rexford
Ronan
Roundup
Ryegate
Saco
St Ignatius
Scobey
Shelby
Sheridan
Stevensville
Sunburst
Terry
Thompson Falls
Three Forks
Troy
Twin Bridges
Walkerville
Westby
Whitehall
White Sulphur Sprgs
Wibaux
Winifred
Winnett
Wolf Point

Nebraska

Abie
Adams
Ainsworth
Albion
Alexandria
Alma
Alvo
Ansley
Arapahoe
Arcadia
Arnold
Arthur
Ashton
Atlanta
Auburn
Ayr
Bancroft
Barada
Barneston
Bayard
Beaver City
Beaver Crossing
Belden
Belgrade
Belvidere
Benkelman
Bennington
Berwyn
Bladen
Bloomington
Blue Hill
Blue Springs
Boys Town
Brady
Brewster
Bristow
Broadwater
Brock
Brownville
Brunswick
Burchard
Burr
Burwell
Bushnell
Butte
Callaway
Campbell
Carleton
Cedar Rapids
Chadron
Chambers
Chappell
Clarks
Clarkson
Clay Center
Clearwater
Cody
Coleridge
Comstock
Concord
Cowles
Crawford
Creighton
Crookston
Culbertson
Curtis
Dannebrog
Dawson
Decatur
Deweese
Diller
Dixon
Du Bois
Dunbar
Dunning
Dwight
Eddyville
Edgar
Elgin
Elk Creek
Ericson
Ewing
Fairbury
Falls City
Farnam
Farwell
Firth
Fordyce
Foster
Gandy
Garland
Genoa
Gilead
Gordon
Grafton
Grant
Greeley Center
Gresham
Guide Rock
Hadar
Haigler
Hardy
Harrison
Harvard
Hastings
Hay Springs
Heartwell
Hendley
Herman
Hershey
Holbrook
Holstein
Howells
Hubbard
Hubbell
Humboldt
Humphrey
Huntley
Hyannis
Imperial
Indianola
Inman
Ithaca
Jackson
Johnson
Johnstown
Julian
Kimball
Laurel
Lawrence
Lebanon
Leigh
Lewellen
Liberty
Linwood
Litchfield
Long Pine
Lorton
Louisville
Loup City
Lushton
Lyman
Lynch
Mclean
Madrid
Malmo
Manley
Martinsburg
Maskell
Mason City
Maxwell
Memphis
Merriman
Milford
Miller
Minatare
Mullen
Murdock
Naponee
Nebraska City
Nehawka
Nelson
Nemaha
Nenzel
Newcastle
Newman Grove
Newport
Norman
North Loup
Oak
Oakdale
Oakland
Oconto
Odell
Ohiowa
Ong
Orleans
Osmond
Oxford
Page
Palisade
Palmer
Palmyra
Pawnee City
Peru
Pilger
Plainview
Plattsmouth
Polk
Potter
Prague
Primrose
Prosser
Ragan
Randolph
Ravenna
Red Cloud
Republican City
Reynolds
Richland
Riverton
Rosalie
Royal
Rulo
Rushville
St Edward
St Paul
Salem
Santee
Sargent
Scotia
Scotts Bluff
Scribner
Seneca
Shelby
Sholes
Silver Creek
Snyder
South Bend
Spalding
Springfield
Staplehurst
Stapleton
Steinauer
Sterling
Stockham
Stockville
Strang
Stratton
Stuart
Superior
Surprise
Table Rock
Tarnov
Tecumseh
Tekamah
Terrytown
Thayer
Thurston
Tilden
Ulysses
Upland
Verdel
Verdigre
Wakefield
Wallace
Walthill
Waterbury
Wauneta
Wausa
Wayne
Western
Weston
Whitney
Wilsonville
Winnebago
Winnetoon
Winside
Wisner
Wisner
Wolbach
Wynot

Nevada

Caliente
Carlin
Ely
Fallon
Yerington

New Hampshire

Berlin
Laconia

New Jersey

Audubon
Bellmawr
Beverly
Bradley Beach
Brooklawn
Burlington
Cape May Point
Chesilhurst
Clementon
Collingswood
Dover
East Newark
East Rutherford
Egg Harbor City
Elmer
Englishtown
Fairview
Fieldsboro
Freehold
Garfield
Gibbsboro
Glassboro
Gloucester City
Hackensack
Haledon
Harrison
Hi-Nella
Island Heights
Keansburg
Kearny
Keyport
Lambertville
Laurel Springs
Lawnside
Linden
Magnolia
Merchantville
Mount Ephraim
National Park
North Wildwood
Orange
Paulsboro
Pemberton
Penns Grove
Phillipsburg
Pitman
Plainfield
Pleasantville
Prospect Park
Runnemede
Salem
Seaside Heights
Shiloh
Somerdale
South Amboy
South Toms River
Stratford
Swedesboro
Tuckerton
Union Beach
Victory Gardens
West Cape May
West New York
Westville
West Wildwood
Wildwood
Woodbine
Woodbury
Woodlynne

New Mexico

Artesia
Aztec
Bayard
Belen
Bernalillo
Bloomfield
Capitan
Carlsbad
Carrizozo
Causey
Central
Chama
Cimarron
Clayton
Columbus
Corona
Deming
Des Moines
Dexter
Elida
Encino
Espanola
Estancia
Floyd
Folsom
Fort Sumner
Gallup
Grady
Grenville
Hagerman
House
Hurley
Jemez Springs
Lake Arthur
Las Vegas
Lordsburg
Los Lunas
Loving
Magdalena
Maxwell
Melrose
Mesilla
Milan
Mosquero
Mountainair
Pecos
Portales
Questa
Raton
Reserve
Roy
San Jon
Santa Rosa
San Ysidro
Silver City
Socorro
Springer
Taos
Tatum
Tijeras
Tucumcari
Tularosa
Vaughn
Virden
Wagon Mound
Willard

New York

Adams
Addison
Afton
Akron
Albion
Alden
Alexander
Alexandria Bay
Alfred
Allegany
Almond
Altmar
Amsterdam
Andover
Angelica
Angola
Antwerp
Argyle
Athens
Attica
Auburn
Aurora
Avoca
Avon
Bainbridge
Ballston Spa
Barker
Batavia
Bath
Beacon
Belmont
Blasdell
Bloomingburgh
Bloomingdale
Bolivar
Boonville
Brewster
Bridgewater
Broadalbin
Brockport
Brownville
Brushton
Burdett
Burke
Camden
Camillus
Canajoharie
Canandaigua
Canaseraga
Canastota

Candor
Canisteo
Canton
Cape Vincent
Carthage
Cassadaga
Castile
Castleton-on-Hudson
Castorland
Cato
Catskill
Cattaraugus
Cayuga
Cazenovia
Celoron
Champlain
Chateaugay
Chatham
Chaumont
Cherry Creek
Clayton
Clayville
Cleveland
Clifton Springs
Clyde
Cobleskill
Cohocton
Cohoes
Cold Brook
Constableville
Copenhagen
Corfu
Corinth
Cortland
Coxsackie
Croghan
Cuba
Dannemora
Dansville
Deferiet
Delanson
Delevan
Delhi
Depew
Deposit
De Ruyter
Dexter
Dolgeville
Dresden
Dryden
Dundee
Dunkirk
Earlville
East Aurora
East Randolph
East Syracuse
Edwards
Elba
Ellenville
Ellicottville
Ellisburg
Elmira Heights
Endicott
Esperance
Evans Mills
Fabius
Fair Haven
Falconer
Farnham
Fillmore
Fleischmanns
Fonda
Fort Ann
Fort Edward
Fort Johnson
Fort Plain
Frankfort
Franklin
Franklinville
Fredonia
Freeport
Freeville
Fulton
Fultonville
Galway
Geneseo
Geneva
Glen Park
Gloversville
Gouverneur
Gowanda
Granville
Greene
Green Island
Greenport
Greenwich
Hagaman
Hamilton
Hammond
Hammondsport
Hancock
Hannibal
Harriman
Harrisville
Haverstraw
Hempstead
Herkimer
Hermon
Herrings
Heuvelton
Highland Falls
Hobart
Holland Patent
Holley
Homer
Hoosick Falls
Hornell
Horseheads
Hudson
Hudson Falls
Hunter
Ilion
Interlaken
Island Park
Ithaca
Jamestown
Jeffersonville
Johnson City
Johnstown
Jordan
Keeseville
Kingston
Kiryas Joel
Lackawanna
Lacona
Lake George
Lake Placid
Lancaster
Laurens
Le Roy
Liberty
Limestone
Lisle
Little Falls
Little Valley
Livonia
Lockport
Lodi
Long Beach
Lowville
Lyons
Lyons Falls
Mcgraw
Malone
Mannsville
Marathon
Marcellus
Margaretville
Massena
Mayfield
Mechanicville
Medina
Meridian
Middleburgh
Middleport
Middleville
Milford
Millerton
Millport
Mohawk
Monticello
Montour Falls
Mooers
Moravia
Morris
Morristown
Morrisville
Mount Morris
Munnsville
Naples
Nassau
Nelliston
Newark
New Berlin
New Paltz
Newport
New Square
New York Mills
Nichols
North Collins
North Tonawanda
Northville
Norwich
Norwood
Nunda
Oakfield
Odessa
Ogdensburg
Olean
Oneida
Oneonta
Oriskany
Oriskany Falls
Oswego
Ovid
Owego
Oxford
Parish
Patchogue
Peekskill
Penn Yan
Perry
Perrysburg
Philadelphia
Philmont
Phoenix
Pike
Pine Hill
Plattsburgh
Poland
Port Byron
Port Chester
Port Henry
Port Jervis
Port Leyden
Portville
Potsdam
Pulaski
Randolph
Red Creek
Red Hook
Rensselaer
Rensselaer Falls
Richfield Springs
Richmondville
Richville
Riverside
Round Lake
Rouses Point
Rushville
Sackets Harbor
St Johnsville
Salamanca
Salem
Saranac lake
Saugerties
Savona
Schenevus
Schoharie
Schuylerville
Seneca Falls
Sharon Sprngs
Sherburne
Sherman
Sidney
Silver Creek
Silver Springs
Sloan
Smyrna
Sodus
South Dayton
South Glens Falls
Speculator
Spencer
Springville
Stamford
Sylvan Beach
Tannersville
Theresa
Ticonderoga
Tivoli
Tonawanda
Trumansburg
Tupper Lake
Turin
Union Springs
Unionville
Valley Falls
Van Etten
Victory
Waddington
Walden
Walton
Wampsville
Wappingers Falls
Warsaw
Waterford
Waterloo
Watertown
Waterville
Watervliet
Watkins Glen
Waverly
Wayland
Weedsport
Wellsburg
Wellsville
West Carthage
Westfield
Westport
West Winfield
Whitehall
Whitesboro
Wilson
Wolcott
Woodhull
Woodridge
Yorkville

North Carolina

Ahoski
Alamance
Alexander Mills
Alliance
Andrews
Angier
Ansonville
Arapahoe
Askewville
Atkinson
Aulander
Aurora
Autryville
Ayden
Bailey
Bakersville
Banner Elk
Bath
Battleboro
Beaufort
Beech Mountain
Belhaven
Belmont
Belwood
Benson
Bessemer City
Bethel
Beulaville
Biscoe
Black Creek
Bladenboro
Bolivia
Bolton
Boone
Bostic
Brevard
Bridgeton
Brookford
Brunswick
Bryson City
Bunn
Burgaw
Burnsville
Calabash
Calypso
Cameron
Carrboro
Casar
Castalia
Centerville
Cerro Gordo
Chadbourn
Chocowinity
Clarkton
Clayton
Cleveland
Clinton
Clyde
Coats
Cofield
Colerain
Columbia
Como
Conetoe
Conway
Cove City
Cramerton
Creswell
Dallas
Davidson
Denton
Dillsboro
Dobson
Dortches
Dover
Dublin
Dunn
Earl
East Arcadia
East Laurinburg
East Spencer
Eden
Edenton
Elizabeth City
Elizabethtown
Elkin
Elk Park
Ellenboro
Ellerbe
Elm City
Enfield
Erwin
Eureka
Everetts
Fair Bluff
Fairmont
Faison
Falcon
Falkland
Farmville
Forest City
Fountain
Four Oaks
Franklinton
Fremont
Fuquay-Varina
Garland
Garysburg
Gaston
Gibson
Glen Alpine
Goldsboro
Granite Falls
Greenevers
Grimesland
Grover
Halifax
Hamilton
Hamlet
Harmony
Harrells
Hassell
Haw River
Hayesville
Hazelwood
Henderson
Hendersonville
Hertford
Hildebran
Hillsborough
Hobgood
Hoffman
Holly Ridge
Holly Springs
Hot Springs
Jackson
Jamesville
Jefferson
Jonesville
Kelford
Kenansville
Kenly
Kings Mountain
Kinston
Kittrell
Lansing
Lasker
Lattimore
Laurinburg
Lawndale
Leggett
Lenoir
Lewiston
Lexington
Liberty
Lilesville
Lillington
Lincolnton
Linden
Littleton
Louisburg
Love Valley
Lowell
Lumber Bridge
Lumberton
Mcadenville
Macclesfield
McDonald
McFarlan
Macon
Madison
Magnolia
Marion
Marshall
Marshville
Maxton
Mayodan
Maysville
Mebane
Micro
Middleburg
Middlesex
Milton
Mocksville
Monroe
Mooresboro
Mooresville
Morehead City
Morganton
Morven
Mount Airy
Mount Gilead
Mount Holly
Mount Olive
Murfreesboro
Murphy
Nashville
Navassa

New Bern
Newland
New London
Newton
Norlina
Norman
North Wilkesboro
Norwood
Oak City
Old Fort
Orrum
Oxford
Parkton
Parmele
Peachland
Pembroke
Pilot Mountain
Pine Level
Pinetops
Pineville
Pink Hill
Pittsboro
Plymouth
Polkton
Polkville
Pollocksville
Powellsville
Princeton
Princeville
Proctorville
Randleman
Ranlo
Raynham
Red Oak
Red Springs
Reidsville
Rennert
Rhodhiss
Richlands
Rich Square
Roanoke Rapids
Robbins
Robbinsville
Robersonville
Rockingham
Rocky Mount
Ronda
Roper
Roseboro
Rose Hill
Rosman
Rowland
Roxboro
Roxobel
Ruth
Rutherfordton
St Pauls
Saluda
Sanford
Saratoga
Scotland Neck
Seaboard
Seven Springs
Severn
Shallotte
Sharpsburg
Shelby
Siler City
Simpson
Sims
Smithfield
Snow Hill
Southport
Speed
Spindale
Spring Hope
Spring Lake
Spruce Pine
Staley
Stanfield
Stantonsburg
Star
Statesville
Stedman
Stoneville
Stonewall
Sunset Beach
Sylva
Tabor City
Tarboro
Tar Heil
Taylorsville
Teachey
Thomasville
Trenton
Troy
Tryon
Turkey
Valdese
Vanceboro
Vandemere
Vass
Waco
Wade
Wadesboro
Wagram
Wake Forest
Wallace
Walnut Cove
Walstonburg
Warrenton
Warsaw
Washington
Waynesville
Weldon
West Jefferson
Whitakers
Whiteville
Williamston
Wilson
Windsor
Winfall
Winton
Woodland
Youngsville
Zebulon

North Dakota

Abercrombie
Adams
Alamo
Alexander
Alice
Almont
Ambrose
Amenia
Amidon
Anamoose
Aneta
Arnegard
Ashley
Barton
Bathgate
Beach
Berlin
Bowbells
Bowdon
Braddock
Brinsmade
Butte
Buxton
Calio
Cando
Carson
Cathay
Clifford
Cogswell
Columbus
Cooperstown
Courtenay
Crosby
Crystal
Dawson
Deering
Dickey City
Donnybrook
Douglas
Drake
Drayton
Dunseith
Edgeley
Edinburg
Edmore
Elgin
Ellendale
Elliott
Esmond
Fairdale
Fessenden
Flasher
Flaxton
Forbes
Fordville
Forest River
Fort Ransom
Fortuna
Fort Yates
Fredonia
Gardena
Golva
Goodrich
Grafton
Granville
Great Bend
Grenora
Hague
Hamburg
Hankinson
Hannah
Hansboro
Harvey
Hatton
Havana
Hazelton
Hebron
Hoople
Hope
Hurdsfield
Inkster
Jud
Karlsruhe
Kathryn
Kenmare
Kensal
Kief
Kramer
Kulm
Lakota
Landa
Lawton
Leal
Lehr
Leith
Leonard
Lidgerwood
Lignite
Linton
Loma
McClusky
McVille
Makoti
Mantador
Manvel
Marmarth
Martin
Max
Maxbass
Mayville
Medina
Milton
Minto
Manango
Montpelier
Mott
Napoleon
Neche
Newburg
New England
New Leipzig
New Town
Nome
Noonan
Oberon
Park River
Parshall
Pekin
Petersburg
Pettibone
Pingree
Pisek
Plaza
Portal
Powers Lake
Reeder
Regan
Robinson
Rolette
Rolla
Ryder
St. John
Sanborn
Sarles
Selfridge
Sheldon
Sheyenne
Solen
Souris
Starkweather
Strasburg
Streeter
Sykeston
Tappen
Taylor City
Tolley
Towner
Turtle Lake
Tuttle
Upham
Valley City
Velva
Verona
Walhalla
White Earth
Willow City
Wilton
Wimbledon
Wing
Wishek
York
Zeeland

Ohio

Ada
Adamsville
Addyston
Adelphi
Adena
Albany
Alexandria
Alger
Alliance
Alvordton
Amanda
Amelia
Amesville
Amsterdam
Andover
Anna
Ansonia
Antioch
Antwerp
Apple Creek
Arcadia
Arcanum
Arlington Heights
Ashland
Ashtabula
Athalia
Athens
Attica
Bainbridge
Bairdstown
Barnesville
Barnhill
Batavia
Batesville
Bayview
Beach City
Beallsville
Beaver
Beaverdam
Bellaire
Belle Center
Bellefontaine
Belle Valley
Bellville
Belmont
Belmore
Belpre
Bergholz
Bethel
Bethesda
Bettsville
Beverly
Blakeslee
Bloomdale
Blommingburg
Bloomingdale
Bloomville
Bowerston
Bowersville
Bradford
Bradner
Brady Lake
Bremen
Brewster
Brice
Bridgeport
Brilliant
Brookville
Broughton
Buchtel
Buckeye
Buckland
Bucyrus
Burgoon
Butler
Byesville
Cadiz
Cairo
Caldwell
Caledonia
Cambridge
Camden
Campbell
Cardington
Carey
Carrollton
Casstown
Castine
Catawba
Cecil
Cedarville
Celina
Centerburg
Centerville
Chatfield
Chauncey
Cherry Fork
Chesapeake
Cheshire
Chesterhill
Chesterville
Chillicothe
Chilo
Christiansburg
Circleville
Clarington
Clarksburg
Clarksville
Clay Center
Clifton
Clinton
Cloverdale
Clyde
Coal Grove
Coalton
College Corner
Columbus Grove
Commercial Point
Conesville
Congress
Conneaut
Continental
Coolville
Corning
Corwin
Coshocton
Covington
Craig Beach
Crestline
Crooksville
Crown City
Cumberland
Custar
Danville
Darbyville
Deersville
De Graff
Dellroy
Delphos
Dennison
Deshler
Dexter City
Dillonvale
Donnelsville
Dover
Dresden
Dunkirk
Dupont
East Cleveland
East Liverpool
East Palestine
Eaton
Edgerton
Edison
Edon
Elgin
Elmwood Place
Empire
Fairborn
Fairport Harbor
Fairview
Fayette
Fayetteville
Felicity
Fletcher
Flushing
Forest
Fort Recovery
Fostoria
Franklin
Frazeysburg
Fredericksburg
Fredericktown
Freeport
Fremont
Fulton
Fultonham
Galion
Gallipolis
Gann
Geneva
Geneva-on-the-Lake
Georgetown
Gettysburg
Gibsonburg
Girard
Glenford
Glenmont
Glouster
Gordon
Grand Rapids
Granville
Gratiot
Gratis
Graysville
Green Camp
Greenfield
Greenville
Greenwich
Grover Hill
Hamden
Hamersville
Hanging Rock
Hanoverton

Harbor View
Harpster
Harrisburg
Harrisville
Harrod
Hartford
Hartville
Harveysburg
Haviland
Hebron
Hemlock
Hicksville
Higginsport
Highland
Hillsboro
Hiram
Holgate
Holland
Hollansburg
Holloway
Hopedale
Hoytville
Hubbard
Huntsville
Irondale
Ironton
Ithaca
Jackson
Jacksonburg
Jackson Center
Jamestown
Jefferson
Jeffersonville
Jerry City
Jewett
Junction City
Kelleys Island
Kenton
Kettlersville
Kimbolton
Kingston
Kipton
Kirby
Kirkersville
Lafayette
Lagrange
Lakemore
Lakeview
La Rue
Latty
Laura
Laurelville
Lawrenceville
Leesburg
Leetonia
Leipsic
Lewisburg
Lewisville
Lewisville
Liberty Center
Limaville
Lincoln Heights
Linndale
Lisbon
Lockbourne
Lockington
Lockland
Logan
Louisville
Lowell
Lowellville
Lower Salem
Lucas
Ludlow Falls
Lynchburg
Lyons
McArthur
McClure
McConnelsville
McGuffey
Macksburg
Magnetic Springs
Maineville
Malinta
Malta
Malvern
Manchester
Mantua
Marengo
Marion
Marseilles
Martinsburg
Martins Ferry
Martinsville
Marysville
Matamora
Machanicsburg
Melrose
Mendon
Middle Point
Middleport
Midland
Midvale
Mifflin
Milford Center
Milledgeville
Millersburg
Milton Center
Miltonsburg
Mineral City
Minerva
Monroeville
Montezuma
Montpelier
Morral
Morristown
Morrow
Moscow
Mount Cory
Mount Gilead
Mount Orab
Mount Pleasant
Mount Vernon
Mount Victory
Mowrystown
Murray City
Nashville
Navarre
Nellie
Nelsonville
Nevada
Neville
New Alexandria
New Athens
New Bavaria
New Bloomington
New Boston
Newcomerstown
New Concord
New Holland
New Lexington
New London
New Miami
New Paris
New Richmond
New Riegel
New Straitsville
Newton Falls
Newtownsville
Newtown
New Washington
New Waterford
North Baltimore
North Fairfield
North Hampton
North Robinson
North Star
Norwich
Norwood
Oak Hill
Oakwood
Oberlin
Ohio City
Old Washington
Orangeville
Orient
Orrville
Orwell
Ostrander
Ottoville
Otway
Owensville
Oxford
Painesville
Palestine
Paulding
Peebles
Pemberville
Perrysville
Philo
Piketon
Pioneer
Piqua
Pitsburg
Plain City
Pleasant City
Pleasant Hill
Pleasant Plain
Plymouth
Polk
Pomeroy
Portage
Port Clinton
Port Jefferson
Portsmouth
Port Washington
Port William
Potsdam
Powhatan Point
Proctorville
Put-in-Bay
Quaker City
Quincy
Racine
Rarden
Ravenna
Rayland
Rendville
Republic
Richmond
Richwood
Ridgeway
Rio Grande
Ripley
Rising Sun
Rittman
Rochester
Rock Creek
Rocky Ridge
Rogers
Rome
Roseville
Rossburg
Roswell
Rushsylvania
Russells Point
Russellville
Rutland
Sabina
St Bernard
St Louisville
St Martin
St Mary's
St Paris
Salem
Salesville
Salineville
Sandusky
Sarahsville
Sardinia
Savannah
Scio
Scott
Seaman
Sebring
Senecaville
Shawnee
Shawnee Hills
Shelby
Sherrodsville
Shiloh
Shreve
Sidney
Siverton
Sinking Spring
Smithfield
Somerset
Somerville
South Charleston
South Lebanon
South Salem
South Solon
South Vienna
South Webster
South Zanesville
Sparta
Spencerville
Spring Valley
Stafford
Stockport
Stone Creek
Stoutsville
Strasburg
Stratton
Struthers
Sugarcreek
Summerfield
Sycamore
Syracuse
Tarlton
Tiffin
Tiltonsville
Tiro
Toronto
Tremont City
Trimble
Troy
Tuscarawas
Uhrichsville
Union City
Unionville Center
Uniopolis
Upper Sandusky
Urbana
Urbancrest
Utica
Valley Hi
Vanlue
Van Wert
Venedocia
Verona
Versailles
Vinton
Wakeman
Wapakoneta
Warsaw
Washington
Wauseon
Waverly
Wayne
Waynesburg
Waynesfield
Waynesville
Wellington
Wellston
Wellsville
West Alexandria
West Elkton
West Farmington
West Lafayette
West Leipsic
West Manchester
West Mansfield
West Millgrove
Weston
West Rushville
West Union
Wharton
Wilkesville
Willard
Williamsburg
Williamsport
Willshire
Wilmot
Winchester
Windham
Woodlawn
Woodsfield
Wren
Yellow Springs
Yorkville
Zaleski
Zanesfield
Zanesville

Oklahoma

Achille
Ada
Adair
Afton
Agra
Albion
Alderson
Allen
Altus
Anadarko
Antlers
Apache
Arkoma
Asher
Ashland
Atoka
Avant
Avard
Barnsdall
Bearden
Beggs
Bennington
Big Cabin
Billings
Binger
Blackwell
Blair
Boise City
Bokchito
Bokoshe
Boley
Boswell
Bowlegs
Boynton
Bradley
Braggs
Braman
Bridgeport
Bristow
Bromide
Brooksville
Bryant
Burbank
Burlington
Butler
Byars
Byron
Caddo
Calvin
Camargo
Cameron
Canadian
Caney
Canton
Capron
Carmen
Carnegie
Carney
Carrier
Carter
Castle
Cement
Centrahoma
Chandler
Checotah
Chelsea
Cheyenne
Clayton
Cleveland
Coalgate
Collinsville
Comanche
Commerce
Cornish
Council Hill
Coweta
Cowlington
Coyle
Cromwell
Crowder
Custer City
Cyril
Dacoma
Davenport
Davidson
Davis
Deer Creek
Delaware
Depew
Devol
Dewar
Dewey
Dill City
Dougherty
Drumright
Durant
Dustin
Eakly
Earlsboro
East Duke
Eldorado
Elk City
Elmer
Elmore City
Erick
Eufaula
Fairfax
Fairland
Fanshawe
Faxon
Fletcher
Fort Cobb
Fort Gibson
Fort Supply
Fort Towson
Foss
Foyil
Francis
Frederick
Garber
Gate
Geary
Gene Autry
Gerty
Glencoe
Goodwell
Gore
Gotebo
Gould
Gracemont
Grandfield
Granite
Grayson
Guthrie
Haileyville
Hallett
Hammon
Hanna
Harris
Hartshorne
Haskell
Hastings
Haworth
Headrick
Heavener
Helena
Hendrix
Henryetta
Hitchita
Hobart
Hoffman
Holdenville
Hollis
Hollister
Hominy
Howe
Hugo
Hulbert
Hydro
Idabel
Indiahoma
Indianola
Jay
Jennings
Kaw
Kemp

Kendrick
Kenefic
Keota
Ketchum
Kinta
Kiowa
Knowles
Konawa
Krebs
Lamar
Lamont
Langley
Langston
Le Flore
Lehigh
Lenapah
Leon
Lexington
Lima
Lindsay
Loco
Lone Wolf
Longdale
Lookeba
Luther
McAlester
McBride
McCurtain
Madill
Manchester
Mangum
Manitou
Mannsville
Maramec
Marble City
Marietta
Marland
Marlow
Marshall
Martha
Maud
May
Maysville
Medicine Park
Meridian
Miami
Milburn
Mill Creek
Moffett
Morris
Mountain Park
Mountain View
Mulhall
Mushall
Muskogee
Nash
Nicoma Park
Norge
North Miami
Nowata
Oakland
Oaks
Oakwood
Oilton
Okeene
Okemah
Okmulgee
Oktaha
Olustee
Osage
Paden
Panama
Paoli
Pauls Valley
Pawhuska
Pawnee
Peoria
Perry
Phillips
Picher
Pittsburg
Pond Creek
Porter
Porum
Poteau
Prague
Purcell
Putnam
Quapaw
Quay
Quinlan
Quinton
Ralston
Ramona
Randlett
Rattan
Redbird
Red Oak
Red Rock
Rentiesville
Ringling
Ripley
Roff
Rosedale
Rush Springs
Ryan
St. Louis
Salina
Sapulpa
Sasakwa
Savanna
Sayre
Seiling
Seminole
Sentinel
Shamrock
Sharon
Shidler
Skedee
Skiatook
Slick
Smith Village
Smithville
Snyder
Soper
Spavinaw
Sperry
Spiro
Stidham
Stigler
Stilwell
Stonewall
Strang
Stringtown
Stroud
Stuart
Sulphur
Taft
Talihina
Tamaha
Tatums
Temple
Terlton
Terral
Texhoma
Texola
Tipton
Tishomingo
Tryon
Tullahassee
Tupelo
Valley Brook
Vera
Vian
Vinita
Wagoner
Wainwright
Wakita
Walters
Wanette
Wann
Wapanucka
Warwick
Washington
Watts
Waurika
Wayne
Waynoka
Webb City
Webbers Falls
Welch
Weleetka
Wellston
Westville
Wewoka
Wetumka
Whitefield
Wilburton
Willow
Wilson
Wister
Woodville
Wright City
Wyandotte
Wynnewood
Yale
Yeager

Oregon

Adams
Amity
Ashland
Astoria
Athena
Baker
Banks
Bay City
Bonanza
Brownsville
Butte Falls
Cannon Beach
Canyonville
Carlton
Cave Junction
Chiloquin
City of the Dalles
Coburg
Condon
Coos Bay
Coquille
Cottage Grove
Cove
Creswell
Dallas
Dayton
Dayville
Drain
Echo
Elgin
Elkton
Enterprise
Falls City
Forence
Fossil
Garibaldi
Gaston
Gearhart
Gervais
Glendale
Gold Hill
Grants Pass
Grass Valley
Haines
Halfway
Halsey
Hammond
Hood River
Huntington
Idanha
Imbler
Joseph
Junction City
Klamath Falls
La Grande
Lebanon
Lincoln City
Long Creek
Lowell
Malin
Maupin
Merrill
Mill City
Milton Freewater
Mitchell
Monmouth
Monroe
Monument
Mosier
Mount Angel
Mt Vernon
Myrtle Point
North Powder
Nyssa
Oakland
Paisley
Port Orford
Powers
Prairie City
Prescott
Rainier
Redmond
Richland
Riddle
Rockaway
Rogue River
St Helens
Scio
Scotts Mills
Seaside
Seneca
Shady Cove
Shaniko
Sheridan
Sisters
Sodaville
Spray
Stanfield
Sutherlin
Sweet Home
Talent
Tangent
Tillamook
Union
Unity
Vale
Vernonia
Wallowa
Warrenton
Wasco
Weston
Wheeler
Winston
Yachats
Yamhill
Yoncalla

Pennsylvania

Adamsburg
Addison
Albion
Alexandria
Aliquippa
Ambridge
Apollo
Applewold
Archbald
Arnold
Arona
Ashland
Ashley
Ashville
Athens
Atwood
Auburn
Austin
Avis
Avoca
Avondale
Avonmore
Baden
Bangor
Barkeyville
Barnesboro
Beallsville
Bear Lake
Beaver Falls
Beaver Meadows
Bedford
Bellefonte
Belle Vernon
Bellevue
Bellwood
Benson
Bentleyville
Benton
Berlin
Bernville
Berrysburg
Berwick
Bessemer
Big Run
Birmingham
Blain
Blairsville
Blakely
Blawnox
Blooming Valley
Bloomsburg
Blossburg
Boswell
Bowmanstown
Brackenridge
Braddock
Bradford
Briar Creek
Bridgeport
Bridgewater
Bristol
Broad Top City
Brockway
Brookville
Brownsville
Burgettstown
Burnham
Burnside
Butler
California
Callensburg
Callery
Cambridge Springs
Canonsburg
Canton
Carbondale
Carmichaels
Carnegie
Carrolltown
Cassandra
Casselman
Cassville
Catasauqua
Catawissa
Centerville
Centreville
Central City
Centralia
Centre Hall
Chalfant
Chambersburg
Charleroi
Cherry Valley
Chester Hill
Chest Springs
Clairton
Clarendon
Clarion
Clarks Summit
Clarksville
Claysville
Clearfield
Clifton Heights
Clintonville
Clymer
Coal Center
Coaldale
Coaldale
Coalmont
Coalport
Coatesvile
Cochranton
Collingdale
Columbia
Colwyn
Confluence
Conneaut Lake
Conneautville
Connellsville
Conshohocken
Coraopolis
Corry
Corsica
Coudersport
Courtdale
Crafton
Cranesville
Creekside
Cresson
Cressona
Cross Roads
Curwensville
Dale
Dallastown
Danville
Darby
Darlington
Dawson
Dayton
Deemston
Delaware Water Gap
Delmont
Delta
Derry
Dickson City
Donegal
Donora
Driftwood
Du Bois
Duboistown
Dudley
Dunbar
Duncansville
Dunmore
Dupont
Duquesne
Duryea
Dushore
East Bangor
East Brady
East Conemaugh
East Lansdowne
East McKeesport
East Pittsburgh
East Rochester
East Side
East Stroudsburg
Eastvale
East Vandergrift
Eau Claire
Edinboro
Edwardsville
Ehrenville
Elco
Elderton
Eldred
Elgin
Elizabeth
Elizabethville
Elkland
Ellport
Ellwood City
Emlenton
Emporium
Enon Valley
Ernest
Etna
Everett
Everson
Exeter
Export
Factoryville
Fairchance
Falls Creek
Fallston
Farrell

Fayette City
Ferndale
Flemington
Ford City
Ford Cliff
Forest City
Forksville
Forty Fort
Fountain Hill
Franklin
Franklintown
Fredonia
Freeburg
Freedom
Freeland
Freemansburg
Freeport
Galeton
Gallitzin
Garrett
Georgetown
Gettysburg
Gilberton
Girard
Girardville
Glasgow
Glassport
Glen Campbell
Glendon
Glenfield
Glen Hope
Glen Rock
Gordon
Grampian
Great Bend
Greensboro
Greensburg
Greenville
Grove City
Halifax
Hallstead
Hamburg
Hartleton
Harveys Lake
Hastings
Hawley
Hawthorne
Haysville
Heidelberg
Herndon
Hollidaysburg
Homestead
Honesdale
Hookstown
Hooversville
Hop Bottom
Hopewell
Houston
Houtzdale
Hughesville
Huntingdon
Hyde Park
Hydetown
Hyndman
Indiana
Ingram
Irvona
Jackson Center
Jamestown
Jeannette
Jeddo
Jefferson
Jermyn
Jersey Shore
Jessup
Jim Thorpe
Johnsonburg
Jonestown
Juniata Terrace
Kane
Kingston
Kistler
Kittanning
Knox
Knoxville
Koppel
Kulpmont
Kutztown
Lake City
Landingville
Landisburg
Lanesboro
Lansford
Larksville
Lawrenceville
Leechburg
Leetsdale
Lehighton
Le Raysville
Lewisberry
Lewisburg
Lewis Run
Lewistown
Liberty
Ligonier
Linesville
Littlestown
Liverpool
Lock Haven
Loganton
Lorain
Loretto
Lumber City
Luzerne
Lykens
Lyons
McAdoo
McClure
McConnellsburg
McDonald
McEwensville
McKean
McKees Rocks
McSherrystown
McVeytown
Mahaffey
Mahanoy City
Manchester
Manns Choice
Manor
Manorville
Mansfield
Mapleton
Marcus Hook
Marianna
Marion Center
Marion Heights
Marklesburg
Markleysburg
Mars
Martinsburg
Masontown
Matamoras
Mayfield
Meadville
Mechanicsville
Mercer
Mercersburg
Meshoppen
Meyersdale
Middleburg
Middleport
Midland
Mifflin
Mifflinburg
Mifflintown
Milford
Millbourne
Mill Creek
Millersburg
Millersville
Mill Hall
Millheim
Millvale
Milton
Minersville
Modena
Monessen
Monongahela
Monroe
Montgomery
Montrose
Morrisville
Morton
Mount Carbon
Mount Carmel
Mount Jewett
Mount Oliver
Mount Pleasant
Mount Pocono
Mount Union
Muncy
Munhall
Myerstown
Nanticoke
Nanty Glo
Nescopeck
Nesquehoning
New Albany
New Alexandria
New Berlin
New Brighton
Newburg
New Castle
New Centerville
New Columbus
Newell
New Florence
New Galilee
New Hope
New Kensington
New Lebanon
New Milford
New Paris
New Phila
Newport
New Ringgold
Newry
Newton Hamilton
Newville
Nicholson
North Apollo
North Braddock
North Catasauqua
North Charleroi
North East
North Irwin
Northumberland
North York
Norwood
Nuangola
Oakland
Oakmont
Ohiopyle
Oil City
Oklahoma
Old Forge
Olyphant
Orangeville
Orbisonia
Orrstown
Osceola Mills
Oswayo
Oxford
Paint
Palmerton
Palo Alto
Parker
Parkersburg
Parryville
Patterson Heights
Patton
Pen Argyl
Penn
Petersburg
Petrolia
Philipsburg
Phoenixville
Pine Grove
Pitcairn
Pittston
Platea
Pleasantville
Pleasantville
Plumville
Plymouth
Point Marion
Polk
Portage
Port Allegany
Port Carbon
Port Clinton
Portersville
Portland
Port Matilda
Port Royal
Port Vue
Pottstown
Pottsville
Pringle
Prospect Park
Punxsutawney
Railroad
Rainsburg
Ramey
Rankin
Red Lion
Renovo
Reynoldsville
Rices Landing
Ridgway
Rimersburg
Ringtown
Roaring Spring
Rochester
Rockhill Furnace
Rockwood
Rome
Roseville
Rouseville
Royalton
Saegertown
St Clair
St Clairsville
St Petersburg
Salisbury
Salladasburg
Saltillo
Saltsburg
Sandy Lake
Sankertown
Saxton
Sayre
Scalp Level
Schellsburg
Schuylkill Haven
Scottdale
Seward
Sewickley
Shade Gap
Shamokin
Shanksville
Sharon Hill
Sharpsburg
Sharpsville
Sheakleyville
Shenandoah
Shickshinny
Shinglehouse
Shippensburg
Shippenville
Shippingport
Shirleyburg
Silverdale
Slattington
Sligo
Slippery Rock
Smethport
Smithfield
Smithton
Snow Shoe
South Bethlehem
South Coatsville
South Connellsville
South Fork
South Greensburg
South New Castle
South Philipsburg
South Renovo
South Waverly
Southwest Greensburg
South Williamsport
Spangler
Spartansburg
Springboro
Starrucca
Stillwater
Stockdale
Stoneboro
Stoystown
Strattanville
Strausstown
Stroudsburg
Sugarcreek
Sugar Grove
Sugar Notch
Summerville
Summit Hill
Sunbury
Susquehanna Depot
Suterville
Swissvale
Swoyersville
Sykesville
Sylvania
Tamaqua
Tarentum
Taylor
Thompson
Thompsontown
Three Springs
Throop
Tididute
Timblin
Tioga
Tionesta
Titusville
Towanda
Tower City
Tremont
Troy
Trumbauersville
Tunkhannock
Turbotville
Turtle Creek
Tyrone
Ulysses
Union City
Union Dale
Uniontown
Unionville
Upland
Ursina
Valencia
Vanderbilt
Vandergrift
Vandling
Verona
Vintondale
Volant
Wall
Wallaceton
Walnutport
Wampum
Warren
Warrior Run
Washington
Waterford
Watsontown
Wattsburg
Waynesboro
Waynesburg
Weissport
Wellerburg
Wellsboro
Wellsville
Wesleyville
West Alexander
West Brownsville
West Chester
West Easton
West Elizabeth
West Fairview
Westfield
West Grove
West Hazelton
West Homestead
West Leechburg
West Mayfield
West Middlesex
West Newton
Westover
West Pittston
West Reading
West Wyoming
West York
White Haven
Wilkinsburg
Williamsburg
Wilmerding
Wilmore
Wilson
Windber
Wind Gap
Windsor
Winterstown
Woodbury
Worthington
Worthville
Wyalusing
Wyoming
Yeadon
York Haven
Youngstown
Youngsville
Youngwood
Zelienople

Rhode Island

Central Falls
Newport

South Carolina

Abbeville
Allendale
Andrews
Atlantic Beach
Bamberg
Barnwell
Batesburg
Belton
Bennettsville
Bethune
Bishopville
Blacksburg
Blackville
Blenheim
Bluffton
Blythewood
Bowman
Branchville
Brunson
Burnettown
Calhoun Falls
Camden
Cameron
Campobello
Carlisle
Central
Central Pacolet
Chappells
Cheraw
Chesnee
Chester
Chesterfield
City View
Clinton
Clio
Clover

Cope
Cottageville
Coward
Cowpens
Cross Hill
Darlington
Denmark
Dillon
Donalds
Due West
Duncan
Edgefield
Ehrhardt
Elko
Elloree
Estill
Eutawville
Fairfax
Fort Lawn
Fort Mill
Furman
Gaffney
Georgetown
Gifford
Gilbert
Govan
Gray Court
Great Falls
Greeleyville
Greenwood
Greer
Hampton
Hardeeville
Harleyville
Hartsville
Heath Springs
Hickory Grove
Hilda
Hodges
Holly Hill
Hollywood
Inman
Iva
Jamestown
Jefferson
Johnsonville
Johnston
Jonesville
Kershaw
Kingstree
Kline
Lake City
Lake View
Lamar
Lancaster
Lane
Latta
Laurens
Leesville
Liberty
Livingston
Lockhart
Lodge
Loris
Lowndesville
Lowrys
Luray
Lyman
Lynchburg
McBee
McColl
McConnells
McCormick
Manning
Marion
Mayesville
Megget
Monetta
Mount Carmel
Mount Croghan
Mullins
Neeses
Newberry
Nichols
Ninety Six
North
Norway
Olanta
Olar
Orangeburg
Pacolet Mills
Pageland
Pamplico
Parksville
Patrick
Paxville
Peak
Pendleton
Perry
Pickens
Pinewood
Plum Branch
Pomaria
Ravenel
Reevesville
Richburg
Ridgeland
Ridge Spring
Ridgeville
Rowesville
Ruby
St George
St Matthews
St Stephen
Salem
Salley
Saluda
Scranton
Sellers
Seneca
Snelling
Society Hill
Springfield
Starr
Summerton
Sumter
Swansea
Sycamore
Tatum
Timmonsville
Trenton
Troy
Turbeville
Ulmer
Union
Vance
Varnville
Wagener
Walhalla
Walterboro
Ward
Ware Shoals
Waterloo
Westminster
West Union
Whitmire
Williams
Williamston
Williston
Windsor
Winnsboro
Woodford
Woodruff
Woodside
Yemassee
York

South Dakota

Aberdeen
Agar
Akaska
Alexandria
Alpena
Altamont
Andover
Armour
Artas
Artesian
Ashton
Astoria
Avon
Baltic
Bancroft
Batesland
Belle Fourche
Belvidere
Blunt
Bonesteel
Bowdle
Bradley
Brandt
Brentford
Bridgewater
Bristol
Britton
Broadland
Brookings
Bryant
Buffalo
Buffalo Gap
Burke
Camp Crook
Canistota
Canova
Carthage
Castlewood
Centerville
Chamberlain
Claire City
Claremont
Clark
Clear Lake
Colome
Colton
Columbia
Conde
Corona
Custer
Dallas
Dante
Davis
Deadwood
Delmont
De Smet
Dolton
Draper
Dupree
Eagle Butte
Eden
Egan
Elkton
Emery
Erwin
Ethan
Eureka
Fairburn
Fairfax
Faith
Faulkton
Frankfort
Frederick
Garden City
Gary
Geddes
Gettysburg
Glenham
Goodwin
Gregory
Grenville
Hayti
Hazel
Hermosa
Herreid
Herrick
Hetland
Highmore
Hill City
Hitchcock
Hosmer
Hot Springs
Hoven
Howard
Hurley
Huron
Interior
Ipswich
Iroquois
Isabel
Java
Jefferson
Kimball
Kranzburg
Lake Andes
Lake City
Lake Norden
Lake Preston
Lane
Langford
Lemmon
Leola
Lesterville
Letcher
Long Lake
McIntosh
McLaughlin
Madison
Marion
Martin
Marvin
Mellette
Menno
Midland
Miller
Mission
Mission Hill
Mitchell
Mobridge
Montrose
Morristown
Mount Vernon
Murdo
Naples
New Effington
Newell
New Underwood
New Witten
Nunda
Oacoma
Oldham
Olivet
Orient
Ortley
Parker
Parkston
Peever
Pierpont
Platte
Pollock
Presho
Pringle
Pukwana
Quinn
Ravinia
Reliance
Revillo
Rockham
Roscoe
St Francis
St Lawrence
Scotland
Selby
Seneca
Sherman
Sisseton
South Shore
Spearfish
Spencer
Springfield
Stickney
Stockholm
Summit
Tabor
Timber Lake
Tolstoy
Toronto
Trent
Tripp
Turton
Twin Brooks
Tyndall
Utica
Veblen
Vermillion
Viborg
Vienna
Virgil
Volin
Wagner
Wakonda
Wall
Wallace
Ward
Wasta
Waubay
Wentworth
Wessington
Wessington Springs
Westport
White
White Lake
White River
Whitewood
Willow Lake
Wilmot
Winfred
Winner
Wolsey
Wood
Woonsocket
Worthing
Yale
Yankton

Tennessee

Adams
Adamsville
Alamo
Alcoa
Alexandria
Algood
Allardt
Altamont
Arlington
Athens
Atoka
Auburntown
Baileyton
Baxter
Beersheba Springs
Bell Buckle
Bells
Benton
Bethel Springs
Big Sandy
Bluff City
Bolivar
Bradford
Brighton
Brownsville
Bruceton
Bulls Gap
Burlison
Byrdstown
Calhoun
Carthage
Caryville
Celina
Centertown
Centerville
Chapel Hill
Charleston
Charlotte
Cleveland
Clifton
Coalmont
Collinwood
Cookeville
Copperhill
Cornersville
Cottage Grove
Covington
Cowan
Crab Orchard
Crossville
Cumberland City
Cumberland Gap
Dayton
Decatur
Decaturville
Decherd
Denmark
Dickson
Dover
Dowelltown
Doyle
Dresden
Ducktown
Dunlap
Dyer
Dyersburg
Elizabethton
Elkton
Englewood
Enville
Erin
Erwin
Estill Springs
Ethridge
Etowah
Fayetteville
Finger
Friendship
Friendsville
Gainesboro
Gallaway
Garland
Gates
Gibson
Gilt Edge
Gleason
Grand Junction
Graysville
Greenback
Greeneville
Greenfield
Gruetli-Laager
Halls
Harriman
Hartsville
Henderson
Henning
Henry
Hickory Valley
Hohenwald
Hollow Rock
Hornbeak
Hornsby
Humboldt
Huntingdon
Huntland
Huntsville
Iron City
Jacksboro
Jamestown
Jasper
Jefferson City
Jellico
Jonesboro
Kenton
Kimball
Lafayette
La Follette
La Grange
Lake City
Lawrenceburg
Lebanon
Lenoir City
Lewisburg
Lexington
Liberty
Linden
Livingston
Loudon
Luttrell
Lynnville
McEwen

McKenzie
McLemoresville
McMinnville
Madisonville
Martin
Mason
Maury City
Maynardville
Medina
Middleton
Milan
Milledgeville
Millington
Minor Hill
Mitchellville
Monteagle
Monterey
Morrison
Morristown
Moscow
Mosheim
Mountain City
Mount Pleasant
Newbern
New Hope
New Market
Newport
New Tazewell
Niota
Oakdale
Oakland
Obion
Oneida
Orlinda
Orme
Palmer
Paris
Parkers' Cross Roads
Parrottsville
Parsons
Petersburg
Philadelphia
Pikeville
Pleasant Hill
Powells Crossroads
Pulaski
Puryear
Ramer
Red Boiling Springs
Richard City
Ridgely
Ripley
Rives
Rockwood
Rogersville
Rossville
Rutherford
Rutledge
St Joseph
Saltillo
Samburg
Sardis
Saulsbury
Savannah
Scotts Hills
Selmer
Sharon
Shelbyville
Silerton
Slayden
Smithville
Sneedville
Somerville
South Fulton
South Pittsburg
Sparta
Spencer
Spring City
Springfield
Spring Hill
Stanton
Stantonville
Surgoinsville
Sweetwater
Tazewell
Tellico Plains
Tiptonville
Toone
Tracy City
Trenton
Trezevant
Trimble
Troy
Union
Vanleer
Viola
Vonore
Wartburg
Wartrace
Watauga
Watertown
Waverly
Waynesboro
White Bluff
White Pine
Whiteville
Whitwell
Williston
Winchester
Woodbury
Woodland Mills
Yorkville

Texas

Abbott
Ackerly
Adrian
Alamo
Alba
Alpine
Alto
Alton
Amherst
Annona
Anthony
Aquilla
Arp
Asherton
Aspermont
Atlanta
Aubrey
Austwell
Avery
Avinger
Bailey
Baird
Ballinger
Balmorhea
Bandera
Bangs
Bardwell
Bartlett
Bastrop
Bayview
Beasley
Beckville
Beeville
Bellevue
Bellmead
Bells
Benavides
Benjamin
Bertram
Big Sandy
Big Wells
Blanco
Blanket
Bloomburg
Blooming Grove
Blue Ridge
Blum
Boerne
Bogata
Bonham
Brackettville
Brady Beckenridge
Bremond
Brenham
Broaddus
Brookshire
Browndell
Brownwood
Bryson
Buckholts
Buffalo Gap
Burton
Byers
Bynum
Caddo Mills
Caldwell
Calvert
Cameron
Campbell
Camp Wood
Carbon
Carmine
Carrizo Springs
Castroville
Celeste
Celina
Center
Channing
Charlotte
Chester
Childress
Chillicothe
Chireno
Christine
Cisco
Clarendon
Clarksville
Clint
Cockrell Hill
Coleman
Collinsville
Colmesneil
Colorado City
Comanche
Combes
Commerce
Como
Cool
Coolidge
Cooper
Corsicana
Cotulla
Covington
Cransfills Gap
Crawford
Crockett
Crosbyton
Cross Plains
Crowell
Crystal City
Cuero
Cumby
Cushing
Daingerfield
Dalhart
Dawson
Decatur
De Kalb
De Leon
Del Rio
Deport
Detroit
Devers
Dickens
Dilley
Dodd City
Dodson
Domino
Donna
Douglasville
Driscoll
Dublin
Eagle Pass
Earth
Easton
Ector
Edcouch
Eden
Edmonson
Edna
Electra
Elgin
Elmendorf
Elsa
Emhouse
Encinal
Ennis
Estelline
Eustace
Evant
Falfurrias
Falls City
Farmersville
Fate
Fayeteville
Ferris
Flatonia
Florence
Floresville
Floydada
Forsan
Franklin
Frankston
Fredericksburg
Frost
Gainesville
Garrett
Garrison
Gatesville
Goldsmith
Goldthwaite
Goliad
Gonzales
Goodlow
Goodrich
Goree
Gorman
Graford
Grand Saline
Grandview
Granger
Grapeland
Greenville
Gregory
Grey Forest
Groesbeck
Groom
Groveton
Gustine
Hallettsville
Hamilton
Hamilin
Happy
Haskell
Hearne
Hedley
Hemphill
Hico
Hidalgo
Hillsboro
Holland
Hondo
Honey Grove
Hubbard
Hughes Springs
Hutto
Iredell
Italy
Itasca
Jacksonville
Jayton
Jefferson
Joaquin
Junction
Karnes City
Kaufman
Kemp
Kendleton
Kennard
Kerens
Kingsville
Kirvin
Knox City
Kosse
Kress
La Coste
Ladonia
La Feria
La Grange
La Grulla
La Joya
Lakeview
Lampasas
La Villa
La Ward
Leakey
Leary
Leona
Leonard
Lexington
Linden
Lipan
Lland
Lockhart
Lockney
Lometa
Lone Oak
Loraine
Lorena
Los Fresnos
Lott
Lueders
Luling
Lyford
Mabank
McCamey
McGregor
McKinney
McLean
Malakoff
Malone
Manor
Marfa
Marion
Marlin
Marquez
Mart
Mason
Matador
Mathis
Maud
Maypearl
Meadow
Megargel
Melvin
Memphis
Menard
Mercedes
Meridian
Merkel
Mertens
Mertzon
Mexia
Milano
Miles
Milford
Mineral Wells
Mingus
Monahans
Montgomery
Moody
Moore Station
Moran
Morgan
Morton
Moulton
Mount Calm
Mount Enterprise
Mullin
Munday
Naples
Natalie
Navasota
Nesbitt
Newcastle
New Summerfield
Neylandville
Nixon
Nocona
Nordheim
Normangee
North Cleveland
Novice
Oakhurst
Oakwood
O'Donnell
Olton
Omaha
Ore City
Paducah
Paint Rock
Palacios
Palmview
Palm Valley
Paris
Pearsall
Pecan Gap
Pecos
Penelope
Petersburg
Pilot Point
Pineland
Port Isabel
Poteet
Powell
Premont
Presidio
Primera
Progreso Lakes
Putnam
Quanah
Queen City
Quitaque
Ralls
Rancho Viejo
Ranger
Raymondville
Refugio
Richland
Richland Springs
Rio Hondo
Rising Star
Roaring Springs
Robstown
Roby
Rochester
Rockport
Rocksprings
Rocky Mound
Rogers
Roma
Ropesville
Rosebud
Rose City
Rotan
Round Top
Roxton
Royse City
Rule
Runge
Rusk
Sabinal
St Jo
San Augustine
San Diego
San Juan
San Marcos
San Perlita
San Saba
Santa Anna
Santa Rosa
Schulenburg
Scottsville
Seven Oaks
Seymour
Shamrock
Shepherd
Shiner
Silverton
Sinton
Slaton
Smiley
Smithville
Somerset

Somerville
Southmayd
Spofford
Springlake
Spur
Stamford
Sterling City
Stockdale
Strawn
Streetman
Sudan
Sweetwater
Taft
Tahoka
Talco
Taylor
Teague
Tehuacana
Tenaha
Terrell
Texline
Thorndale
Thornton
Thrall
Throckmorton
Timpson
Tira
Toco
Tolar
Toyah
Trenton
Trinidad
Trinity
Troup
Tulia
Turkey
Uvalde
Valentine
Valley Mills
Van Alstyne
Van Horn
Vernon
Vinton
Waelder
Wallis
Waxahachie
Weatherford
Weimar
Wellington
Weslaco
Westbrook
Westminster
West Mountain
Whitewright
Whitney
Wills Point
Windom
Winnsboro
Winters
Wolfe City
Woodsboro
Woodson
Wortham
Yantis
Yoakum
Yorktown
Zavalla

Utah

Alton
Antimony
Ballard
Beaver
Bicknell
Boulder
Centerfield
Charleston
Circleville
Clawson
Cleveland
Cornish
Deweyville
Elsinore
Enterprise
Ephriam
Escalante
Eureka
Fairview
Fayette
Fillmore
Fountain Green
Genola
Glenwood
Green River
Gunnison
Hatch
Heber
Hildale
Holden
Hurricane
Junction
Kanarraville
Kanosh
Kingston
Koosharem
Laketon
Leeds
Levan
Logan
Lynndyl
Manti
Mayfield
Meadow
Midway
Milford
Mona
Moroni
Mount Pleasant
Myton
Nephi
Newton
Ophir
Panguitch
Pardwan
Portage
Santaquin
Scipo
Scofield
Snowville
South Salt Lake
Spring City
Sterling
Stockton
Toquerville
Torrey
Trenton
Vernon
Virgin
Wales
Wallsburg
Yost

Vermont

Albany
Alburg
Barre
Barton
Bellows Falls
Bradford
Bristol
Cabot
Cambridge
Derby Center
Derby Line
Enosburg Falls
Hardwick
Jacksonville
Jeffersonville
Johnson
Ludlow
Lyndonville
Marshfield
Milton
Montpelier
Morrisville
Newbury
Newport
Northfield
North Troy
North Westminster
Orleans
Perkinsville
Pittsford
Plainfield
Poultney
Proctorsville
Richford
Richmond
Rutland
St. Albans
Stowe
Swanton
Vergennes
Waterbury
Wells River
West Burke
Westminster
Winooski

Virginia

Abingdon
Accomac
Alberta
Appalachia
Appomattox
Bedford
Blacksburg
Blackstone
Boone Mill
Boydton
Boykins
Branchville
Brodnax
Brookneal
Buchanan
Burkeville
Cape Charles
Capron
Charlotte Court House
Chase City
Chatham
Cheriton
Chilhowie
Chincoteague
Claremont
Clarksville
Cleveland
Clifton Forge
Clinchport
Clintwood
Clover
Coeburn
Colonial Beach
Columbia
Covington
Craigsville
Crewe
Damascus
Dendron
Dillwyn
Drakes Branch
Dungannon
Edinburg
Emporia
Exmore
Farmville
Franklin
Fries
Front Royal
Galax
Gate City
Glade Spring
Glasgow
Glen Lyn
Gordonsville
Goshen
Gretna
Grundy
Halifax
Hallwood
Harrisonburg
Haysi
Honaker
Independence
Iron Gate
Ivor
Jarratt
Jonesville
Keller
Kenbridge
Keysville
La Crosse
Lawrenceville
Lexington
Luray
McKenney
Marion
Martinsville
Melfa
Middleburg
Middletown
Mineral
Monterey
Mount Crawford
Mount Jackson
Narrows
Nassawadox
New Castle

Newsoms
Nickelville
Norton
Onancock
Onley
Orange
Painter
Pamplin City
Parksley
Pearisburg
Pembroke
Pennington Gap
Phenix
Pocahontas
Port Royal
Pulaski
Quantico
Radford
Richlands
Round Hill
Rural Retreat
St Charles
St Paul
Saltville
Saxis
Scottsburg
Scottsville
Shenandoah
South Hill
Stanardsville
Stanley
Stephens City
Stony Creek
Strasburg
Tangier
Tazewell
The Plains
Toms Brook
Troutdale
Troutville
Victoria
Virgilina
Wachapreague
Wakefield
Waverly
Whitestone
Woodstock
Wytheville

Washington

Aberdeen
Airway Heights
Arlington
Asotin
Battle Ground
Bingen
Black Diamond
Brewster
Bridgeport
Buckley
Bucoda
Camas
Carnation
Cashmere
Castle Rock
Cathlamet
Centralia
Chehalis
Chelan
Cheney
Chewelah
Clarkston
Cle Elum
Colville
Conconully
Concrete
Connell
Cosmopolis
Coulee City
Cusick
Darrington
Dayton
Deer Park
Duvall
East Wenatchee
Eatonville
Ellensburg
Elma
Entiat
Everson
Farmington
George
Gold Bar
Goldendale
Grand Coulee
Grandview
Granger
Granite Falls
Hamilton
Harrah
Hartline
Hoquiam
Ilwaco
Index
Ione
Kahlotus
Kelso
Kettle Falls
Kittitas
Krupp
La Conner
Latah
Lind
Long Beach
Lyman
Mabton
Malden
Mansfield
Marcus
Marysville
Mattawa
Mesa
Metaline
Metaline Falls
Millwood
Monroe
Montesano
Morton
Moses Lake
Mossyrock
Moxee City
Naches
Nespelem
Newport
Nooksack
North Bonneville
Northport
Oakville
Okanogan
Omak
Oroville
Orting
Othello
Pateros
Port Angeles
Port Orchard
Port Townsend
Prescott
Pullman
Puyallup
Quincy
Rainier
Raymond
Republic
Ridgefield
Ritzville
Riverside
Rockford
Rock Island
Roslyn
Roy
Royal City
Sedro Woolley
Sequim
Shelton
Skykomish
Snohomish
Soap Lake
South Bend
south Prairie
Spague
Springdale
Stanwood
Starbuck
Sultan
Sumas
Sumner
Sunnyside
Tenino
Tieton
Toledo
Tonasket
Toppenish
Twisp
Union Gap
Uniontown
Vader
Walla Walla
Wapato
Warden
Washougal
Washtucna
Westport
Wilkeson
Wilson Creek
Winlock
Winthrop
Woodland
Yacolt
Yelm
Zillah

West Virginia

Addison
Albright
Alderson
Anawalt
Anmoore
Ansted
Athens
Auburn
Bancroft
Barboursville
Barrackville
Bayard
Beckley
Beech Bottom
Belington
Benwood
Bethany
Beverly
Blacksville
Bluefield
Bradshaw
Bramwell
Bruceton Mills
Buckhannon
Buffalo
Burnsville
Camden-on-Gauley
Cameron
Capon Bridge
Cass
Cedar Grove
Ceredo
Chapmanville
Charles Town
Chester
Clarksburg
Clay
Clendenin
Cowen
Danville
Davis
Davy
Delbarton
Dunbar
Durbin
Elizabeth
Elk Garden
Elkins
Fairmont
Fairview
Falling Springs
Farmington
Fayetteville
Flatwoods
Flemington
Follansbee
Fort Gay
Franklin
Friendly
Gary
Gassaway
Gauley Bridge
Gilbert
Glenville
Grafton
Grantsville
Grant Town
Granville
Hambleton
Hamlin
Handley
Harman
Harrisville
Hartford City
Hedgesville
Henderson
Hendricks
Hillsboro
Hinton
Hundred
Iaeger
Junior
Kenova
Kermit
Keyser
Keystone
Kimball
Layopolis
Lester
Lewisburg
Littleton
Logan
Lost Creek
Lumberport
McMechen
Man
Mannington
Marlinton
Merlinton
Marmet
Martinsburg
Mason
Masontown
Matewan
Matoaka
Meadow Bridge
Middlebourne
Mill Creek
Milton
Monongah
Montgomery
Moorefield
Morgantown
Moundsville
Mount Hope
Mullens
Newburg
New Cumberland
Northfork
Nutter Fort
Oakvale
Oceana
Osage
Paden City
Parsons
Paw Paw
Pax
Pennsbord
Petersburg
Peterstown
Philippi
Piedmont
Pine Grove
Pineville
Point Pleasant
Princeton
Pullman
Rainelle
Ransen
Reedsville
Reedy
Rhodell
Richwood
Ridgeley
Rivesville
Romney
Ronceverte
Rowlesburg
Rupert
St. Marys
Salem
Shepherdstown
Shinnston
Sistersville
Smithers
Smithfield
Sophia
South Charleston
Spencer
Star City
Stonewood
Summersville
Sutton
Terra Alta
Thomas
Thurmond
Triadelphia
Tunnelton
Union
Valley Grove
Vienna War
Wardensville
Wayne
Welch
Wellsburg
West Hamlin
West Liberty
West Milford
Weston
Westover
West Union
White Sulphur Springs
Whitesville
Williamson
Winfield
Womelsdorff
Worthington

Wisconsin

Abbotsford
Algoma
Alma Center
Almond
Amherst Junction
Aniwa
Antigo
Arcadia
Ashland
Athens
Agusta
Avoca
Bagley
Barneveld
Bayfield
Bear Creek
Beaver Dam
Big Falls
Birchwood
Black River Falls
Blair
Blanchardville
Bloomington
Blue River
Bowler
Boyceville
Brokaw
Bruce
Butternut
Cable
Cambria
Campbellsport
Camp Douglas
Casco
Cashton
Catawba
Cazenovia
Centuria
Chippewa Falls
Clayton
Clinton
Clintonville
Cochrane
Colby
Coloma
Conrath
Cornell
Couderay
Crandon
Curtiss
Dallas
Darlington
De Soto
Downing
Durand
Eagle River
Eastman
Elderon
Eleva
Elroy
Endeavor
Ettrick
Exeland
Fairchild
Fall River
Fenwood
Fond Du La
Footville
Frederic
Galesville
Gays Mills
Gillett
Gilman
Glenbeulah
Glenwood City
Granton
Gratiot
Greenwood
Hancock
Hatley
Hawkins
Hayward
Hixton
Hurley
Hustler
Independence
Ingram
Ironton
Jefferson
Kellnersville
Kennan
Kewaunee
Kingston
Lac La Belle
Ladysmith
La Farge
Lake Delton
La Valle
Lena
Lime Ridge
Linden
Loganville
Lohrville
Lowell
Loyal
Lublin
Luck
Lyndon Station
Maiden Rock
Manitowoc

Maribel
Marinette
Markesan
Marquette
Mason
Mattoon
Mauston
Mellen
Melrose
Menomonie
Merrill
Merrillan
Merrimac
Millardore
Milltown
Mineral Point
Minong
Montello
Montreal
Mosinee
Mount Calvary
Mount Hope
Necedah
Neillsville
Nelson
Nelsonville
Neshkoro
New Auburn
New Lisbon
Nichols
North Freedom
Oconto
Oconto Falls
Ogdensburg
Ontario
Osseo
Owen
Oxford
Park Falls
Phillips
Pittsville
Platteville
Poplar
Portage
Potter
Pound
Poynette
Prairie Farm
Prentice
Princeton
Radisson
Readstown
Redgranite
Reedsburg
Rewey
Rhinelander
Rib Lake
Richland Center
Rio
Ripon
River Falls
Rockland
Rock Springs
Rosholt
St Naziaz
Schofield
Sheldon
Shell Lake
Siren
Soldiers Grove
Solon Springs
South Wayne
Spencer
Spooner
Stanley
Steuben
Stevens Point
Stoddard
Stratford
Strum
Suring
Taylor
Throp
Tigerton
Tony
Trempealeau
Turtle Lake
Two Rivers
Unity
Viroqua
Walworth
Warrens
Washburn
Wausaukee
Wautoma
Webster
West Baraboo
Westfield
Weyerhaeuser
Wheeler
Whitehall
White Lake
Whitewater
Wild Rose
Wilton
Winter
Wisconsin Dells
Withee
Wonewoc
Wyocena

Wyoming

Afton
Albin
Baggs
Big Piney
Clearmont
East Thermopolis
Encampment
Fort Laramie
Frannie
Hulett
La Grange
Laramie
Meeteetse
Riverside
Rock River
Thayne
Yoder

III. The following list contains the names of those small cities which meet the current minimum standards of physical and economic distress but which did not meet the standards as of the March 1, 1983 Notice.

Alabama

Albertville
Alexander City
Aliceville
All Good
Arley
Athens
Atmore
Bear Creek
Beaverton
Blontsville
Boaz
Brewton
Carolina
Chatom
Citronelle
Clayhatchee
Coffee Springs
Columbiana
County Line
Crossville
Daviston
Double Springs
East Brewton
Elberta
Enterprise
Eunola
Eutaw
Falkville
Gaylesville
Geiger
Geneva
Geraldine
Gilbertown
Grove Hill
Guin
Guntersville
Hackleburg
Hamilton
Hanceville
Harpersville
Hartselle
Hayden
Heath
Hollywood
Jackson
Jacksonville
Jemison
Kansas
Killen
Lester
Lexington
Lincoln
Lineville
Loachapoka
Loxely
Lynn
Montevallo
Moulton
Myrtlewood
Nectar
New Brockton
New Site
Newton
Northport
Notasulga
Oak Grove
Ohatchee
Oneonta
Onycha
Pell City
Petrey
Pisgah
Powells Crossroads
Ragland
Rainsville
Riverside
Rogersville
Russellville
Sardis City
Snead
Springville
Steele
Sweetwater
Sylacauga
Sylvania
Thomasville
Thorsby
Vernon
Waldo
West Point
Whitehall
Woodland

Alaska

Aniak
Hopper Bay
Kiana
Kotlik
Mountain Village
Napaskiak
Nenana
Platinum
Ruby
St Mary's
Shungnak

Arizona

Apache Junction
Benson
Casa Grande
Clifton
Collidge
Hayden
Holbrook
Nammoth
Payson
Safford
Show Low
Wilcox
Winkelman

Arkansas

Avoca
Banks
Barling
Beebe
Berryville
Black Springs
Caldwell
Campbells Station
Caulksville
Colt
Corning
Diaz
Dover
Dyess
Fisher
Gosnell
Griffithville
Grubbs
Guy
Higden
Hoxie
Kensett
Kibler
Kingsland
Lafe
Louann
Manila
Mount Ida
Murfreesboro
Newport
O'Kean
Oxford
Ozark
Pangburn
Patmos
Perry
Perryville
Plumberville
Pocahontas
Prattsville
Rockport
Salem
Searcy
Star City
Strawberry
Subiaco
Trumann
Tuckerman
Tyronza
Valley Springs
Walnut Ridge
Wiederkehr
Willisville
Wilmar
Wooster

California

Anderson
Angels
Arcata
Avenal
Banning
Barstow
Biggs
Blythe
Brawley
Clearlake
Coachella
Coalinga
Colfax
Colusa
Corcoran
Crescent City
Delano
Dos Palos
Dunsmuir
Ferndale
Firebaugh
Greenfield
Hanford
Houghson
Indio
Lincoln
Livingston
Los Banos
Loyalton
McFarland
Madera
Marysville
Merced
Monrovia
Montague
Orange Cove
Pacific Grove
Patterson
Perris
Placerville
Plymouth
Portola
Reedley
Rio Dell
Rio vista
Riverbank
San Gabriel
Sanger
San Jacinto
Soledad
Sutter Creek
Tracy
Wasco
Waterford
Westmoreland
Willows
Winters

Colorado

Brush
Buena Vista
Canon City
Collbran
Crestone
Dinosaur
Fruita
Ophir
Palisade
Ridgway
Rye
Salida
Sheridan Lake
Silver Plume
Vilas

Delaware

Smyrna

Florida

Bartow
Brooksville
Callahan
Cedar Grove
De Funiak Springs
Dundee
Everglades
Frostproof
Haines City
Indian Creek
Labelle
Lady Lake
Leesburg
Minneola
Moore Haven
Mount Dora
Okeechobee
Opalocka
South Miami
Sweetwater
Tavares
Umatilla

Georgia

Baconton
Blackshear
Brooklet
Buchannan
Camak
Edge Hill
Emerson
Fairmount
Iron City
Jenkinsburg
Louisville
McRae
Mineral Bluff
Mount Airy
Shady Dale
Sparks
Weston
West Point
White
Whitesburg
Young Harris

Idaho

Arco
Athol
Cascade
Coeur D'Alene
Council
Craigmont
Crouch
Dalton Gardens
Donnelly
Ferdinand
Fernan Lake
Harrison
Hayden
Hope
Huetter
Idaho City
Kamiah
McCall
Movie Springs
New Meadows
Riggins
St Marie's
Victor

Illinois

Abingdon
Adeline
Alhambra
Altona
Alvin
Arlington
Banner
Bannockburn
Bartelso
Bath
Beckemeyer
Belle Prairie City
Belvidere
Bluford
Bonnie
Bunker Hill
Butler
Byron
Cahokia
Cambria
Capron
Carlyle
Carterville
Casey
Centralia
Chesterfield
Chrisman
Coatsburg
Collinsville
Creston
Cuba
Dahlgren
Dana
Danforth
Davis Junction
Deer Grove
Depue
Dix
Dowel
Du Quoin
Earlville
East Moline
Easton
Edwardsville
Elsah
Energy
Fairview
Farina
Farmer City
Farmington
Fithian
Forreston
Freeburg
Galesburg
Germantown
Gillespie
Girard
Gladstone
Godley
Grantfork
Greenup
Greenville
Hainesville
Hartford
Henning
Herrin
Hettick
Hillsboro
Hutsonville
Ina
Jerseyville
Jewett
Jonesboro
Kangley
Kansas
Kell
Keyesport
Kirkwood
Lebanon
Leland
Lewiston
Liberty
Liverpool
Livingston
Louisville
Manito
Maquon
Marissa
Mark
Marshall
Martinsville
Matherville
Media
Modesto
Momence
Mount Carroll
Mount Morris
Mount Olive
Mount Vernon
Neoga
North Pekin
Oakwood
Odin
Oglesby
Ohio
Old Ripley
Olney
Oregon
Ottawa
Otterville
Patoka
Phillipstown
Poplar Grove
Radom
Raleigh
Reddick
Ridge Farm
Rio
Robinson
Rockdale
Rushville
Rutland
St. Anne
St. Augustine
Salem
Sawyerville
Shawneetown
Sheffield
Sherrard
Shipman
Sigel
Silvis
Smithfield
Staunton
Sterling
Streator
Sumner
Tamaroa
Tamms
Tampico
Taylor Springs
Tiskilwa
Tonica
Topeka
Union Hill
Ursa
Vandalia
Virden
Walnut
Wataga
Watson
Wayne City
Waynesville
Weldon
Westfield
White City
Wilmington
Woodhull
Wood River
Wyanet

Indiana

Albany
Albion
Andrews
Angola
Argos
Ashley
Avilla
Bourbon
Brownstown
Bunker Hill
Burnettsville
Butler
Carefree
Cedar Grove
Cedar Lake
Center Point
Chalmers
Churubusco
Clay City
Converse
Crothersville
Dale
Decatur
Denver
Dillsboro
Dunreith
Eaton
Elizabethtown
Fairview Park
Farmersburg
Farmland
Frankfort
Fulton
Gas City
Gaston
Geneva
Georgetown
Goodland
Greensfork
Hagerstown
Hamilton
Hamlet
Hanover
Hartsville
Hope
Hymera
Ingalls
Kempton
Kendallville
Kewanna
Kingman
Kingsbury
Kirklin
La Crosse
La Fontaine
La Paz
La Porte
Lewisville
Ligonier
Livonia
Loogootee
Macy
Markle
Marshall
Matthews
Mauckport
Middletown
Milan
Mitchell
Montezuma
Mount Etna
Mount Summit
Mulberry
Odon
Oolitic
Orestes
Orleans
Parker City
Perrysville
Pines
Pine Village
Porter
Reynolds
Rising Sun
Roann
Rochester
Rome City
Roosville
St. Joe
Salem
Scottsburg
Sellersburg
Selma
Seymour
Sharpsville
South Whitley
Spring Grove
Sullivan
Sulphur Sprngs
Sunman
Tell City
Upland
Van Buren
Veedersburg
Walton
Waterloo
Whiting
Williamsport
Winamac
Winchester
Windfall City
Wolcott

Iowa

Agency
Albia
Andover
Andrew
Armstrong
Bayard
Bellevue
Bevington
Bloomfield
Clinton
Coburg
Fort Madison
Fredericksburg
Fredonia
Graf
Hedrick
Holstein
Hurstville
Ionia
Kinross
Lamoni
Lost Nation
Luzerne
Middletown
Miles
Montrose
Mount Auburn
Nashua
New Vienna
Nora Springs
Oyens
Pacific Junction
Plain View
Preston
Rudd
St Donatus
St Paul
Scarville
Shelby
Shellsburg
Sioux Rapids
South English
Sprague ville
Templeton
Urbana
Valeria
Vinton
Yale

Kansas

Albert
Baldwin City
Bushong
Cedar Vale
Dorrance
Hartford
Haviland
Linn
Minneapolis
Morganville
Moscow
Nortonville
Olivet
Parkerville
Peabody
Protection
St John
Toronto
Vining
Waldron
Washington
Winchester
Yates Center

Kentucky

Allen
Benton
Bremen
Dry Ridge
Eddyville
Edmonton
Fredonia
Glasgow
Grand Rivers
Greensburg
Greenup
Hardin
Hindman
Hunter's Hollow
Hyden
Jackson
Jenkins
Kevil
Leitchfield
Liberty
Lynch
Lynnview
Middletown City
Minor Lane Heights
Morgantown
Park City
Parkway Village
Prestonburg
Raceland
Rochester
Russell Springs
Shepherdsville
Smithfield
Stanton
Strathmoor Manor
Washington
West Buechel
Whipps Milgate
Wilmore
Wurtland

Louisiana

Albany
Anacoco
Ashland
Bryceland
Cotton Valley
Delcambre
De Ridder
Dixie Inn
Doyline
Dry Prong
Fenton
Fordoche
Franklin
French Settlement
Goldonna
Grambling
Grand Cane
Greensburg
Hammond
Haughton
Jackson
Jennings
Kilbourne
Lutcher
McNary
Many
Marion
Minden
Morganza
Mount Lebanon
Natchitoches
Pine Prairie
Plaucheville
Port Barre
Ridgecrest
Sarepta
Shongaloo
Sibley
Simpson
Stanley
Vidalia
Walker
Welsh
West Monroe

Maryland

Barclay
Centreville
Church Hill
Edmonston
Eldorado
Frostburg
Galena
Galestown
Goldsboro
Hebron
Hillsboro
Hurlock
Luke
Millington
Mountain Lake Park
New Windsor
Pittsville
Riverdale
Sharpsburg
Sharptown
Smithsburg
Westernport
Willards
Williamsport

Massachusetts

Taunton

Michigan

Adrian
Algonac
Allegan
Almont
Ashley
Bad Axe
Bear Lake
Belding
Bellaire

Boyne City
Boyne Falls
Breckenridge
Britton
Brown City
Buchanan
Byron
Capac
Carleton
Carson City
Caseville
Centreville
Charlevoix
Clare
Coldwater
Colon
Columbiaville
Corunna
Croswell
Deerfield
Dryden
Durand
East Jordan
East Tawas
Eaton Rapids
Edwardsburg
Ellsworth
Estral Beach
Farwell
Fennville
Fenton
Forestville
Fountain
Fowlerville
Freeport
Gaines
Greenville
Hersey
Homer
Hopkins
Imlay City
Ishpeming
Ithaca
Jonesville
Keego Harbor
Kingsley
Lawrence
Lawton
Lennon
Le Roy
Lincoln
Linden
Litchfield
Luna Pier
Maple Rapids
Marlette
Marquette
Maybee
Memphis
Metamora
Middleville
Millersburg
Millington
Minden City
Montague
Montgomery
Mulliken
New Buffalo
New Era
North Branch
Northport
Oak Park
Omer
Onekama
Onsted
Ortonville
Otter Lake
Ovid
Parma
Paw Paw
Peck
Pellston
Perry
Petersburg
Pigeon
Pinckney
Portland
Port Sanilac
Potterville
Quincy
Reading
Rogers City
Romeo
Roscommon
Rothbury
St Charles
St Clair
St Joseph
Sandusky
Scottville
Sheridan
Standish
Stephenson
Sunfield
Tawas City
Three Oaks
Traverse
Tustin
Vermontville
Vernon
Waldron
Westphalia
White Pigeon
Wyandotte
Yale

Minnesota

Alvarado
Audubon
Barrett
Barry
Battle Lake
Bigfork
Biwabik
Bowlus
Brookston
Calumet
Chisholm
Cook
Detroit Lakes
Ely
Fort Ripley
Frazee
Genola
Gonvick
Grasston
Greenbush
Hackensack
Hawley
Henriette
Iron Junction
Jenkins
Johnson
Karlstad
Kerrick
Lake Park
Marble
Mora
Nashwauk
Nevis
Northfield
Plummer
Regal
Rutledge
St Leo
Spring Valley
Squaw Lake
Stephen
Strathcona
Sturgeon Lake
Taconite
Thief River Falls
Thomson
Turtle River
Twin Valley
Two Harbors
Tyler
Virginia
Warba
Warren
Warroad
Wright
Zemple

Mississippi

Batesville
Beauregard
Calhoun City
Cleveland
Corinth
Derma
French Camp
Hattiesburg
Leakesville
Louisville
Lucedale
Pass Christian
Philadelphia
Pontotoc
Renova
Satartia
Senatobia
Silver Creek
Slate Spring
Thaxton
Wesson
Wiggins

Missouri

Annada
Augusta
Bloomfield
Bonne Terre
Brookfield
Brumley
Centralia
Corder
Crystal City
Cuba
Dexter
Dudley
East Lynne
Farber
Farmington
Foristell
Greenville
Hermann
Jamestown
Junction City
Kelso
Lakeside
Lakeview
La Plata
Latour
Macon
Marthasville
Matthews
Miner
New Haven
Perryville
Prathersville
Scott city
Sedgewickville
Sikeston
Tuscumbia
Vandalia
Vanduser
Vienna
Warrenton
Wayland
Winston
Wyatt

Montana

Boulder
Columbus
Drummond
Kalispell
Sheridan
Thompson Falls
Walkerville

Nebraska

Barada
Boys Town
Clarkson
Gandy
Leigh
Maxwell
Milford
Potter
Sholes
South Bend
Stockham
Wallace
Wisner

Nevada

Ely

New Hampshire

Loconia

New Jersey

Bellmawr
Cape May Point
Gibbsboro
Harrison
Hi-Nella
Laurel Springs
Magnolia
Merchantville
North Wildwood
Runnemede
Shiloh
Somerdale
Stratford
Tuckerton
Victory Gardens
Woodbine

New Mexico

Aztec
Bayard
Bloomfield
Capitan
Carlsbad
Chama
Deming
Espanola
Gallup
Los Lunas
Loving
Milan
Questa
Tijeras

New York

Akron
Alden
Alfred
Allegany
Aurora
Blasdell
Bloomingdale
Canton
Cato
Cayuga
Cazenovia
Cobleskill
Constableville
Copenhagen
Corfu
Dannemora
Delevan
Delhi
Depew
East Aurora
East Randolph
Elba
Evans Mills
Fair Haven
Fredonia
Harrisville
Horseheads
Lancaster
Middleport
Montour Falls
Morrisville
Odessa
Sidney
Tonawanda
Turin
Union Springs
Weedsport

North Carolina

Angier
Ansonville
Askewville
Autryville
Banner Elk
Battleboro
Beech Mountain
Biscoe
Black Creek
Boone
Bostic
Brevard
Centerville
Chocowinity
Clyde
Coats
Davidson
Dobson
Dublin
Earl
Elkin
Everetts
Falcon
Forest City
Fuquay-Varina
Grover
Harmony
Hildebran
Jefferson
Kenansville
Lillington
Lumber Bridge
Lumberton
Marshville
Mocksville
Newland
Pine Level
Pinetops
Polkville
Robbinsville
Rose Hill
Sanford
Seaboard
Shallotte
Sharpsburg
Siler City
Sims
Snow Hill
Southport
Stanfield
Stedman
Stonewall
Sunset Beach
Sylva
Tar Heel
Waco
Walstonburg
Waynesville
Whiteville
Woodland

North Dakota

Leal
Loma
Park River
Reeder
Rolette

Ohio

Adamsville
Alvordton
Andover
Anna
Ansonia
Antioch
Antwerp
Ashland
Attica
Bayview
Beaverdam
Bellville
Belmont
Belpre
Bethesda
Bettsville
Beverly
Bloomville
Browerston
Bremen
Brewster
Brice
Buckland
Bucyrus
Byesville
Cairo
Carey
Carrollton
Cedarville
Celina
Centerburg
Cheshire
Chesterhill
Chillicothe
Clarington
Clay Center
College Corner
Coshocton
Covington
Craig Beach
De Graff
Dellroy
Donnelsville
Dover
Dresden
Dupont
East Palestine
Eaton

Edison
Edon
Fayette
Flushing
Forest
Fort Recovery
Frazeysburg
Fredericktown
Geneva
Geneva-on-the-Lake
Gettysburg
Gibsonburg
Girard
Glenmont
Gordon
Granville
Gratis
Green Camp
Greenville
Hanoverton
Hartville
Hebron
Hicksville
Hiram
Hopedale
Hubbard
Huntsville
Ithaca
Jackson Center
Jefferson
Jerry City
Jewett
Junction City
Kenton
Kettlersville
Kingston
Kirkersville
Lafayette
Lagrange
Laura
Lawrenceville
Leesburg
Leipsic
Liberty Center
Limaville
Lockington
Logan
Louisville
McArthur
Maineville
Malvern
Martinsburg
Martins Ferry
Marysville
Mechanicsburg
Mendon
Middle Point
Midvale
Milford Center
Mineral City
Monroeville
Montpelier
Moscow
Mount Orab
Navarre
Nellie
Nevada
New Bavaria
Newtonsville
New Washington
New Waterford
North Hampton
North Robinson
North Star
Ohio City
Orrville
Orwell
Ottoville
Owensville
Oxford
Paulding
Pemberville
Perrysville
pioneer
Pitsburg
Pleasant Hill
Polk
Port Clinton
Port Jefferson
Port Washington
Powhatan Point
Ravenna
Rayland
Richmond
Richwood
Ridgeway
Rio Grande
Rising Sun
Rochester
Rocky Ridge
Rossburg
Rushsylvania
St Martin
St Mary's
Sebring
Shawnee Hills
Sidney
Silverton
Sinking Spring
South Vienna
South Webster
South Zanesville
Sparta
Stone Creek
Strasburg
Stratton
Sugarcreek
Tiltonsville
Toronto
Troy
Tuscarawas
Unionville Center
Upper Sandusky
Utica
Van Wert
Venedocia
Wakeman
Wapakoneta
Wauseon
Waverly
Waynesfield
Waynesville
Wellington
West Lafayette
West Manchester
Weston
Wharton
Willard
Windham
Woodlawn
Wren
Yellow Springs
Yorkville
Zaleski

Oklahoma

Adair
Arkoma
Avard
Bradley
Canton
Capron
Crowder
Elk City
Fort Supply
Maysville
Okeene
Purcell
Putnam
Skiatook
Sperry
Woodville

Oregon

Adams
Ashland
Astoria
Athena
Baker
Bay City
Brownsville
Butte Falls
Cannon Beach
Canyonville
Cave Junction
City of the Dalles
Coos Bay
Dayton
Elkton
Enterprise
Florence
Gaston
Gearhart
Grants Pass
Hood River
Idanha
Imbler
Junction City
Lincoln City
Lowell
Merrill
Mill City
Monmouth
Mosier
Prairie City
Rainier
Riddle
Rogue River
Seaside
Seneca
Shady Cove
Sheridan
Spray
Stanfield
Sutherlin
Sweet Home
Talent
Tangent
Unity
Warrenton
Weston
Winston
Yachats
Yamhill

Pennsylvania

Adamsburg
Applewold
Archbald
Auburn
Baden
Barnesboro
Beaver Meadows
Bedford
Bellevue
Benson
Berlin
Bessemer
Birmingham
Blairsville
Blakely
Blawnox
Blooming Valley
Bowmanstown
Bridgewater
Broad Top City
Brockway
Brookville
Burgettstown
Burnside
Butler
Callery
Cambridge Springs
Canonsburg
Carmichaels
Carnegie
Catasauqua
Centreville
Central City
Centre Hall
Chalfant
Chambersburg
Charleroi
Cherry Valley
Clarks Summit
Claysville
Clintonville
Conneaut Lake
Coraopolis
Corsica
Crafton
Creekside
Cross Roads
Dallastown
Darlington
Deemston
Delaware Water Gap
Delmont
Derry
Driftwood
Du Bois
Duboistown
Dunmore
Dupont
Duryea
East Bangor
East Rochester
East Side
East Stroudsburg
Elgin
Elizabeth
Ellport
Ernest
Exeter
Export
Fallston
Fayette City
Ferndale
Ford Cliff
Fountain Hill
Franklin
Freemansburg
Freeport
Georgetown
Girard
Glassport
Glendon
Glen Hope
Glen Rock
Gordon
Grampain
Greensburg
Greenville
Grove City
Haysville
Hookstown
Houston
Houtzdale
Hughesville
Hyde Park
Jackson Center
Jeddo
Jessup
Jonestown
Juniata Terrace
Lake City Knox
Landingville
Larksville
Leechburg
Leetsdale
Lewis Run
Loganton
Lumber City
Mcewensville
Mckean
Manchester
Manor
Manorville
Marion Center
Marion Heights
Mars
Martinsburg
Mechanicsville
Mifflin
Mifflinburg
Mifflintown
Millersville
Monessen
Morton
Mount Carbon
Mount Pleasant
Mount Pocono
Munhall
Nesquehoning
New Centerville
New Columbus
New Galilee
Newry
North Apollo
North Catasauqua
North Charleroi
North East
North York
Nuangola
Oakmont
Oil City
Oklahoma
Orangeville
Orrstown
Palmerton
Patterson Heights
Pen Argyl
Petrolia
Pine Grove
Pitcairn
Pleasantville
Polk
Port Carbon
Port Clinton
Portersville
Port Vue
Pringle
Rainsburg
Ramey
Red Lion
Rices Landing
Rimersburg
Roaring Spring
Rochester
Salladasburg
Sandy Lake
Sankertown
Scottdale
Sewickley
Shanksville
Sharpsville
Sheakleyville
Sligo
Slippery Rock
Smithton
South Bethlehem
South Greensburg
South Philipsburg
Southwest Greensburg
South Williamsport
Stockdale
Stoneboro
Sugarcreek
Sugar Grove
Sugar Notch
Summit Hill
Suterville
Taylor
Thompsontown
Tionesta
Troy
Turbotville
Turtle Creek
Ursina
Vandling
Verona
Walnutport
Waterford
Waynesboro
Wesleyville
West Alexander
West Leechburg
West Mayfield
West Newton
West Wyoming
White Haven
Wilson
Wind Gap
Winterstown
Woodbury
Youngsville
Youngwood
Zelienople

South Carolina

Andrews
Barnwell
Blythewood
Clinton
Gray Court
Hampton
Hardeeville
Hickory Grove
Hilda
Jefferson
Johnsonville
Laurens
Nichols
Ninety Six
Parksville
Pendleton
Reevesville
Richburg
Ruby
Salem
Scranton
Seneca
Turbeville
Waterloo
Williamston
Williston

South Dakota

Altamont
Lake City
Mitchell
Naples

Tennessee

Algood
Arlington
Atoka
Bradford
Bruceton
Bulls Gap
Burlison
Byrdstown
Carthage
Celina
Chapel Hill
Charlotte
Collinwood
Cookeville
Decatur
Decaturville
Dover
Dunlap
Estill Springs
Garland
Greeneville
Gruetli-Laager
Halls
Hohenwald
Humboldt
Huntingdon

Jasper
Kimball
Lafayette
Lawrenceburg
Lexington
Linden
Mcewen
Mclemoresville
Median
Milan
Milledgeville
Millington
Mongeagle
Monterey
New Hope
Obion
Oneida
Orme
Parsons
Rogersville
St Joseph
Savannah
Selmer
Shelbyville
Trezevant
Troy
Vanleer
Watertown
Waverly
Waynesboro
White Pine
Winchester
Woodbury
Woodland Mills

Texas

Aquilla
Aspermont
Atlanta
Avinger
Blanco
Bogata
Broaddus
Como
Cushing
Daingerfield
Devers
Elgin
Eustace
Farmersville
Forsan
Grey Forest
Haskell
Hughes Springs
Lampasas
Mcgregor
Malaoff
Maypearl
Omaha
Ore City
Palacios
Palm Valley
Queen City
Rancho Viejo
Rose City
Rusk
Slaton
Somerset
Sterling City
Sweetwater
Taft
Tahoka
Trinidad
Weatherford
Weimar
Whitney

Utah

Charleston
Enterprise
Fairview
Fountain Green
Green River
Heber
Junction
Laketown
Mayfield
Midway
Mona
Nephi
Panguitch
Snowville
Wallsburg

Vermont

Derby Line
Vergennes

Virginia

Blacksburg
Clinton
Coeburn
Crewe
Franklin
Front Royal
Glasgow
Grundy
Independence
Jarratt
Jonesville
Keysville
Marion
Middletown
Narrows
Onley
Pearisburg
Pembroke
Port Royal
Radford
Rural Retreat
St Paul
South Hill
Stephens City
Tazewell
Troutdale
Victoria
Whitestone
Wytheville

Washington

Aberdeen
Airway Heights
Arlington
Battle Ground
Brewster
Bridgeport
Buckley
Bucoda
Camas
Cashmere
Castle Rock
Chehalis
Cheney
Chewelah
Connell
Cosmopolis
East Wenatchee
Eatonville
Elma
Entiat
Grandview
Granite Falls
Harrah
Hoquiam
Kahlotus
Krupp
La Conner
Lind
Marcus
Marysville
Mesa
Metaline Falls
Millwood
Monroe
montesand
Nooksack
Okanogan
Omak
Orting
Othello
Pateros
Port Angeles
Port Orchard
Port Townsend
Pullman
Puyallup
Quincy
Ritzville
Royal City
Sequim
Snohomish
South Bend
Stanwood
Sunnyside
Twisp
Union Gap
Walla Walla
Warden
Washougal
Westport
Woodland

West Virginia

Athens
Bancroft
Barboursville
Barrackville
Beckley
Bethany
Bruceton Mills
Dunbar
Franklin
Gary
Grant Town
Hamlin
Harman
Hillsboro
Lewisburg
Marmet
Mason
Middlebourne
Montgomery
Northfork
Oceana
Pineville
Point Pleasant
Rupert
St Marys
Shepherdstown
Shinnston
Smithers
South Charleston
Stonewood
Summersville
Triadelphia
Valley Grove
Vienna
Wellsburg
West Milford
White Sulfur Springs
Winfield

Wisconsin

Abbotsford
Athens
Birchwood
Black River Falls
Blair
Brokaw
Bruce
Cambria
Casco
Clinton
Cochrane
Colby
Coloma
Eleva
Endeavor
Exeland
Fall River
Fenwood
Footville
Galesville
Gillett
Greenwood
Hancock
Hawkins
Hixton
Independence
Jefferson
Kellnersville
Lac La Belle
Lake Delton
Lena
Lime Ridge
Loganville
Lowell
Loyal
Maribel
Markesan
Montreal
Mosinee
Mont Calvary
New Lisbon
North Freedom
Osseo
Park Falls
Poplar
Potter
Poynette
Princeton
Redgranite
Reedsburg
Rib Lake
St Naziaz
Sheldon
Shell Lake
Solon Springs
Spencer
Stoddard
Stratford
Suring
Thorp
Trempealeau
Two Rivers
Unity
Washburn
West Baraboo
Westfield
Wild Rose
Wisconsin Dells
Wyocena

Wyoming

Afton
Baggs
Encampment
Meeteetse
Ydder

IV. The following list contains the names of those small cities which met the minimum standards of physical and economic distress as of the March 1, 1983 Notice but which do not meet the current minimum standards. The final date for submission of an application by the cities listed below is August 31, 1984.

Alabama

Belk
Brookside
Kinsey
Phenix City
Ranburne
Sumiton
Webb

Alaska

Angoon
Haines
St. Paul
Yakutat

Arizona

Cottonwood
Gila Bend

Arkansas

Bentonville
Bergman
Bono
Brookland
Cash
Cave City
Cherry Valley
Crossett
Danville
Dardanelle
Decatur
Elm Springs
Emmet
Fifty Six
Fouke
Fountain Hill
Harrison
Heber Springs
Hope
Huntsville
Huttig
Jerome
Lake City
London
Lonoke
Sulphur Rock
Ward
Wilton
Wynne

California

Maywood
San-Fernando

Colorado

Bennett
Burlington
Evans
Fraser
Hotchkiss
Johnstown
Milliken
Mountain View
Pitkin

Delaware

Middletown

Florida

Hampton
Inverness
Lake Butler
Sanford
Sebring
Trenton
Williston

Georgia

Avalon
Berlin
Blairsville
Buford
Calhoun
Carrollton
Centralhatchee
Clayton
Donalsonville
Doraville
Gumbranch City
Hagan
Hamilton
Homeland
Ila
La Fayette
Loganville
Martin
Milledgeville
North High Shoals
Oak Park
Reidsville
Resaca
Ringgold
Vidalia
Walnut Grove
Woolsey

Idaho

Blackfoot
Bliss
Bloomington
Burley
Caldwell
Eden
Marsing
Middleton
Onaway
Preston
Stanley

Illinois

Argenta
Assumption
Batchtown
Bone Gap
Greenview
Makanda
Niantic
Valmeyer

Indiana

Darlington

Iowa

Bancroft
Bronson
Iowa Falls
Lebertyville
Panama
Pisgah
Ruthven
Stockton
Walnut

Kansas

Beattie
Burr Oak
Cambridge
Cottonwood Falls
Ellis
Emmett
Hepler
Herndon
Holcomb
Johnson City
Manhattan
Raymond
Rolla
Rush Center
Sabetha
Seward
Stark
Tipton
Zenda

Kentucky

Burkesville
Nicholasville
Walton

Louisiana

Carencro
Dubach
Estherwood
Iota

Maryland

Eagle Harbor

Minnesota

Clinton
Good Thunder
Grygla
Wilton

Mississippi

Abbeville
Caledonia
Enterprise
Flowood
Hatley
Jumpertown
Lake
Meadville
Pachuta
Ripley
Sumrall
Tremont

Missouri

Bourbon
Brashear
Cape Girardeau
Chula
Duenweg
Hawk Point
Hermitage
Hollister
Kingsville
Knob Noster
Missouri City
Otterville
Pilot Grove
Wooldridge

Montana

Belt
Richey
West Yellowstone

Nebraska

Amherst
Brainard
Niobrara
Raymond
Rockville
Union

New Jersey

Pine Hill
Sussex

New Mexico

Cuba
Hatch
Logan
Truth or Consequences

New York

Arkport
Forestville
Palmyra
Richburg
Windsor

North Carolina

Drexel
La Grange
Maggie Valley
Selma
Stovall
Winterville

North Dakota

Balta
Binford
Dazey
Dodge City
Fullerton
Mooreton
Ray
Regent
Ross
Tolna

Ohio

Newburgh Heights
Rushville
South Bloomfield
Xenia

Oklahoma

Aline
Arapaho
Blackburn
Broken Bow
Cache
Cleo
Colbert
Colcord
Cole
Cooperton
Covington
Dibble
Disney
Gans
Garvin
Greenfield
Healdton
Jones
Locust Grove
New Alluwe
Newkirk
Ochelata
Okay
Ravia
Roosevelt
Sparks
Thackerville
Tushka
Valliant
Verden
Watonga

Oregon

Independence
Jefferson
Ontario
Phoenix
Siletz

Pennsylvania

Green Lane
Highspire
West Conshohocken

South Carolina

Bonneau
Eastover
Fountain Inn
Landrum
Summit

South Dakota

Lebanon
Ramona
Sturgis
Warner

Tennessee

Gordonsville
Jackson
Maryville

Texas

Booker
Chandler
Corrigan
Bean
Devine
Eagle Lake
Edgewood
Elkhart
Emory
Fairfield
Ganado
Giddings
Hale Center
Hallsburg
Hallsville
Jourdanton
Kenedy
Kirbyville
Kyle
Livingston
Mount Vernon
Nazareth
New Deal
New Waverly
Oglesby
Orange Grove
Point
Post
Post Oak Bend City
Reklaw
Roscoe
Ross
San Felipe
Sanger
San Patricio
Silsbee
Smyer
Tatum
Texhoma
Tioga
Tuscola
Venus
Waller
Wells
Willis
Wilson
Winona

Utah

Cedar City
Garden City
Minersville
Monroe
Oak City
St. George
Santa Clara
Springville

Virginia

Bloxom
Christiansburg
Hillsboro
Hillsville

Washington

Ferndale

West Virginia

Bath

Wyoming

Lovell

V. The following list contains the names of those small cities which met the minimum standards of physical and economic distress as of the June 8, 1982 Notice but which do not meet the current minimum standards. The final date for submission of an application by the cities listed below is August 31, 1984.

Alabama

Adamsville
Avon
Berry
Branchville
Cowarts
Eva
Crimes
Leesburg
Malvern
Monroeville
Owens Cross Roads
Shilo
Valley City
Wilmer

Alaska

Akiachak
Aleknagik
Ambler
Hoonah
Hydaburg
Kake
Klowock
Nome
Ouzinkie
Pelican
Port Heiden
Wainwright

Arizona

Fredonia
Prescott
Tolleson

Arkansas

Alexander
Austin
Belefonte
Bethel Heights
Centerton
Central City
Flippin
Greenland
Hartman
Hickory Ridge
Highfill
Lakeview
Little Flock
Lowell
McCaskill
Mineral Springs
Pleasants Plains
Sedgwick
Siloam Springs
Stuttgart
Tinsman
Tontitown
Weiner
Weldon West Fork
Whelen Springs

California

Artesia
Calistoga
Gradena
Healdsburg
Newman

Colorado

Akron
Black Hawk
Crawford
Greed
Crook
De Beque
Deer Trail
Durango
Eads
Eagle
Eaton
Erie
Fairplay
Fleming
Fort Morgan
Genoa
Grand Junction
Haxtun
Hillrose
Jamestown

Leadville
Lyons
Manitou Springs
Merino
Montrose
New Castle
Norwood
Nucla
Paonia
Prospect Heights
Severance
Stratton
Vons
Wray

Connecticut

Derby
Stonington

Delaware

Dagsboro
Felton
Newport
Ocean View
Selbyville
Viola

Florida

Belle Glade
Dade City
Dunnellon
Grand Ridge
Green Ridge Spring
Greenwood
Jay
McIntosh
Newberry
Ocean Breeze Park
Oviedo
Pahokee
Palm Shores
Penney Farms
Pomona Park
Raiford
Shalimar
Sneads
St. Cloud
St. Lucie
Weeki Wachee Springs

Georgia

Adel
Alston
Arnoldsville
Bellville
Bethlehem
Blythe
Bogart
Chickamauga
Cleveland
Commerce
Corinth
Culloden
Demorest
Dillard
Douglas
Dublin
Funston
Gainesville
Good Hope
Gray
Hapeville
Haralson
Hiawassee
Hoschton
Jakin
Jefferson
Jesup
Maysville
Milan
Moreland
Morgan
Mount Zion
Mountain City
Nicholson
Nunez
Orchard Hill
Pendergrass
Pine Mountain
Ray City
Roopville
Sharpsburg
Soperton
Statesboro
Swainsboro
Tallulah Falls
Thunderbolt
Trenton
Tunnel Hill
Turin
Twin City
Valdosta
Van Wert
Watkinsville
Zebulon

Idaho

Arimo
Basalt
Cambridge
Culdesac
Dietrich
Filer
Franklin
Georgetown
Hamer
Hazelton
Juliaetta
Kimberly
Malad City
Murtaugh
Paris
Parker
Paul
Peck
Richfield
St. Charles
State Line
Swan Valley
Winchester

Illinois

Addieville
Albion
Allenville
Altamont
Amboy
Anchor
Anna
Arenzville
Arthur
Ashmore
Athens
Atkinson
Basco
Beardstown
Bellmont
Biggsville
Bradford
Browns
Bryant
Buckley
Campbell Hill
Canton
Cantrall
Carthage
Chaplin
Chebanse
Cherry
Cissna Park
Coal City
Compton
Coulterville
Crainville
Cullom
Dallas City
De Land
De Witt
Divernon
Dixon
Donovan
Dunfermline
East Cape Girardeau
East Dubuque
Elizabeth
Elk Hart City
Ellisville
Ellsworth
Elvaston
Emden
Erie
Evansville
Farmersville
Ferris
Findlay
Flanagan
Foosland
Franklin Grove
Fults
Galena
Gays
Golden Gate
Good Hope
Granite City
Grayville
Hammond
Hindsboro
Hollowayville
Illiopolis
Industry
Ipava
Jacksonville
Johnsonville
Kaskaskia
Kempton
Kenney
Kincaid
La Fayette
Lakemoor
Lanark
Lima
Lincoln
Little York
Lockport
Lomax
Lostant
Lyndon
Malta
Martinton
Mason City
Mattoon
McCook
Medora
Mill Creek
Milledgeville
Moorisonville
Mount Auburn
Mount Pulaski
Naplate
Naples
Neponset
New Baden
New Bedford
New Berlin
Newman
Newton
Nilwood
Nokomis
Nora
Oakford
Odell
Ogden
Old Mill Creek
Palestine
Parkersburg
Paxton
Pearl City
Pecatonica
Perry
Peru
Petersburg
Pierron
Pinckneyville
Pingree Grove
Pittsfield
Pontoosuc
Prairie du Rocher
Raritan
Raymond
Richmond
Rock Falls
Saunemin
Schram City
Sesser
Shelbyville
Sheridan
Sparland
Spring Bay
St. Francisville
St. Jacob
St. Peter
Ste Marie
Stockton
Stonington
Strasburg
Sublette
Symerton
Taylorville
Thomson
Tilden
Toledo
Tovey
Urbain
Valier
Venedy
Vergennes
Villa
Walnut Hill
Walshville
Waltonville
Washburn
Waterman
Waverly
Wellington
Windsor
Winslow
Woodland
Yale

Indiana

Akron
Attica
Battle Ground
Bloomingdale
Boonville
Boswell
Burns Harbor
Dayton
Elberfeld
Elizabeth
Fort Branch
Fremont
Hazleton
Jamestown
Lakeville
Lanesville
Larwill
Leesburg
Mackey
Menton
Millhousen
Monterey
Mout Ayr
Mount Vernon
New Harmony
North Salem
North Webster
Owensville
Oxford
Patoka
Petersburg
Poneto
Poseyville
Princeton
Russellville
Sandborn
Shamrock Lakes
Somerville
Spurgeon
St. Paul
Staunton
Stilesville
Trafalgar
Utica
Vera Cruz
Westport

Iowa

Ackworth
Adair
Algona
Alta
Alta Vista
Alton
Anita
Aplington
Archer
Arnolds Park
Arthur
Aspinwall
Audubon
Avoca
Bassett
Battle Creek
Beacon
Beaman
Beaver
Bennett
Benton
Bertram
Birmingham
Blairsburg
Blanchard
Bouton
Braddyville
Brayton
Breda
Bristow
Buffalo
Bussey
Calmar
Calumet
Cascade
Chariton
Cherokee
Chester
Churdan
Clarion
Clarksville
Clio
Coon Rapids
Coppock
Coulter
Cresco
Creston
Cushing
Dana
Dedham
Defiance
Delmar
Dexter
Doon
Dow City
Dunkerton
Eddyville
Edgewood
Eldora
Elgin
Elk Horn
Elkader
Elkport
Emerson
Essex
Fairfield
Farley
Farmersburg
Farmington
Fertile
Floyd
Fort Dodge
Fremont
Garber
Garnavillo
Garwin
Gibson
Glidden
Goose Lake
Gowrie
Grand Mound
Granville
Greenfield
Guernsey
Guttenberg
Hamburg
Hancock
Hansell
Harcourt
Harper
Hartley
Hartwick
Hawarden
Hazleton
Henderson
Hepburn
Holland
Holy Cross
Hospers
Hubbard
Haboldt
Irwin
Jamaica
Jewell Junction
Kanawha
Keosauqua
Keswick
Kimballton
Kingsley
Kirkman
Ladora
Lake City
Lake View
Lakota
Larrabee
Latimer
Laurens
Ledyard
Lehigh
Leghton
Lenox
Lester
Lewis
Lidderdale
Lockridge
Lowden
Luana
Luther
Lynnville
Malcom
Mallard
Maloy
Malvern
Manilla
Manly
Manning
Manson
Marengo
Matlock
Maynard

Melvin
Meriden
Merrill
Meservey
Milford
Millesburg
Millville
Minburn
Minden
Mingo
Mitchell
Moneta
Monticello
Montour
Moorhead
Moorland
New Hampton
New Hartford
Newell
Newton
Nodaway
North Buena Vista
North English
Odebolt
Ogden
Olds
Olin
Oneida
Orchard
Osage
Osceola
Osterdock
Ottosen
Owasa
Oxford
Packwood
Palmer
Parkersburg
Patterson
Paullina
Plan
Pleasantville
Prescott
Ouasqueton
Radcliffe
Rake
Ralston
Randalia
Randall
Red Oak
Redfield
Remsen
Riceville
Rickardsville
Ridgeway
Rippey
Rock Valley
Rockwell
Rockwell City
Rodman
Roland
Rolfe
Rossie
Rowan
Royal Rutland
Sac
Salix
Sanborn
Sandyville
Schaller
Shambaugh
Sheffield
Shenandoah
Sherrill
Silver City
Soldier
Spring Hill
St. Charles
St. Marys
Stanley
Stanton
Stockport
Stuart
Sully
Summer
Superior
Swea City
Terril
Thornton
Titonka
Toledo
Truesdale
Truro
Turin
Union
University Park
Van Horne
Varina
Wallingford
Wapello
Webb
Webster City
West Band
Westgate
Westside
Winfield
Woodbine
Woolstock
Worthington
Wyoming
Yorktown
Zearing

Kansas

Admire
Agra
Alma
Ata Vista
Altamont
Alton
Arkansas City
Ashland
Atlanta
Belle Plaine
Belleville
Belvue
Benton
Beverly
Bird City
Bogue
Bunker Hill
Burden
Burdett
Burlingame
Burlington
Burrton
Bushton
Canton
Chanute
Chase
Cimarron
Claflin
Clayton
Coats
Coldwater
Conway Springs
Cullison
Cunningham
Danville
Deerfield
Delia
Dexter
Douglass
Edmond
Effingham
El Dorado
Ellsworth
Esbon
Eskridge
Fowler
Frankfort
Frontenac
Galatia
Garden Plain
Garfield
Garnett
Gas
Gem
Girard
Glen Elder
Goessel
Grainfield
Greeley
Greensburg
Grinnell
Gypsum
Hanston
Harris
Harveyville
Havana
Havensville
Hiawatha
Hollenberg
Holton
Hope
Hunnewell
Hutchinson
Independence
Iola
Jetmore
Kanopolis
Kensington
La Cygne
Lancaster
Lebo
Lecompton
Leon
Liberty
Linsborg
Linwood
Little River
Long Island
Longton
Madison
Manter
Marion
Matfield Green
Mayetta
McFarland
Moran
Mount Hope
Nashville
Neodesha
Neosho Rapids
Ness City
New Albany
Ogden
Oketo
Osage
Osawatomie
Oskaloosa
Overbrook
Oxford
Palco
Pomona
Potwin
Pretty Prairie
Quinter
Ransom
Reading
Riley
Rozel
Satanta
Sedan
Seneca
Simpson
Smolan
Speed
St. George
St. Marys
St. Paul
Stockton
Syracuse
Timken
Tribune
Uniontown
Vermillion
Victoria
Viola
Wakeeney
Waterville
Webber
Westphalia
Willis
Wilmore
Winfield
Woodbine

Kentucky

Allensville
Burnside
Caseyville
Centertown
Dycusburg
Fairview
Hanson
Hollyvilla
Kenton Vale
Mackville
Mentor
Morganfield
Powderly
Sebree
Slaughterville
Strathmoor Village
Sturgis
Uniontown
Waverly
Whitesville
Williamstown
Wingo

Louisiana

Addis
Athens
Alanta
Benton
Breaux Bridge
Brusly Landing
Cankton
Covington
Downsville
Duson
Eunice
Hessmer
Ida
Killian
Mermentau
Mooringsport
Noble
Norwood
Port Allen
St. Martinville
Vinton

Maine

Bath
Ellisworth
Saco

Maryland

Accident
Burkittsville
Chesapeake Beach
Clear Spring
Glen Echo
Keedysville
Myersville
New Market
Oxford
Preston
Seat Pleasant
Woodsboro

Massachusetts

Melrose
Newburyport
Peabody

Michigan

Augusta
Brooklyn
Chatham
Chesaning
Free Soil
Grand Haven
Kaleva
Kent City
Kingston
Lake Angelus
Lake Ann
Lake City
Mayville
Negaunee
Pentwater
Richland
South Rockwood
Zeeland

Minnesota

Adams
Albert Lea
Alden
Appleton
Ashby
Atwater
Austin
Balaton
Barnesville
Beaver Bay
Beaver Creek
Benson
Bird Island
Blooming Prairie
Brownsville
Brownton
Buhl
Burtrum
Butterfield
Caledonia
Cambell
Chokio
Clarkfield
Clearwater
Cokato
Comstock
Dakota
Darwin
Dassel
Dawson
Dexter
Dilworth
Donnelly
Doran
Dover
Dovray
East Gull Lake
Easton
Eitzen
Elba
Elgin
Elizabeth
Ellsworth
Elysian
Fountain
Foxhome
Franklin
Freeborn
Garrison
Geneva
Gibbon
Glenville
Graceville
Granada
Greenwald
Halstad
Hancock
Hartland
Hendrum
Holdingford
Iona
Isle
Ivanhoe
Kasota
Kiester
Kinbrae
Kinney
Lafayette
Lake Henry
Lake Shore
Le Sueur
Leonidas
Lester Prairie
Lindstrom
Long Prairie
Lyle
Madelia
Manchester
Mantorville
Mazeppa
Medicine Lake
Melrose
Miesville
Milaca
Milroy
Montgomery
Monticello
Morristown
Morton
Myrtle
New Market
Nielsville
North Redwood
Ormsby
Panesville
Pease
Pennock
Pine Island
Preston
Princeton
Renville
Rock Creek
Roosevelt
Round Lake
Rush City
Rushmore
Russell
Silver Lake
Sleepy Eye
South Haven
South International Falls
St. Charles
St. Joseph
Storden
Taylors Falls
Tintah
Trosky
Urbank
Utica
Viking
Wahkon
Welcome
Wendell
Wilder
Willernie
Winnebago
Winton
Wolverton
Wood Lake
Woodstock

Mississippi

Booneville
Learned
Liberty
Morton
Newhebron
Oxford
Sebastopol
Sylarena
Tillatoba
Walthall

Missouri

Advance
Alma
Arbela
Aullville
Auxvasse
Baker
Bertrand
Bethel
Blackburn
Blairstown
Bloomsdale
Bosworth
Brooklyn Heights
Cairo
Cameron
Center
Clarkdale
Clearmont
Clifton Hill
Concordia
Cottleville
Cowgill
De Kalb
Dearborn
Deerfield
Drexel
Edgar Springs
Ellington
Elmira
Flinthill
Ford City
Forest City
Freeman
Gibbs
Gunn City
Hallsville
Halltown
Hartwell
Harwood
Herculaneum
High Hill
Iatan
Jasper
Kidder
Kimmswick
Laclede
Lamar Heights
Leonard
Levasy
Lincoln
Mackenzie
Maitland
Marceline
Marshall
Mendon
Merwin
Milo
Mokane
Monett
Monore City
Monticello
Morresville
Morrisville
Napoleon
New Franklin
New London
Northwye
Novelty
Oregon
Orrick
Parksdale
Parkville
Passaic
Phelps City
Pleasant Hill
Pleasant Hope
Polo
Portage Des Sioux
Renick
Rhineland
Richmond
Rock Port
Rosebud
Rothville
Rushville
Salisbury
Savannah
St. Cloud
Ste Genevieve
Sturgeon
Sunrise Beach
Taos
Tarsney Lakes
Theodosia Hills
Tina
Tindall
Tipton
Tracy
Troy
Turney
Urich
Weatherby
Wellington
Wentworth
Westboro
Weston
Wheeling
Whitewater
Windsor
Wittenberg

Montana

Big Tumbler
Conrad
Culbertson
Cut Bank
Dodson
Fairfield
Fairview
Fort Benton
Froid
Glasgow
Livingston
Malta
Moore
Nashua
Opheim
Valier
Virginia City

Nebraska

Allen
Anselmo
Atkinson
Avoca
Axtell
Bartley
Bassett
Battle Creek
Bee
Beemer
Bellwood
Bennet
Bloomfield
Bridgeport
Broken Bow
Bruning
Bruno
Byron
Cairo
Cambridge
Carroll
Center
Chapman
Chester
Clatonia
Colon
Cook
Cordova
Cotesfield
Creston
Crofton
Dalton
Danbury
Davenport
David City
Daykin
De Witt
Deshler
Dodge
Douglas
Duncan
Edison
Elba
Elm Creek
Elmwood
Elyria
Emerson
Endicott
Exeter
Fairfield
Fairmont
Fort Calhoun
Franklin
Friend
Fullerton
Gibbon
Giltner
Gothenburg
Gross
Gurley
Hamlet
Hampton
Hartington
Hayes Center
Henry
Hemingford
Hoskins
Inglewood
Jansen
Kearney
Kenesaw
Kennard
Kilgore
Lindsay
Lodgepole
Loomis
Lyons
Magnet
Marquette
Maywood
McGrew
Meadow Grove
Merna
Milligan
MItchell
Monore
Moorefield
Morse Bluff
Murray
Naper
Neligh
Nora
North Bend
Obert
Orchard
Ord
Oshkosh
O'Neill
Petersburg
Pickrell
Pierce
Pleasant Dale
Pleasanton
Roca
Rogers
Ruskin
Saronville
Shelton
Shickley
Shubert
Sidney
Smithfield
Spencer
Springview
St. Helena
Stamford
Stanton
Steele City
Stella
Stomsburg
Sutherland
Sutton
Swanton
Talmage
Tamora
Taylor
Trenton
Trumbull
Uehling
Utica
Valparaiso
Verdon
Virginia
Wahoo
Weeping Water
Wellfleet
West Point
Wilber
Wilcox
Winslow
Wood Lake
Wymore

Nevada

Gabbs
Lovelock

New Jersey

Alpha
Branchville
Carteret
Clayton
Corbin City
Farmingdale
Princeton
Red Bank
Rockleigh
Roosevelt
South Belmar
South River

New Mexico

Dora
Hope
Moriarty
Texico
Williamsburg

New York

Bemus Point
Brocton
Caledonia
Cambridge
Clinton
Cooperstown
Corning
Dering Harbor
East Bloomfield
Elmsford
Farmingdale
Gilbertsville
Grand View-On-Hudson
Hillburn
Kenmore
Liverpool
Lynbrook
Madison
Mayville
Mexico
Millbrook
Mount Kisco
Nelsonville
Newark Valley
Nyack
Oneida Castle
Otego
Phelps
Port Dickinson
Prospect
Sag Harbor
Sandy Creek
Schaghticoke
Scotia
Sherrill
Sinclairville
Sloatsburg
Solvay
South Corning
Tuckahoe
Unadilla
Westhampton Beach

North Carolina

Albemarle
Bayboro
Beargrass
Canton
Carthage
Catawba
Cherryville
Columbus
Creedmoor
Crossnore
East Bend
Franklin
Goldston
Granite Quarry
Grifton
Harrellsville
Highland
Hookerton
Huntersville
Indian Beach
Lake Lure
Mesic
Mount Pleasant
Newton Grove
Oakboro
Oriental
Pantego
Pinebluff
Ramseur
Rolesville
Seagrove
Southern Pines
Stanley
Stem
Swansboro
Waxhaw
Webster
Wilkesboro
Yadkinville

North Dakota

Alsen
Anther
Ardoch
Ayr
Balfour
Bantry
Belfield City
Benedict
Berwick
Bisbee
Brocket
Bucyrus
Calvin
Canton City
Carrington
Cayuga
Christine
Cleveland
Coleharbor
Conway
Davenport
Devils Lake
Dunn Center City
Dwight
Egeland
Enderlin
Epping
Fairmount
Fingal
Gackle
Galesburg
Gardner
Glen Ullin
Golden Valley City
Halliday City
Hamilton
Hannaford
Hove Mobile Park
Jamestown
Killdeer City
Knox
La Moure
Lankin
Lansford
Larson
Lisbon
Litchville
Luverne
Maddock
Mapleton
Marion
Mercer
Merricourt
Milnor
Minnewaukan
Mountain
Mylo
Nekoma
New Rockford
New Salem
Niagara
Northwood
Osnabrock
Page
Palermo
Pillsbury
Rhame
Richardson City
Rocklake
Rugby
Sawyer
Sentinel Butte
Sharon
Sherwood
South Heart City
Stanley
Tower City
Valley Township
Ventura
Walcott
Wales
Warwick
Wildrose
Wolford
Woodworth
Wyndmere
Zap City

Ohio

Aberdeen
Aquilla
Arlington
Baltic
Bellevue
Benton Ridge
Blanchester
Bolivar
Burkettsville
Butlerville
Carroll
Castalia
Chippewa-on-the-Lake
Clayton
Convoy
Cygnet
Deer Park
East Sparta
Fairfax
Fort Jennings
Galena
Gilboa
Gnadenhutten
Grand River
Jacksonville
Jenera
Jeromesville
Jerusalem
Johnstown
Killbuck
Lancaster
Leesville
Lindsey
Lithopolis
London
Lore City
Marblehead
Metamora
Miller City
Millersport
Mount Blanchard
Mutual
New Albany
New Knoxville
New Rome
New Vienna
New Weston
Ney
North Bend
Octa
Parral
Patterson
Pleasantville
Prospect
Rawson
Spencer
Summitville
Thurston
Washingtonville
Wilmington

Oklahoma

Addington
Alex
Alva
Ames
Amorita
Ardmore
Arnett
Bernice
Bessie
Blanchard
Bluejacket
Bray
Buffalo
Calumet
Canute
Cherokee
Chickasha
Claremore
Colony
Crescent
Cushing
Dickson
Dover
El Reno
Fallis
Foraker
Gage
Goltry
Hickory
Hinton
Hichcock
Hunter
Kiefer
Leedey
Loveland
Loyal
Medford
Millerton
Mounds
Mutual
Nardin
Okarche
Orlando
Perkins
Renfrow
Reydon
Ringwood
Rocky
Roland
Shady Grove
Shady Point
Silo Town
South Coffeyville
Sterling
Stratford
Strong City
Tecumseh
Thomas
Tonkawa
Tribbey
Vici
Warner
West Siloam Springs
Westport
Wynona

Oregon

Adrian
Atelope
Barlow
Donald
Hubbard
Ione
Lostine
Manzanita
Silverton
Summerville
Sumpter
Waterloo
Willamian

Pennsylvania

Adamstown
Avalon
Beavertown
Bendersville
Biglerville
Braddock Hills
Brisbin
Bruin
Burlington
Cherry Tree
Cokeburg
Collegeville
Connoquenessing
Conway
Dallas
Dormont
Dravosburg
Duncannon
Dunley
Eagles Mere
East Berlin
Eddystone
Evans City
Fairview
Foxburg
Franklin City
Glenolden
Goldsboro
Gratz
Hallam
Homor City
Homewood
Hunker
Jacksonville
Jefferson
Karns City
Kenhorst
Laporte
Lincoln
Little Meadows
Marietta
McEwensville
McKean
Midway
Mount Penn
New Baltimore
New Eagle
New Washington
Newburg
North Belle Vernon
Pennsburg
Perkasie
Roscoe
Royersford
Seven Valleys
Smicksburg
Snydertown
Springdale
St. Marys
Steelton
Summerhill
Townville
Trafford
Trainer
Tunnelhill
Utica
Versailles
Waymarat
West Sunbury
Wheatland
Whitaker
Williamstown
Wrightsville
Yorkana

South Carolina

Beaufort
Chapin
Conway
Cordova
Easley
Hemingway
Honea Path
Pacolet
Prosperity
Ridgeway
Santee
Scotia
Smyrna
Stuckey
West Columbia

South Dakota

Arlington
Aurora
Beresford
Big Stone City
Bison
Bruce
Bushnell
Cavour
Central City
Chancellor
Colman
Corsica
Cottonwood
Cresbard
Dell Repids
Dimock
Doland
Elk Point
Estelline
Fairview
Farmer
Flandreau
Florence
Gayville
Hartford
Hecla
Henry
Hudson
Humboldt
Irene
Kadoka
Kennebec
La Bolt
Lead
Lennox
Lily
Loyalton
Milbank
Monroe
Mound City
Northville
Onaka
Onida
Ree Heights
Rosholt
Roswell
Salem
Sinai
Stratford
Tulare
Vilas
Volga
White Rock

Tennessee

Blaine
Braden
Cedar Hill
Franklin
Gadsden
Lakeland
Lynchburg
Medon
Michie
Normandy
Oliver Springs
Piperton
Pittman Center
Rockford
Sevierville
Soddy-Daisy
South Carthage
Townsend

Texas

Alice
Alvarado
Alvord
Ames
Anahuac
Anton
Athens
Barry
Barstow
Bayside
Blackwell
Bonney
Bowie
Boyd
Bronson
Bronte
Brownsboro
Buda
Centerville
Chico
China
Cibolo
Clarksville City
Cleveland
Coahoma
Coffee City
Coldspring
Crandall
Dell City Dorchester
Eastland
Edom
Eldorado
Follett
Fisco
Gallatirn
Gray
George West
Gholson
Gilmer
Godley
Golinda
Gordon
Grandfalls
Grayburg
Gunter
Hart
Haslet
Henrietta
Huntington
Jasper
Jewett
Johnson City
Joshua
Krum
Lake Worth
Lamesa
Latexo
Lavon
Lawn
Lincoln Park
Lorenzo
Lovelady
Lowery Crossing
Marietta
Millsap
Mustang
Nome
O'Brien
Odem
Onalaska
Pattison
Pittsburg
Pleasanton
Plum Grove
Point Blank
Ponder
Poth
Pottsboro
Poynor
Quinlan
Quintana
Rice
Riesel
Rio Vista
Riverside
Sadler
Sansom Park Village
Savoy
Seagraves
Sealy
Stratford
Surfside Beach
Three Rivers
Tom Bean
Trent
Walnut Springs
Weinert
West
Wharton
Winfield
Woodville

Utah

Altamont
Amalga
Bear River City
Cannonville
Clarkston
Delta
Garland
Helper
Henefer
Henrieville
Hinckley
Honeyville
Joseph
Kamas
Leamington
Lewiston
Lindon
Loa
Manila
Marysvale
Millville
Orderville
Paragonah
Perry
Plymouth
Redmond
Richfield
Springdale

Vermont

Hyde Park
Newfane
Readsboro
Saxtons River

Virginia

Belle Haven
Berryville
Big Stone Gap
Boyce
Eastville
Elkton
Fincastle
Floyd
Madison
New Market
Occoquan
Purcellville
Rick Creek
South Boston
Staunton
Stuart
Surry
Warrenton
Washington

Washington

Almira
Carbonado
Endicott
La Crosse
Lamont
Langley
Leavenworth
Oakesdale
Pe Ell
Pomeroy
Rosalia
Ruston
Snoqualmie
St. John
Waitsburg
Waterville
Wilbur

West Virginia

Belle
Bolivar
Chesapeake
Eleanor
Ellenboro
Harpers Ferry
Jane Lew
Leon
Montrose
Nitro
Oak Hill
Quinwood
West Logan

Wisconsin

Adams
Alma
Arena
Argyle
Arpin
Auburndale
Barron
Benton
Birnamwood
Black Earth
Bloomer
Boscobel
Boyd
Brandon
Buffalo
Cadott
Cassville
Cecil
Chaseburg
Chetek
Chilton
Clear Lake
Clyman
Cobb
Coleman
Colfax
Dane
Dorchester
Doylestown
Dresser
Eden
Egg Harbor
Eland
Elk Mound
Elmwood
Fairwater
Fennimore
Ferryville
Fontana-on-Geneva Lake
Forestville
Fountain City
Friendship
Friesland
Genoa
Glen Flora
Highland
Hillsboro
Hustisford
Iola
Johnson Creek
Juneau
Kaukauna
Kekoskee
Kendall
Knapp
Lake Nebagamon
Lone Rock
Lynxville
Mazomanie
Menasha
Mondovia
Montfort
Mount Sterling
Muscoda
Niagara
Norwalk
Oconomowoc Lake
Oliver
Pepin
Peshtigo
Pigeon Falls
Plainfield
Plum City
Port Washington
Prairie Du Chien
Pulaski
Rice Lake
Rockdale
Rudolph
Scandinavia
Shiocton
Shullsburg
Sister Bay
Spring Valley
Stetsonville
Stockbridge
Sullivan
Superio
Union Center
Vesper
Viola
Waldo
Waupaca
Wauzeka
Weyauwega
Williams Bay
Woodville
Wrightstown
Wyeville
Yuba

Wyoming

Byron
Cokeville
Cowley
Dixon
Granger
Kaycee
La Barge
Midwest
Sundance

VI. The following list contains the names of towns and townships which meet the minimum standards for physical and economic distress and which are in States where towns and townships may have powers comparable to the powers of municipalities. Each town and township is not listed with places in Section II because their eligiblity as cities has not been determined under the criterion of 24 CFR 570.3(e), which requires that they (1) have powers and performs functions comparable to municipalities, (2) are closely settled and (3) have corporation agreements with all incorporated places within their boundaries. Requests for waivers of the closely settled requirement from towns and townships which meet all other requirements may be waived by the Secretary on a case by case basis. The asterisk shown in front of the name of some towns or townships indicates that those towns or townships contain an incorporated place within their boundaries.

Connecticut

* Killingly Town, Windham County
* Putnam Town, Windham County
Sterling Town, Windham County
Thompson Town, Windham County
Voluntown Town, New London County
Winchester Town, Litchfield County
* Windham Town, Windham County

Maine

Abbot Town, Piscataquis County
Addison Town, Washington County
Albion Town, Kennebec County
Alexander Town, Washington County
Allagash Town, Aroostook County
Alna Town, Lincoln County
Amherst Town, Hancock County
Amity Town, Aroostook County
Andover Town, Oxford County
Anson Town, Somerset County
Appleton Town, Knox County
Ashland Town, Aroostook County
Athens Town, Somerset County
Aurora Town, Hancock County
Avon Town, Franklin County
Baileyville Town, Washington County
Baldwin Town, Cumberland County
Bancroft Town, Aroostook County
Beals Town, Washington County
Beddington Town, Washington County
Belmont Town, Waldo County
Benedicta Town, Aroostook County
Bethel Town, Oxford County
Bingham Town, Somerset County
Blaine Town, Aroostook County
Blanchard Plantation, Piscataquis County
Blue Hill Town, Hancock County
Boothbay Harbor Town, Lincoln County
Boothbay Town, Lincoln County
Bradford Town, Penobscot County
Bremen Town, Lincoln County
Bridgewater Town, Aroostook County
Brighton Plantation, Somerset County
Bristol Town, Lincoln County
Brooklin Town, Hancock County
Brooksville Town, Hancock County
Brooks Town, Waldo County
Brownfield Town, Oxford County
Brownville Town, Piscataquis County
Buckfield Town, Oxford County
Bucksport Town, Hancock County
Burlington Town, Penobscot County
Burnham Town, Waldo County
Byron Town, Oxford County
Cambridge Town, Somerset County
Canaan Town, Somerset County
Canton Town, Oxford County
Caratunk Plantation, Somerset County
Carmel Town, Penobscot County
Carroll Plantation, Penobscot County
Carthage Town, Franklin County
Cary Plantation, Aroostook County
Castle Hill Town, Aroostook County
Caswell Plantation, Aroostook County
Chapman Town, Aroostook County
Charleston Town, Penobscot County
Charlotte Town, Washington County
Chelsea Town, Kennebec County
Cherryfield Town, Washington County
Chesterville Town, Franklin County
Chester Town, Penobscot County
Clinton Town, Kennebec County
Codyville Plantation, Washington County
Columbia Falls Town, Washington County
Columbia Town, Washington County
Cooper Town, Washington County
Corinna Town, Penobscot County
Corinth Town, Penobscot County
Cornish Town, York County
Cornville Town, Somerset County
Crawford Town, Washington County
Crystal Town, Aroostook County
Cutler Town, Washington County
Cyr Plantation, Aroostook County
Dallas Plantation, Franklin County
Damariscotta Town, Lincoln County
Danforth Town, Washington County
Deblois Town, Washington County
Deer Isle Town, Hancock County
Dennysville Town, Washington County
Detroit Town, Somerset County
Dexter Town, Penobscot County
Dixfield Town, Oxford County
Dixmont Town, Penobscot County
Dover Foxcroft Town, Piscataquis County
Dresden Town, Lincoln County
Drew Plantation, Penobscot County
Durham Town, Androscoggin County
Dyer Brook Town, Aroostook County
Eagle Lake Town, Aroostook County
Easton Town, Aroostook County
East Machias Town, Washington County
Edgecomb Town, Lincoln County
Edinburg Town, Penobscot County
Emeden Town, Somerset County
Etna Town, Penobscot County
Eustis Town, Franklin County
Exeter Town, Penobscot County
E Plantation, Aroostook County
Fairfield Town, Somerset County
Farmington Town, Franklin County
Fort Fairfield Town, Aroostook County
Fort Kent Town, Aroostook County
Frankfort Town, Waldo County
Franklin Town, Hancock County
Freedom Town, Waldo County
Frenchville Town, Aroostook County
Fryburg Town, Oxford County
Garfield Plantation, Aroostook County
Garland Town, Penobscot County
Georgetown Town, Sagadahoc County
Gilead Town, Oxford County
Gouldsboro Town, Hancock County
Grand Isle Town, Aroostook County

Grand Lake Stream Planta, Washington County
Greenfield Town, Penobscot County
Greenville Town, Piscataquis County
Greenwood Town, Oxford County
Hamlin Town, Aroostook County
Hammond Plantation, Aroostook County
Hancock Town, Hancock County
Hanover Town, Oxford County
Harmony Town, Somerset County
Harrington Town, Washington County
Harrison Town, Cumberland County
Hartford Town, Oxford County
Hartland Town, Somerset County
Haynesville Town, Aroostook County
Hebron Town, Oxford County
Hersey Town, Aroostook County
Highland Plantation, Somerset County
Hiram Town, Oxford County
Hodgdon Town, Aroostook County
Hollis Town, York County
Hope Town, Knox County
Houlton Town, Aroostook County
Howland Town, Penobscot County
Industry Town, Franklin County
Island Falls Town, Aroostook County
Islesboro Town, Waldo County
Isle Au Haut Town, Knox County
Jackman Town, Somerset County
Jackson Town, Waldo County
Jefferson Town, Lincoln County
Jonesboro Town, Washington County
Jonesport Town, Washington County
Kenduskeag Town, Penobscot County
Kingfield Town, Franklin County
Knox Town, Waldo County
LaGrange Town, Penobscot County
Lebanon Town, York County
Leeds Town, Androscoggin County
Lee Town, Penobscot County
Levant Town, Penobscot County
Liberty Town, Waldo County
Limestone Town, Aroostook County
Limington Town, York County
Lincolnville Town, Waldo County
Lincoln Plantation, Oxford County
Lincoln Town, Penobscot County
Linnues Town, Aroostook County
Littleton Town, Aroostook County
Long Island Plantation, Hancock County
Lubec Town, Washington County
Ludlow Town, Aroostook County
Machiasport Town, Washington County
Machias Town, Washington County
Macwahoc Plantation, Aroostook County
Madawaska Town, Aroostook County
Madison Town, Somerset County
Madrid Town, Franklin County
Mapleton Town, Aroostook County
Mariaville Town, Hancock County
Marshfield Town, Washington County
Mars Hill Town, Aroostook County
Masardis Town, Aroostook County
Mattawamkeag Town, Penobscot County
Meddybemps Town, Washington County
Medford Town, Piscataquis County
Mercer Town, Somerset County
Merrill Town, Aroostook County
Mexico Town, Oxford County
Milbridge Town, Washington County
Monhegan Plantation, Lincoln County
Monroe Town, Waldo County
Monson Town, Piscataquis County
Monticello Town, Aroostook County
Montville Town, Waldo County
Moose River Town, Somerset County
Moro Plantation, Aroostook County
Morrill Town, Waldo County
Moscow Town, Somerset County
Mount Chase Plantation, Penobscot County
Mount Vernon Town, Kennebec County
Naples Town, Cumberland County
Nashville Plantation, Aroostook County
Newcastle Town, Lincolin County
Newfield Town, York County
Newport Town, Penobscot County
New Canada Plantation, Aroostook County
New Gloucester Town, Cumberland County
New Limerick Town, Aroostook County
New Portland Town, Somerset County
New Sweden Town, Aroostook County
New Vineyard Town, Franklin County
Nobleborough Town, Lincoln County
Norridgewock Town, Somerset County
Northfield Town, Washington County
Northport Town, Waldo County
Norway Town, Oxford County
Oakfield Town, Aroostook County
Oakland Town, Kennebec County
Old Orchard Beach Town, York County
Orland Town, Hancock County
Orono Town, Penobscot County
Osborn Plantation, Hancock County
Otisfield Town, Oxford County
Otis Town, Hancock County
Owls Head Town, Knox County
Oxbow Plantation, Aroostook County
Oxford Town, Oxford County
Palermo Town, Waldo County
Palmyra Town, Somerset County
Paris Town, Oxford County
Parkman Town, Piscataquis County
Parsonsfield Town, York County
Patten Town, Penobscot County
Pembroke Town, Washington County
Penobscot Town, Hancock County
Perham Town, Aroostook County
Perry Town, Washington County
Peru Town, Oxford County
Phillips Town, Franklin County
Phippsburg Town, Sagadahoc County
Pittsfield Town, Somerset County
Pittston Town, Kennebec County
Plantation No. 14, Washington County
Plantation No. 21, Washington County
Pleasant Ridge Plantation, Somerset County
Plymouth Town, Penobscot County
Portage Lake Town, Aroostook County
Porter Town, Oxford County
Prentiss Plantation, Penobscot County
Princeton Town, Washington County
Prospect Town, Waldo County
Rangeley Town, Franklin County
Reed Plantation, Aroostook County
Richmond Town, Sagadahoc County
Ripley Town, Somerset County
Robbinston Town, Washington County
Rome Town, Kennebec County
Roque Bluffs Town, Washington County
Rumford Town, Oxford County
Sabattus Town, Androscoggin County
Sandy River Plantation, Franklin County
Sanford Town, York County
Sangerville Town, Piscataquis County
Searsmont Town, Waldo County
Searsport Town, Waldo County
Sebec Town, Piscataquis County
Sedgwick Town, Hancock County
Sherman Town, Aroostook County
Skowhegan Town, Somerset County
Smithfield Town, Somerset County
Smyrna Town, Aroostook County
Solon Town, Somerset County
Somerville Town, Lincoln County
Southport Town, Lincoln County
South Bristol Town, Lincoln County
Springfield Town, Penobscot County
Stacyville Town, Penobscot County
Starks Town, Somerset County
Stetson Town, Penobscot County
Steuben Town, Washington County
Stockholm Town, Aroostook County
Stockton Springs Town, Waldo County
Stoneham Town, Oxford County
Stonington Town, Hancock County
Strong Town, Franklin County
St. Agatha Town, Aroostook County
St. Albans Town, Somerset County
St. Francis Town, Aroostook County
St. John Plantation, Aroostook County
Sullivan Town, Hancock County
Sumner Town, Oxford County
Surry Town, Hancock County
Swans Island Town, Hancock County
Swanville Town, Waldo County
Talmadge Town, Washington County
Temple Town, Franklin County
The Forks Plantation, Somerset County
Thorndike Town, Waldo County
Topsfield Town, Washington County
Tremont Town, Hancock County
Troy Town, Waldo County
Turner Town, Androscoggin County
Union Town, Knox County
Unity Town, Waldo County
Upton Town, Oxford County
Vanceboro Town, Washington County
Van Buren Town, Aroostook County
Vienna Town, Kennebec County
Vinalhaven Town, Knox County
Wade Town, Aroostook County
Waldoboro Town, Lincoln County
Waldo Town, Waldo County
Wallagrass Plantation, Aroostook County
Waltham Town, Hancock County
Warren Town, Knox County
Washburn Town, Aroostook County
Washington Town, Knox County
Waterford Town, Oxford County
Webster Plantation, Penobscot County
Weld Town, Franklin County
Wellington Town, Piscataquis County
Wesley Town, Washington County
Westfield Town, Aroostook County
Westmanland Plantation, Aroostook County
Weston Town, Aroostook County
Westport Town, Lincoln County
West Forks Plantation, Somerset County
West Paris Town, Oxford County
Whitefield Town, Lincoln County
Whiting Town, Washington County
Whitneyville Town, Washington County
Willmantic Town, Piscataquis County
Windsor Town, Kennebec County
Winn Town, Penobscot County
Winterport Town, Waldo County
Winterville Plantation, Aroostook County
Winter Harbor Town, Hancock County
Wiscasset Town, Lincoln County
Woodland Town, Aroostook County
Woodstock Town, Oxford County

Massachusetts

Adams Town, Berkshire County
Amherst Town, Hampshire County
Athol Town, Worcester County
Ayer Town, Middlesex County

Blackstone Town, Worcester County
Brookfield Town, Worcester County
Buckland Town, Franklin County
Charlemont Town, Franklin County
Clinton Town, Worcester County
Cummington Town, Hampshire County
Fairhaven Town, Bristol County
Gay Head Town, Dukes County
Goshen Town, Hampshire County
Great Barrington Town, Berkshire County
Hancock Town, Berkshire County
Hardwick Town, Worcester County
Harwich Town, Barnstable County
Heath Town, Franklin County
Hopedale Town, Worcester County
Hull Town, Plymouth County
Huntington Town, Hampshire County
Middlefield Town, Hampshire County
Millbury Town, Worcester County
Millville Town, Worcester County
Monroe Town, Franklin County
Montague Town, Franklin County
New Braintree Town, Worcester County
Northfield Town, Franklin County
Oak Bluffs Town, Dukes County
Orange Town, Franklin County
Oxford Town, Worcester County
Phillipston Town, Worcester County
Plainfield Town, Hampshire County
Plymouth Town, Plymouth County
Provincetown Town, Barnstable County
Rockland Town, Plymouth County
Rowe Town, Franklin County
Royalston Town, Worcester County
Salisbury Town, Essex County
Sandisfield Town, Berkshire County
Savoy Town, Berkshire County
Southbridge Town, Worcester County
Sunderland Town, Franklin County
Truro Town, Barnstable County
Uxbridge Town, Worcester County
Wareham Town, Plymouth County
Ware Town, Hampshire County
Warwick Town, Franklin County
Webster Town, Worcester County
Wellfleet Town, Barnstable County
Wendell Town, Franklin County
Westport Town, Bristol County
West Springfield Town, Hampden County
Williamsburg Town, Hampshire County

Michigan

Adams Township, Arenac County
* Adams Township, Hillsdale County
* Adams Township, Houghton County
* Aetna Township, Mecosta County
Aetna Township, Missaukee County
* Akron Township, Tuscola County
Albee Township, Saginaw County
Albert Township, Montmorency County
Albion Township, Calhoun County
Algansee Township, Branch County
* Allen Township, Hillsdale County
Allis Township, Presque Isle County
* Allouez Township, Keweenaw County
Aloha Township, Cheboygan County
Amber Township, Mason County
Amboy Township, Hillsdale County
Antioch Township, Wexford County
Antrim Township, Shiawassee County
* Antwerp Township, Van Buren County
Arcada Township, Gratiot County
Arcadia Township, Lapeer County
Arcadia Township, Manistee County
Arenac Township, Arenac County
Argyle Township, Sanilac County
Arlington Township, Van Buren County
Arthur Township, Clare County
Arvon Township, Baraga County
Ashland Township, Newaygo County
* Athens Township, Calhoun County
Austin Township, Mecosta County
Austin Township, Sanilac County
Au Gres Township, Arenac County
Au Sable Township, Roscommon County
Au Train Township, Alger County
Avery Township, Montmorency County
Backus Township, Roscommon County
Bainbridge Township, Berrien County
Baldwin Township, Delta County
Bangor Township, Van Buren County
* Banks Township, Antrim County
* Baraga Township, Baraga County
Bark River Township, Delta County
Barton Township, Newaygo County
Bates Township, Iron County
Bay De Noc Township, Delta County
Bay Mills Township, Chippewa County
Beaverton Township, Gladwin County
Beaver Creek Township, Crawford County
Beaver Township, Newaygo County
Belknap Township, Presque Isle County
* Bellevue Township, Eaton County
Belvidere Township, Montcalm County
Benona Township, Oceana County
Bentley Township, Gladwin County
Benton Township, Berrien County
* Benzonia Township, Benzie County
Bergland Township, Ontonagon County
Berlin Township, St. Clair County
* Berrien Township, Berrien County
Bertrand Township, Berrien County
Bessemer Township, Gogebic County
Bethany Township, Gratiot County
Bethel Township, Branch County
Big Creek Township, Oscoda County
Big Prairie Township, Newaygo County
Big Rapids Township, Mecosta County
* Bingham Township, Huron County
Bismarck Township, Presque Isle County
Blaine Township, Benzie County
Bliss Township, Emmet County
Bloomer Township, Montcalm County
Bloomfield Township, Huron County
Bloomfield Township, Missaukee County
* Bloomingdale Township, Van Buren County
Blue Lake Township, Kalkaska County
Blue Lake Township, Muskegon County
Bohemia Township, Ontonagon County
Bois Blanc Township, Mackinac County
* Boon Township, Wexford County
* Boston Township, Ionia County
Bourrett Township, Gladwin County
* Boyne Valley Township, Charlevoix County
* Brady Township, Saginaw County
Brampton Township, Delta County
Branch Township, Mason County
* Brant Township, Saginaw County
Breen Township, Dickinson County
Brevort Township, Mackinac County
* Bridgehampton Township, Sanilac County
Bridgeton Township, Newaygo County
Briley Township, Montmorency County
Brockway Township, St. Clair County
Bronson Township, Branch County
* Brookfield Township, Huron County
Brown Township, Manistee County
Bruce Township, Chippewa County
Buchanan Township, Berrien County
Buckeye Township, Gladwin County
Buel Township, Sanilac County
Buena Vista Township, Saginaw County
* Burdell Township, Osceola County
Burleigh Township, Iosco County
* Burlington Township, Calhoun County
* Burlington Township, Lapeer County
Burnside Township, Lapeer County
* Burr Oak Township, St. Joseph County
Burt Township, Alger County
Burt Township, Cheboygan County
* Bushnell Township, Montcalm County
Butler Township, Branch County
Butman Township, Gladwin County
Butterfield Township, Missaukee County
Caldwell Township, Missaukee County
Caledonia Township, Alcona County
Caledonia Township, Shiawassee County
California Township, Branch County
* Calumet Township, Houghton County
Calvin Township, Cass County
Cambria Township, Hillsdale County
* Camden Township, Hillsdale County
* Campbell Township, Ionia County
Carp Lake Township, Emmet County
Casco Township, Allegan County
* Caseville Township, Huron County
* Case Township, Presque Isle County
* Casnovia Township, Muskegon County
* Castleton Township, Barry County
* Cato Township, Montcalm County
Cedarville Township, Menominee County
Cedar Creek Township, Wexford County
Centerville Township, Leelanau County
Center Township, Emmet County
* Central Lake Township, Antrim County
Champion Township, Marquette County
Chandler Township, Huron County
Chapin Township, Saginaw County
Charlton Township, Otsego County
Chase Township, Lake County
Chassell Township, Houghton County
Cherry Valley Township, Lake County
Cheshire Township, Allegan County
Chester Township, Eaton County
Chestonia Township, Antrim County
Chikaming Township, Berrien County
Chippewa Township, Chippewa County
Chippewa Township, Mecosta County
Churchill Township, Ogemaw County
Clam Union Township, Missaukee County
Clarence Township, Calhoun County
Clarendon Township, Calhoun County
Clark Township, Mackinac County
Clayton Township, Arenac County
Clearwater Township, Kalkaska County
Clement Township, Gladwin County
*Cleon Township, Manistee County
Cleveland Township, Leelanau County
Clinton Township, Oscoda County
Clyde Township, Allegan County
Coldwater Township, Isabella County
*Colfax Township, Benzie County
Colfax Township, Oceana County
Colfax Township, Wexford County
Coloma Township, Berrien County
*Colon Township, St. Joseph County
*Columbia Township, Tuscola County
*Columbia Township, Van Buren County
Columbus Township, Luce County
Comins Township, Oscoda County
*Concord Township, Jackson County
*Constantine Township, St. Joseph County
Cornell Township, Delta County
*Corwith Township, Otsego County
Covert Township, Van Buren County
Covington Township, Baraga County
Cross Village Township, Emmet County

Crystal Falls Township, Iron County
Crystal Township, Montcalm County
Crystal Township, Oceana County
Cumming Township, Ogemaw County
Curtis Township, Alcona County
Custer Township, Antrim County
*Custer Township, Mason County
Custer Township, Sanilac County
Dafter Township, Chippewa County
*Daggett Township, Menominee County
*Dallas Township, Clinton County
Dayton Township, Newaygo County
Dayton Township, Tuscola County
*Day Township, Montcalm County
*Decatur Township, Van Buren County
*Deep River Township, Arenac County
*Deerfield Township, Lenawee County
*Deerfield Township, Mecosta County
*Delaware Township, Sanilac County
Denver Township, Isabella County
*Denver Township, Newaygo County
*De Tour Township, Chippewa County
Dickson Township, Manistee County
Douglass Township, Montclam County
Dover Township, Lake County
*Dover Township, Lenawee County
Doyle Township, Schoolcraft County
Drummond Township, Chippewa County
Duncan Township, Houghton County
*Duplain Township, Clinton County
*Dwight Township, Huron County
Easton Township, Ionia County
Echo Township, Antrim County
Eckford Township, Calhoun County
Eden Township, Lake County
Eden Township, Mason County
Edwards Township, Ogemaw County
*Elba Township, Gratiot County
Elbridge Township, Oceana County
Elk Township, Lake County
*Elk Township, Sanilac County
Ellington Township, Tuscola County
Ellis Township, Cheboygan County
*Ellsworth Township, Lake County
Elmer Township, Oscoda County
Elmer Township, Sanilac County
*Elmwood Township, Tuscola County
Elm River Township, Houghton County
Emerson Township, Gratiot County
*Emmett Township, St. Clair County
*Empire Township, Leelanau County
Ensign Township, Delta County
Ensley Township, Newaygo County
Enterprise Township, Missaukee County
Erwin Township, Gogebic County
Eureka Township, Montcalm County
Evart Township, Osceola County
Eveline Township, Charlevoix County
Everett Township, Newaygo County
*Evergreen Township, Montclam County
Evergreen Township, Sanilac County
Ewing Township, Marquette County
Fairbanks Township, Delta County
Fairfield Township, Lenawee County
Fairfield Township, Shiawassee County
*Fairgrove Township, Tuscola County
Fairhaven Township, Huron County
*Fairplain Township, Montcalm County
Faithorn Township, Menominee County
Fawn River Township, St. Joseph County
Felch Township, Dickinson County
Ferris Township, Montcalm County
Ferry Township, Oceana County
*Fife Lake Township, Grand Traverse County
Florence Township, St. Joseph County
Flowerfield Township, St. Joseph County
Flynn Township, Sanilac County
Forester Township, Sanilac County
Forest Township, Cheboygan County
*Fork Township, Mecosta County
Franklin Township, Clare County
Franklin Township, Houghton County
Freeman Township, Clare County
*Free Soil Township, Mason County
Fremont Township, Isabella County
Fremont Township, Sanilac County
*Fremont Township, Tuscola County
Friendship Township, Emmet County
Frost Township, Clare County
*Galien Township, Berrien County
Ganges Township, Allegan County
*Garden Township, Delta County
Garfield Township, Clare County
Garfield Township, Kalkaska County
Garfield Township, Mackinac County
Garfield Township, Newaygo County
Geneva Township, Midland County
Geneva Township, Van Buren County
Germfask Township, Schoolcraft County
Gibson Township, Bay County
Gilead Township, Branch County
Gilford Township, Tuscola County
*Gilmore Township, Benzie County
Gilmore Township, Isabella County
Gladwin Township, Gladwin County
Golden Township, Oceana County
Goodar Township, Ogemaw County
Goodwell Township, Newaygo County
Gore Township, Huron County
Gourley Township, Menominee County
Grant Township, Cheboygan County
Grant Township, Grand Traverse County
Grant Township, Huron County
Grant Township, Iosco County
Grant Township, Keweenaw County
Grant Township, Mason County
Grant Township, Mecosta County
Grant Township, Newaygo County
*Grant Township, Oceana County
Grant Township, St. Clair County
Greenbush Township, Alcona County
Greendale Township, Midland County
Greenland Township, Ontonagon County
Greenleaf Township, Sanilac County
Greenwood Township, Clare County
Greenwood Township, Oceana County
Greenwood Township, St. Clair County
Greenwood Township, Wexford County
Green Township, Alpena County
Grim Township, Gladwin County
Grout Township, Gladwin County
*Gustin Township, Alcona County
Hagar Township, Berrien County
Haight Township, Ontonagon County
Hamilton Township, Clare County
Hamilton Township, Gratiot County
Hamilton Township, Van Buren County
Hancock Township, Houghton County
*Handy Township, Livingston County
*Hanover Township, Wexford County
Harrisville Township, Alcona County
Harris Township, Menominee County
Hartford Township, Van Buren County
Hartwick Township, Osceola County
Hart Township, Oceana County
Hastings Township, Barry County
*Hawes Township, Alcona County
Hayes Township, Clare County
Haynes Township, Alcona County
Hay Township, Gladwin County
Heath Township, Allegan County
Hebron Township, Cheboygan County
Hematite Township, Iron County
Henderson Township, Wexford County
Hendricks Township, Mackinac County
Henrietta Township, Jackson County
*Hersey Township, Osceola County
Highland Township, Osceola County
*Hillman Township, Montmorency County
Hill Township, Ogemaw County
Hinton Township, Mecosta County
Holland Township, Missaukee County
Holmes Township, Menominee County
Holton Township, Muskegon County
*Homer Township, Calhoun County
*Homestead Township, Benzie County
*Home Township, Montcalm County
Home Township, Newaygo County
Hope Township, Barry County
Hope Township, Midland County
*Hopkins Township, Allegan County
Horton Township, Ogemaw County
Houghton Township, Keweenaw County
Hudson Township, Charlevoix County
*Hudson Township, Lenawee County
Hudson Township, Mackinac County
Hulbert Township, Chippewa County
Humboldt Township, Marquette County
Huron Township, Huron County
*Indianfields Township, Tuscola County
Inland Township, Benzie County
Interior Township, Ontonagon County
Inwood Township, Schoolcraft County
* Ionia Township, Ionia County
Ira Township, St. Clair County
Ironwood Township, Gogebic County
* Iron River Township, Iron County
* Irving Township, Barry County
Jasper Township, Midland County
Jefferson Township, Cass County
Jefferson Township, Hillsdale County
* Jonesfield Township, Saginaw County
Jordan Township, Antrim County
Joyfield Township, Benzie County
Juniata Township, Tuscola County
Kalamo Township, Eaton County
Kasson Township, Leelanau County
* Kearney Township, Antrim County
Keeler Township, Van Buren County
Keene Township, Ionia County
Kenockee Township, St. Clair County
Kimball Township, St. Clair County
* Kingston Township, Tuscola County
Kinross Township, Chippewa County
Klacking Township, Ogemaw County
Koehler Township, Cheboygan County
* Koylton Township, Tuscola County
Krakow Township, Presque Isle County
Lafayette Township, Saginaw County
Laird Township, Houghton County
Lakefield Township, Luce County
Lakefield Township, Saginaw County
Lake Township, Menominee County
Lake Township, Roscommon County
Lamotte Township, Sanilac County
* Lanse Township, Baraga County
* Lawrence Township, Van Buren County
* La Grange Township, Cass County
* Leavitt Township, Oceana County
* Lebanon Township, Clinton County
* Leelanau Township, Leelanau County
Lee Township, Allegan County
Lee Township, Calhoun County
Lee Township, Midland County
* Lenox Township, Macomb County
Leonidas Township, St. Joseph County
Leoni Township, Jackson County

* Lexington Township, Sanilac County
* Le Roy Township, Osceola County
Liberty Township, Wexford County
Lilley Township, Newaygo County
Limestone Township, Alger County
Lincoln Township, Arenac County
Lincoln Township, Clare County
* Lincoln Township, Huron County
Lincoln Township, Isabella County
Lincoln Township, Newaygo County
Litchfield Township, Hillsdale County
* Littlefield Township, Emmet County
Logan Township, Mason County
Logan Township, Ogemaw County
London Township, Monroe County
Long Rapids Township, Alpena County
Loud Township, Montmorency County
Lovells Township, Crawford County
* Lyons Township, Ionia County
Lyon Township, Roscommon County
* Mackinaw Township, Cheyboygan County
Macon Township, Lenawee County
Madison Township, Lenawee County
* Mancelona Township, Antrim County
* Manistee Township, Manistee County
Manistique Township, Schoolcraft County
Manlius Township, Allegan County
Mansfield Township, Iron County
Maple Forest Township, Crawford County
* Maple Grove Township, Barry County
* Maple Grove Township, Manistee County
* Maple Ridge Township, Delta County
* Maple River Township, Emmet County
Maple Valley Township, Montcalm County
Maple Valley Township, Sanilac County
* Marathon Township, Lapeer County
* Marcellus Township, Cass County
Marengo Township, Calhoun County
Marenisco Township, Gogebic County
Marilla Township, Manistee County
* Marion Township, Osceola County
Marion Township, Saginaw County
* Marion Township, Sanilac County
Markey Township, Roscommon County
* Marlette Township, Sanilac County
Marquette Township, Mackinac County
Martiny Township, Mecosta County
* Martin Township, Allegan County
Masonville Township, Delta County
* Mason Township, Arenac County
Mason Township, Cass County
* Mastodon Township, Iron County
Matchwood Township, Ontonagon County
Mathias Township, Alger County
Matteson Township, Branch County
Mayfield Township, Grand Traverse County
* McKinley Township, Emmet County
*McMillan Township, Luce County
McMillan Township, Ontonagon County
*Meade Township, Huron County
*Mecosta Township, Mecosta County
Medina Township, Lenawee County
Mellen Township, Menominee County
Melrose Township, Charlevoix County
*Mendon Township, St. Joseph County
Mentor Township, Cheboygan County
Mentor Township, Oscoda County
Merrill Township, Newaygo County
Merritt Township, Bay County
Metz Township, Presque Isle County
Meyer Township, Menominee County
Michigamme Township, Marquette County
Middle Branch Township, Osceola County
Mikado Township, Alcona County
Millbrook Township, Mecosta County
Millen Township, Alcona County
Mills Township, Midland County
Mills Township, Ogemaw County
*Minden Township, Sanilac County
Mitchell Township, Alcona County
Moffatt Township, Arenac County
Moltke Township, Presque Isle County
Monroe Township, Newaygo County
Montcalm Township, Montcalm County
Monterey Township, Allegan County
Montmorency Township, Montmorency County
Moore Township, Sanilac County
Moorland Township, Muskegon County
Moscow Township, Hillsdale County
Mottville Township, St. Joseph County
Mount Forest Township, Bay County
Mount Morris Township, Genesee County
Mueller Township, Schoolcraft County
Mullet Township, Cheboygan County
Munising Township, Alger County
Munro Township, Cheboygan County
*Mussey Township, St. Clair County
*Nadeau Township, Menominee County
Nahma Township, Delta County
Nester Township, Roscommon County
Newark Township, Gratiot County
Newberg Township, Cass County
*Newfield Township, Oceana County
*Newkirk Township, Lake County
Newton Township, Mackinac County
New Haven Township, Gratiot County
New Haven Township, Shiawassee County
Niles Township, Berrien County
Noble Township, Branch County
Norman Township, Manistee County
North Allis Township, Presque Isle County
*North Plains Township, Ionia County
North Shade Township, Gratiot County
North Star Township, Gratiot County
Norwich Township, Missaukee County
Norwich Township, Newaygo County
Norwook Township, Charlevoix County
Nottawa Township, Isabella County
*Nottawa Township, St. Joseph County
Novesta Township, Tuscola County
*Nunda Township, Cheboygan County
Ocqueoc Township, Presque Isle County
*Odessa Township, Ionia County
Ogden Township, Lenawee County
Ogemaw Township, Ogemaw County
*Oliver Township, Huron County
*Ontonagon Township, Ontonagon County
Orangeville Township, Barry County
Orange Township, Iona County
Orange Township, Kalkaska County
Orient Township, Osceola County
Orleans Township, Ionia County
*Oronoko Township, Berrien County
Osceola Township, Houghton County
Osceola Township, Osceola County
Oscoda Township, Iosco County
Ossineke Township, Alpena County
Otisco Township, Ionia County
Otto Township, Oceana County
*Ovid Township, Clinton County
*Paradise Township, Grand Traverse County
Paris Township, Huron County
Park Township, St. Joseph County
*Parma Township, Jackson County
*Paw Paw Township, Van Buren County
*Penn Township, Cass County
Pentland Township, Luce County
Pickford Township, Chippewa County
*Pierson Township, Montcalm County
Pine Grove Township, Van Buren County
Pine River Township, Gratiot County
Pine Township, Montcalm County
Pinora Township, Lake County
Pioneer Township, Missaukee County
*Pipestone Township, Berrien County
Pittsford Township, Hillsdale County
Plainfield Township, Iosco County
Platte Township, Benzie County
Pleasanton Township, Manistee County
*Pleasant Plains Township, Leelanau County
*Pleasant Plains Twp., Lake County
Pokagon Township, Cass County
Portage Township, Houghton County
Portage Township, Mackinac County
Porter Township, Cass County
Porter Township, Midland County
*Port Austin Township, Huron County
Port Huron Township, St. Clair County
*Posen Township, Presque Isle County
Powell Township, Marquette County
Prairieville Township, Barry County
Pulaski Township, Jackson County
Pulawski Township, Presque Isle County
*Quincy Township, Branch County
Quincy Township, Houghton County
Ransom Township, Hillsdale County
*Ravenna Township, Muskegon County
Reading Township, Hillsdale County
Readmond Township, Emmet County
Redding Township, Clare County
Reeder Township, Missaukee County
Reno Township, Iosco County
Republic Township, Marquette County
*Reynolds Township, Montcalm County
Richland Township, Missaukee County
Richland Township, Montcalm County
*Richland Township, Ogemaw County
Richmond Township, Marquette County
Richmond Township, Osceola County
Rich Township, Lapeer County
*Ridgeway Township, Lenawee County
Riga Township, Lenawee County
Riverside Township, Missaukee County
Riverton Township, Mason County
Rockland Township, Ontonagon County
*Rock River Township, Alger County
Rolland Township, Isabella County
*Rollin Township, Lenawee County
Rome Township, Lenawee County
Ronald Township, Ionia County
Roscommon Township, Roscommon County
Rose Lake Township, Osceola County
Rose Township, Ogemaw County
Royal Oak Township, Oakland County
*Rubicon Township, Huron County
Rudyard Township, Chippewa County
Rush Township, Shiawassee County
Rust Township, Montmorency County
Sage Township, Gladwin County
Sagola Township, Dickinson County
Sand Beach Township, Huron County
*Sanilac Township, Sanilac County
Sauble Township, Lake County
*Schoolcraft Township, Houghton County
Scipio Township, Hillsdale County
*Sebewaing Township, Huron County
Sebewa Township, Ionia County
Selma Township, Wexford County
Seneca Township, Lenawee County
Seney Township, Schoolcraft County
Seville Township, Gratiot County
*Shelby Township, Oceana County
Sheridan Township, Calhoun County
Sheridan Township, Clare County
Sheridan Township, Huron County
Sheridan Township, Mason County

Sheridan Township, Mecosta County
Sheridan Township, Newaygo County
Sherman Township, Gladwin County
Sherman Township, Huron County
Sherman Township, Isabella County
Sherman Township, Keweenaw County
*Sherman Township, Mason County
Sherman Township, Osceola County
*Sherwood Township, Branch County
*Sidney Township, Montcalm County
Sigel Township, Huron County
Silver Creek Township, Cass County
Skandia Township, Marquette County
*Slagle Township, Wexford County
Sodus Township, Berrien County
Solon Township, Leelanau County
South Arm Township, Charlevoix County
Sough Branch Township, Crawford County
South Haven Township, Van Buren County
*Spalding Township, Menominee County
Spaulding Township, Saginaw County
*Speaker Township, Sanilac County
Springdale Township, Manistee County
Springfield Township, Kalkaska County
*Springport Township, Jackson County
*Springville Township, Wexford County
Spurr Township, Baraga County
Stambaugh Township, Iron County
Standish Township, Arenac County
Stannard Township, Ontonagon County
Stanton Township, Houghton County
Star Township, Antrim County
Stephenson Township, Menominee County
Stronach Township, Manistee County
*St. Charles Township, Saginaw County
St. James Township, Charlevoix County
Sugar Island Township, Chippewa County
Summerfield Township, Monroe County
Summit Township, Mason County
Sumner Township, Gratiot County
Superior Township, Chippewa County
Sweetwater Township, Lake County
Sylvan Township, Osceola County
Tawas Township, Iosco County
*Tekonsha Township, Calhoun County
Thompson Township, Schoolcraft County
*Three Oaks Township, Berrien County
Tompkins Township, Jackson County
Torch Lake Township, Houghton County
Trout Lake Township, Chippewa County
Trowbridge Township, Allegan County
Troy Township, Newaygo County
Turin Township, Marquette County
*Turner Township, Arenac County
Tuscarora Township, Cheboygan County
*Tyrone Township, Kent County
Unadilla Township, Livingston County
*Union Township, Branch County
Valley Township, Allegan County
*Vermontville Township, Eaton County
Verona Township, Huron County
Victory Township, Mason County
Vienna Township, Montmorency County
Volinia Township, Cass County
Wakefield Township, Gogebic County
Wales Township, St. Clair County
Walker Township, Cheboygan County
Walton Township, Eaton County
Warner Township, Antrim County
Washington Township, Gratiot County
*Washington Township, Sanilac County
Waterloo Township, Jackson County
Watersmeet Township, Gogebic County
Watertown Township, Sanilac County
Watertown Township, Tuscola County
Watervliet Township, Berrien County
Watson Township, Allegan County
Waucedah Township, Dickinson County
Waverly Township, Cheboygan County
Wayne Township, Cass County
Weare Township, Oceana County
*Webber Township, Lake County
Weesaw Township, Berrien County
*Weldon Township, Benzie County
Wellington Township, Alpena County
Wells Township, Delta County
Wells Township, Marquette County
Wells Township, Tuscola County
West Branch Township, Dickinson County
West Branch Township, Ogemaw County
Wexford Township, Wexford County
Wheatland Township, Hillsdale County
Wheatland Township, Mecosta County
Wheatland Township, Sanilac County
*Wheeler Township, Gratiot County
Whitefish Township, Chippewa County
*White Pigeon Township, St. Joseph County
Whitney Township, Arenac County
Wilcox Township, Newaygo County
*Wilmot Township, Cheboygan County
Wilson Township, Alpena County
Wilson Township, Charlevoix County
Winfield Township, Montcalm County
*Winsor Township, Huron County
Winterfield Township, Clare County
Wise Township, Isabella County
Wisner Township, Tuscola County
Woodbridge Township, Hillsdale County
*Woodstock Township, Lenawee County
Worth Township, Senilac County
Wright Township, Ottawa County
Yates Township, Lake County

New Hampshire

Albany Town, Carroll County
Alexandria Town, Grafton County
Alstead Town, Cheshire County
Ashland Town, Grafton County
Bartlett Town, Carroll County
Bath Town, Grafton County
Benton Town, Grafton County
Bradford Town, Merrimack County
Campton Town, Grafton County
Canaan Town, Grafton County
Center Conway Town, Carroll County
Center Harbor Town, Belknap County
Chatham Town, Carroll County
Columbia Town, Coos County
Dalton Town, Coos County
Deering Town, Hillsborough County
Dorchester Town, Grafton County
Dublin Town, Cheshire County
Dummer Town, Coos County
Durham Town, Strafford County
Eaton Town, Carroll County
Effingham Town, Carroll County
Farmington Town, Strafford County
Franconia Town, Grafton County
Grafton Town, Grafton County
Greenfield Town, Hillsborough County
Groton Town, Grafton County
Henniker Town, Merrimack County
Hill Town, Merrimack County
Lancaster Town, Coos County
Landaff Town, Grafton County
Lempster Town, Sullivan County
Lincoln Town, Grafton County
Lisbon Town, Grafton County
Littleton Town, Grafton County
Lyman Town, Grafton County
Middleton Town, Strafford County
Nelson Town, Cheshire County
Newbury Town, Merrimack County
New Hampton Town, Belknap County
Northumberland Town, Coos County
Piermont Town, Grafton County
Pittsburg Town, Coos County
Plymouth Town, Grafton County
Springfield Town, Sullivan County
Stark Town, Coos County
Stewartstown Town, Coos County
Stratford Town, Coos County
Troy Town, Cheshire County
Unity Town, Sullivan County
Wakefield Town, Carroll County
Warner Town, Merrimack County
Warren Town, Grafton County
Wentworth Town, Grafton County
Whitefield Town, Coos County
Winchester Town, Cheshire County
Woodstock Town, Grafton County

New Jersey

Belleville Township, Essex County
Berlin Township, Camden County
Commercial Township, Cumberland County
Deerfield Township, Cumberland County
Dennis Township, Cape May County
Downe Township, Cumberland County
Fairfield Township, Cumberland County
Greenwich Township, Cumberland County
Hillside Township, Union County
Lawrence Township, Cumberland County
Lower Alloways Creek Township, Salem County
Mannington Township, Salem County
Maurice River Township, Cumberland County
Middle Township, Cape May County
Montclair Township, Essex County
Mount Holly Township, Burlington County
Mullica Township, Atlantic County
Neptune Township, Monmouth County
New Hanover Township, Burlington County
North Bergen Township, Hudson County
Oldmans Township, Salem County
Oxford Township, Warren County
Pennsauken Township, Camden County
Pittsgrove Township, Salem County
Pohatcong Township, Warren County
Riverside Township, Burlington County
Shrewsbury Township, Monmouth County
Stow Creek Township, Cumberland County
Upper Deerfield Township, Cumberland County
Washington Township, Burlington County
Weehawken Township, Hudson County
Woolwich Township, Gloucester County

New York

*Adams Town, Jefferson County
*Addison Town, Steuben County
Alabama Town, Genesee County
*Albion Town, Orleans County
*Albion Town, Oswego County
*Alexander Town, Genesee County
*Alexandria Town, Jefferson County
*Alfred Town, Allegany County
*Allegany Town, Cattaraugus County
Allen Town, Allegany County
Alma Town, Allegany County
*Altamont Town, Franklin County
Altona Town, Clinton County
*Amsterdam Town, Montgomery County
Ancram Town, Columbia County
*Andes Town, Delaware County
*Andover Town, Allegany County
*Angelica Town, Allegany County

Annsville Town, Oneida County
*Antwerp Town, Jefferson County
*Arcadia Town, Wayne County
*Argyle Town, Washington County
Arietta Town, Hamilton County
Ashford Town, Cattaraugus County
*Ashland Town, Chemung County
Ashland Town, Greene County
*Athens Town, Greene County
*Attica Town, Wyoming County
*Augusta Town, Oneida County
*Au Sable, Clinton County
Ava Town, Oneida County
*Avon Town, Livingston County
*Bainbridge Town, Chenango County
Baldwin Town, Chemung County
Bangor Town, Franklin County
Barre Town, Orleans County
Barrington Town, Yates County
*Barton Town, Tioga County
Batavia Town, Genesee County
*Bath Town, Steuben County
Beekmantown Town, Clinton County
Belfast Town, Allegany County
Bellmont Town, Franklin County
Benson Town, Hamilton County
*Benton Town, Yates County
*Bergen Town, Genesee County
Berlin Town, Rensselaer County
Bethany Town, Genesee County
Bethel Town, Sullivan County
Birdsall Town, Allegany County
Black Brook Town, Clinton County
Bleecker Town, Fulton County
Blenhein Town, Schoharie County
*Bolivar Town, Allegany County
Bolton Town, Warren County
Bombay Town, Franklin County
*Boonville Town, Oneida County
Bovina Town, Delaware County
Boylston Town, Oswego County
Bradford Town, Steuben County
Brandon Town, Franklin County
*Brant Town, Erie County
Brasher Town, St. Lawrence County
*Bridgewater Town, Oneida County
Brighton Town, Franklin County
*Broadalbin Town, Fulton County
Brookfield Town, Madison County
*Brownville Town, Jefferson County
*Brutus Town, Cayuga County
*Burke Town, Franklin County
Burlington Town, Otsego County
*Burns Town, Allegany County
Cairo Town, Greene County
*Cambridge Town, Washington County
*Camden Town, Oneida County
Cameron Town, Steuben County
*Canajoharie Town, Montgomery County
*Candor Town, Tioga County
Caneadea Town, Allegany County
*Canisted Town, Steuben County
*Canton Town, St. Lawrence County
*Cape Vincent Town, Jefferson County
Carlton Town, Orleans County
Caroga Town, Fulton County
Caroline Town, Tompkins County
*Carrollton Town, Cattaraugus County
*Castile Town, Wyoming County
*Catharine Town, Schuyler County
Catlin Town, Chemung County
*Cato Town, Cayuga County
*Catskill Town, Greene County
Cayuta Town, Schuyler County
Centerville Town, Allegany County
*Champion Town, Jefferson County
*Champlain Town, Clinton County
*Chateaugay Town, Franklin County
*Chautauqua Town, Chautauqua County
Chazy Town, Clinton County
Chemung Town, Chemung County
*Cherry CreeK Town, Chautauqua County
*Cherry Valley Town, Otsego County
*Chesterfield Town, Essex County
Chester Town, Warren County
Cincinnatus Town, Cortland County
Clare Town, St. Lawrence County
*Clayton Town, Jefferson County
Clifton Town, St. Lawrence County
Clinton Town, Clinton County
Clymer Town, Chautauqua County
*Cobleskill Town, Schoharie County
Colchester Town, Delaware County
Cold Spring Township, Cattaraugus County
*Collins Town, Erie County
Colton Town, St. Lawrence County
Columbia Town, Herkimer County
Columbus Town, Chenango County
*Concord Town, Erie County
Conesville Town, Schoharie County
*Conewango Town, Cattaraugus County
Conquest Town, Cayuga County
Constable Town, Franklin County
Copake Town, Columbia County
*Corinty Town, Saratoga County
*Coxsackie Town, Greene County
*Croghan Town, Lewis County
Crown Point Town, Essex County
Cuyler Town, Cortland County
*Dannemora Town, Clinton County
Dansville Town, Steuben County
Danube Town, Herkimer County
Darien Town, Genesee County
*Dayton Town, Cattaraugus County
Day Town, Saratoga County
Decatur Town, Otsego County
Deerpark Town, Orange County
Delaware Town, Sullivan County
*Delhi Town, Delaware County
*Denmark Town, Lewis County
Denning Town, Ulster County
*De Kalb Town, St. Lawrence County
De Peyster Town, St. Lawrence County
*De Ruyter Town, Madison County
*Diana Town, Lewis County
Dickinson Town, Franklin County
*Dix Town, Schuyler County
Dresden Town, Washington County
Dunkirk Town, Chautauqua County
Durham Town, Greene County
Eagle Town, Wyoming County
*Easton Town, Washington County
East Otto Town, Cattaraugus County
*Eaton Town, Madison County
Eden Town, Erie County
Edinburg Town, Saratoga County
Edmeston Town, Otsego County
*Edwards Town, St. Lawrence County
*Elba Town, Genesee County
Elizabethtown Town, Essex County
Ellenburg Town, Clinton County
* Ellicottville Town, Cattaraugus County
Ellington Town, Chautauqua County
*Ellisburg Town, Jefferson County
Enfield Town, Tompkins County
Ephratah Town, Fulton County
Erin Town, Chemung County
Esopus Town, Ulster County
Essex Town, Essex County
*Evans Town, Erie County
Exeter Town, Otsego County
*Fairfield Town, Herkimer County
*Fallsburg Town, Sullivan County
Farmersville Town, Cattaraugus County
Fenner Town, Madison County
Fine Town, St. Lawrence County
Florence Town, Oneida County
Fort Covington Town, Franklin County
*Fort Edward Town, Washington County
Fowler Town, St. Lawrence County
*Frankfort Town, Herkimer County
Franklinville Town, Cattaraugus County
*Franklin Town, Delaware County
Franklin Town, Franklin County
Freedom Town, Cattaraugus County
Freetown Town, Cortland County
Fremont Town, Steuben County
Fremont Town, Sullivan County
French Creek Town, Chautauqua County
Friendship Town, Allegany County
Fulton Town, Schoharie County
*Gainesville Town, Wyoming County
*Galen Town, Wayne County
Genesee Falls Town, Wyoming County
Genesee Town, Allegany County
*Geneseo Town, Livingston County
Genda Town, Cayuga County
Georgetown Town, Madison County
*German Flatts Town, Herkimer County
German Town, Chenango County
Gilboa Town, Schoharie County
*Gouverneur Town, St. Lawrence County
Granger Town, Allegany County
*Granville Town, Washington County
Great Valley Town, Cattaraugus County
Greenfield Town, Saratoga County
Greenville Town, Greene County
*Greenwich Town, Washington County
Greenwood Town, Steuben County
*Green Island Town, Albany County
Greig Town, Lewis County
Groveland Town, Livingston County
Grove Town, Allegany County
Guilford Town, Chenango County
Hadley Town, Saratoga County
Hague Town, Warren County
Halcott Town, Greene County
Hamden Town, Delaware County
*Hamilton Town, Madison County
*Hammond Town, St. Lawrence County
*Hancock Town, Delaware County
*Hannibal Town, Oswego County
*Hanover Town, Chautauqua County
Hardenbergh Town, Ulster County
Harford Town, Cortland County
*Harmony Town, Chautauqua County
*Harpersfield Town, Delaware County
*Harrietstown Town, Franklin County
Harrisburg Town, Lewis County
Hartford Town, Washington County
*Hartland Town, Niagara County
Hartsville Town, Steuben County
Hartwick Town, Otsego County
Hebron Town, Washington County
*Hector Town, Schuyler County
Henderson Town, Jefferson County
*Herkimer Town, Herkimer County
*Hermon Town, St. Lawrence County
Highland Town, Sullivan County
Hillsdale Town, Columbia County
Hinsdale Town, Cattaraugus County
Holland Town, Erie County
*Hoosick Town, Rensselaer County
Hope Town, Hamilton County
Hopkinton Town, St. Lawrence County
Horicon Town, Warren County
Hornby Town, Steuben County

*Horseheads Town, Chemung County
*Hounsfield Town, Jefferson County
Howard Town, Steuben County
*Hume Town, Allegany County
Humphrey Town, Cattaraugus County
*Hunter Town, Greene County
Independence Town, Allegany County
Indian Lake Town, Hamilton County
Inlet Town, Hamilton County
*Ira Town, Cayuga County
Ischua Town, Cattaraugus County
Italy Town, Yates County
Jasper Town, Steuben County
Jay Town, Essex County
Jefferson Town, Schoharie County
*Jerusalem Town, Yates County
Jewett Town, Greene County
Johnsburg Town, Warren County
Junius Town, Seneca County
*Kingsbury Town, Washington County
Kortright Town, Delaware County
*Lake George Town, Warren County
Lake Luzerne Town, Warren County
*Lake Pleasant Town, Hamilton County
*Lancaster Town, Erie County
Lawrence Town, St. Lawrence County
Lebanon Town, Madison County
*Ledyard Town, Cayuga County
*Lenox Town, Madison County
Leon Town, Cattaraugus County
Lewis Town, Essex County
Lewis Town, Lewis County
Lexington Town, Greene County
*Leyden Town, Lewis County
*Le Ray Town, Jefferson County
*Le Roy Town, Genesee County
*Liberty Town, Sullivan County
Lincklaen Town, Chenango County
Lisbon Town, St. Lawrence County
*Lisle Town, Broome County
Little Falls Town, Herkimer County
*Little Valley Town, Cattaraugus County
Locke Town, Cayuga County
*Lodi Town, Seneca County
Long Lake Town, Hamilton County
Lorraine Town, Jefferson County
*Lowville Town, Lewis County
*Lyme Town, Jefferson County
Lydon Town, Cattaraugus County
*Lyonsdale Town, Lewis County
*Lyons Town, Wayne County
Machias Town, Cattaraugus County
Macomb Town, St. Lawrence County
*Madison Town, Madison County
Madrid Town, St. Lawrence County
*Malone Town, Franklin County
*Mamakating Town, Sullivan County
*Manheim Town, Herkimer County
Mansfield Town, Cattaraugus County
*Marathon Town, Cortland County
Martinsburg Town, Lewis County
*Maryland Town, Otsego County
Masonville Town, Delaware County
*Massena Town, St. Lawrence County
*Mayfield Town, Fulton County
McDonough Town, Chenango County
*Mentz Town, Cayuga County
Meredith Town, Delaware County
*Mexico Town, Oswego County
*Middletown Town, Delaware County
Milan Town, Dutchess County
*Milo Town, Yates County
*Minden Town, Montgomery County
Minerva Town, Essex County
*Mohawk Town, Montgomery County
*Moira Town, Franklin County
Montague Town, Lewis County
Montezuma Town, Cayuga County
*Montour Town, Schuyler County
*Mooers Town, Clinton County
*Moravia Town, Cayuga County
Morehead Town, Hamilton County
*Moriah Town, Essex County
*Morristown Town, St. Lawrence County
*Mount Morris Town, Livingston County
*Murray Town, Orleans County
Napoli Town, Cattaraugus County
Newcomb Town, Essex County
Newfane Town, Niagara County
*Newstead Town, Erie County
*New Albion Town, Cattaraugus County
*New Berlin Town, Chenango County
*New Brehem Town, Lewis County
New Lisbon Town, Otsego County
*New Paltz Town, Ulster County
Niles Town, Cayuga County
*Norfolk Town, St. Lawrence County
*Northampton Town, Fulton County
*North Collins Town, Erie County
*North Dansville Town, Livingston County
*North Elba Town, Essex County
North Harmony Town, Chautauqua County
North Hudson Town, Essex County
Norway Town, Herkimer County
*Oakfield Town, Genesee County
Ohio Town, Herkimer County
Olean Town, Cattaraugus County
*Oppenheim Town, Fulton County
Orange Town, Schuyler County
Orleans Town, Jefferson County
Orwell Town, Oswego County
Osceola Town, Lewis County
*Oswegatchie Town, St. Lawrence County
Otselic Town, Chenango County
Otto Town, Cattaraugus County
*Ovid Town, Seneca County
Owasco Town, Cayuga County
*Pamelia Town, Jefferson County
Parishville Town, St. Lawrence County
*Paris Town, Oneida County
Pavilion Town, Genesee County
*Pembroke Town, Genesee County
*Perrysburg Town, Cattaraugus County
*Perry Town, Wyoming County
*Persia Town, Cattaraugus County
Peru Town, Clinton County
Pharsalia Town, Chenango County
*Philadelphia Town, Jefferson County
Piercefield Town, St. Lawrence County
Pierrepont Town, St. Lawrence County
*Pike Town, Wyoming County
Pinckney Town, Lewis County
Pitcairn Town, St. Lawrence County
Pitcher Town, Chenango County
Pittsfield Town, Otsego County
Plainfield Town, Otsego County
Plymouth Town, Chenango County
*Portville Town, Cattaraugus County
*Potsdam Town, St. Lawrence County
*Potter Town, Yates County
Prattsburg Town, Steuben County
Prattsville Town, Greene County
Preston Town, Chenango County
Providence Town, Saratoga County
Pulteney Town, Steuben County
Putnam Town, Washington County
*Randolph Town, Cattaraugus County
Rathbone Town, Steuben County
*Reading Town, Schuyler County
Redfield Town, Oswego County
Red House Town, Cattaraugus County
Rensselaerville Town, Albany County
*Richfield Town, Otsego County
Richford Town, Tioga County
*Richland Town, Oswego County
*Richmondville Town, Schoharie County
*Ridgeway Town, Orleans County
Rochester Town, Ulster County
Rockland Town, Sullivan County
Rodman Town, Jefferson County
Roseboom Town, Otsego County
Rose Town, Wayne County
Rossie Town, St. Lawrence County
Roxbury Town, Delaware County
*Royalton Town, Niagara County
Rushford Town, Allegany County
Russell Town, St. Lawrence County
*Russia Town, Herkimer County
*Rutland Town, Jefferson County
Salamanca Town, Cattaraugus County
*Salem Town, Washington County
Salisbury Town, Herkimer County
*Sandy Creek Town, Oswego County
*Sangerfield Town, Oneida County
*Saranac Town, Clinton County
Sardinia Town, Erie County
Savannah Town, Wayne County
*Schodack Town, Rensselaer County
*Schoharie Town, Schoharie County
Schroon Town, Essex County
Schuyler Falls Town, Clinton County
Scipio Town, Cayuga County
Sempronius Town, Cayuga County
*Seneca Falls Town, Seneca County
Seneca Town, Ontario County
Sennett Town, Cayuga County
Seward Town, Schoharie County
*Shandaken Town, Ulster County
*Sharon Town, Schoharie County
Shawangunk Town, Ulster County
*Shelby Town, Orleans County
*Sherburne Town, Chenango County
*Sherman Town, Chautauqua County
*Sidney Town, Delaware County
Smithfield, Town, Madison County
*Smyrna Town, Chenango County
*Sodus Town, Wayne County
Solon Town, Cortland County
*Somerset Town, Niagara County
Southport Town, Chemung County
South Valley Town, Cattaraugus County
Springfield Town, Otsego County
*Springport Town, Cayuga County
*Stamford Town, Delaware County
Stark Town, Herkimer County
Stephentown Town, Rensselaer County
*Sterling Town, Cayuga County
Steuben Town, Oneida County
*Stockbridge Town, Madison County
Stockholm Town, St. Lawrence County
*Stockton Town, Chautauqua County
Stony Creek Town, Warren County
Stratford Town, Fulton County
*St. Armand Town, Essex County
St. Johnsville Town, Montgomery County
Summerhill Town, Cayuga County
Summit Town, Schoharie County
* Sweden Town, Monroe County
Taghkanic Town, Columbia County
Taylor Town, Courtland County
* Theresa Town, Jefferson County
* Thompson Town, Sullivan County
Thurman Town, Warren County
* Ticonderoga Town, Essex County
* Trenton Town, Oneida County
Troupsburg Town, Steuben County
Truxton Town, Cortland County

* Turin Town, Lewis County
Tuscarora Town, Steuben County
Tyrone Town, Schuyler County
* Van Etten Town, Chemung County
Venice Town, Cayuga County
Victory Town, Cayuga County
* Vienna Town, Oneida County
Virgil Town, Cortland County
* Waddington Town, St. Lawrence County
* Walton Town, Delaware County
Warrensburg Town, Warren County
Warren Town, Herkimer County
* Waterloo Town, Seneca County
Watertown Town, Jefferson County
Watson Town, Lewis County
Waverly Town, Franklin County
* Wawarsing Town, Ulster County
Wayne Town, Steuben County
* Wellsville Town, Allegany County
Wells Town, Hamilton County
Western Town, Oneida County
* Westfield Town, Chautauqua County
Westford Town, Otsego County
* Westport Town, Essex County
Westville Town, Franklin County
West Almond Town, Allegany County
West Sparta Town, Livingston County
* West Turin Town, Lewis County
West Union Town, Steuben County
Wetherfield Town, Wyoming County
Wheeler Town, Steuben County
* Whitehall Town, Washington County
Willet Town, Cortland County
Williamstown Town, Oswego County
Willing Town, Allegany County
Willsboro Town, Essex County
Wilmington Town, Essex County
* Wilna Town, Jefferson County
* Wilson Town, Niagara County
Windham Town, Greene County
* Wirt Town, Allegany County
* Wolcott Town, Wayne County
* Woodhull Town, Steuben County
Worcester Town, Otsego County
Worth Town, Jefferson County
* Yates Town, Orleans County
* Yorkshire Town, Cattaraugus County
York Town, Livingston County

Pennsylvania

Abbott Township, Potter County
Adams Township, Cambria County
Addison Township, Somerset County
Albany Township, Bradford County
Aleppo Township, Greene County
Allegany Township, Potter County
Allegheny Township, Butler County
Allegheny Township, Cambria County
Allegheny Township, Somerset County
Allegheny Township, Venango County
Allison Township, Clinton County
Amity Township, Erie County
Annin Township, McKean County
Annville Township, Lebanon County
Anthony Township, Lycoming County
Apolacon Township, Susquehanna County
Ararat Township, Susquehanna County
Armagh Township, Mifflin County
Armenia Township, Bradford County
Armstrong Township, Lycoming County
Asylum Township, Bradford County
Athens Township, Bradford County
Athens Township, Crawford County
Auburn Township, Susquehanna County
Ayr Township, Fulton County
Banks Township, Carbon County
Banks Township, Indiana County
Barnett Township, Forest County
Barnett Township, Jefferson County
Barree Township, Huntingdon County
Barry Township, Schuylkill County
Barr Township, Cambria County
Bart Township, Lancaster County
Bastress Township, Lycoming County
Beale Township, Juniata County
Beaver Township, Clarion County
Beaver Township, Columbia County
Beaver Township, Crawford County
Beaver Township, Jefferson County
Beccaria Township, Clearfield County
Bedford Township, Bedford County
Beech Creek Township, Clinton County
Belfast Township, Fulton County
Bell Township, Clearfield County
Bell Township, Jefferson County
Bell Township, Westmoreland County
Benezette Township, Elk County
Benton Township, Columbia County
Benton Township, Lackawanna County
Berlin Township, Wayne County
Bethel Township, Armstrong County
Bethel Township, Fulton County
Bethel Township, Lebanon County
Bigler Township, Clearfield County
Bingham Township, Potter County
Blacklick Township, Cambria County
Black Creek Township, Luzerne County
Black Lick Township, Indiana County
Black Township, Somerset County
Blaine Township, Washington County
Blair Township, Blair County
Bloomfield Township, Bedford County
Bloomfield Township, Crawford County
Bloom Township, Clearfield County
Bloss Township, Tioga County
Blythe Township, Schuylkill County
Boggs Township, Armstrong County
Boggs Township, Centre County
Boggs Township, Clearfield County
Bradford Township, Clearfield County
Bradford Township, McKean County
Bradys Bend Township, Armstrong County
Brady Township, Butler County
Brady Township, Clearfield County
Brady Township, Huntingdon County
Branch Township, Schuylkill County
Bratton Township, Mifflin County
Brecknock Township, Lancaster County
Broad Top Township, Bedford County
Brokenstraw Township, Warren County
Brookfield Township, Tioga County
Brooklyn Township, Susquehanna County
Brothersvalley Township, Somerset County
Brown Township, Lycoming County
Brown Township, Mifflin County
Brush Creek Township, Fulton County
Brush Valley Township, Indiana County
Buckingham Township, Wayne County
Buck Township, Luzerne County
Buffalo Township, Union County
Buffington Township, Indiana County
Bullskin Township, Fayette County
Burlington Township, Bradford County
Burnside Township, Centre County
Burnside Township, Clearfield County
Burrell Township, Armstrong County
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Cambria Township, Cambria County
Cambridge Township, Crawford County
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Canoe Township, Indiana County
Canton Township, Bradford County
Canton Township, Washington County
Carbondale Township, Lackawanna County
Carbon Township, Huntingdon County
Casade Township, Lycoming County
Cass Township, Huntingdon County
Cass Township, Schuylkill County
Castanea Township, Clinton County
Catawissa Township, Columbia County
Catharine Township, Blair County
Center Township, Greene County
Center Township, Indiana County
Center Township, Snyder County
Ceres Township, McKean County
Chanceford Township, York County
Chapman Township, Clinton County
Chapman Township, Snyder County
Charleston Township, Tioga County
Chatham Township, Tioga County
Cherryhill Township, Indiana County
Cherry Grove Township, Warren County
Cherry Township, Sullivan County
Chest Township, Cambria County
Chest Township, Clearfield County
Clara Township, Potter County
Clay Township, Butler County
Clay Township, Huntingdon County
Clearfield Township, Butler County
Clearfield Township, Cambria County
Cleveland Township, Columbia County
Clinton Township, Lycoming County
Clinton Township, Wyoming County
Clover Township, Jefferson County
Clymer Township, Tioga County
Coal Township, Northumberland County
Cogan House Township, Lycoming County
Colebrook Township, Clinton County
Colerain Township, Lancaster County
Colley Township, Sullivan County
Columbia Township, Bradford County
Concord Township, Butler County
Concord Township, Erie County
Conemaugh Township, Cambria County
Conemaugh Township, Indiana County
Conemaugh Township, Somerset County
Conewago Township, York County
Conewango Township, Warren County
Conneaut Township, Crawford County
Conneaut Township, Erie County
Conyngham Township, Columbia County
Conyngham Township, Luzerne County
Coolbaugh Township, Monroe County
Coolspring Township, Mercer County
Cooper Township, Clearfield County
Corydon Township, McKean County
Covington Township, Clearfield County
Covington Township, Lackawanna County
Covington Township, Tioga County
Cowanshannock Township, Armstrong County
Cresson Township, Cambria County
Cromwell Township, Huntingdon County
Croyle Township, Cambria County
Cumberland Township, Greene County
Cumberland Valley Township, Bedford County
Cummings Township, Lycoming County
Curtin Township, Centre County
Cussewago Township, Crawford County
Damascus Township, Wayne County
Darlington Township, Beaver County
Davidson Township, Sullivan County
Dean Township, Cambria County
Decatur Township, Mifflin County

Deerfield Township, Tioga County
Deerfield Township, Warren County
Deer Creek Township, Mercer County
Delaware Township, Juniata County
Delaware Township, Northumberland County
Delmar Township, Tioga County
Derry Township, Mifflin County
Derry Township, Montour County
Derry Township, Westmoreland County
Dimock Township, Susquehanna County
Donegal Township, Butler County
Donegal Township, Washington County
Donegal Township, Westmoreland County
Dorrance Township, Luzerne County
Dreher Township, Wayne County
Dublin Township, Fulton County
Dublin Township, Huntingdon County
Dunbar Township, Fayette County
Duncan Township, Tioga County
Dunkard Township, Greene County
Dunnstable Township, Clinton County
Dyberry Township, Wayne County
Earl Township, Lancaster County
East Bethlehem Township, Washington County
East Cameron Township, Northumberland County
East Carroll Township, Cambria County
East Chillisquaque Twp., Northumberland County
East Deer Township, Allegheny County
East Fairfield Township, Crawford County
East Fallowfield Twp., Crawford County
East Finley Township, Washington County
East Franklin Township, Armstrong County
East Huntingdon Township, Westmoreland County
East Mahoning Township, Indiana County
East Manchester Township, York County
East Mead Township, Crawford County
East Norwegian Township, Schuylkill County
East Nottingham Township, Chester County
East Penn Township, Carbon County
East Providence Township, Bedford County
East St Clair Township, Bedford County
East Taylor Township, Cambria County
East Union Township, Schuylkill County
East Vincent Township, Chester County
East Wheatfield Township, Indiana County
Eden Township, Lancaster County
Elder Township, Cambria County
Eldred Township, Jefferson County
Eldred Township, McKean County
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Eldred Township, Schuylkill County
Eldred Township, Warren County
Elkland Township, Sullivan County
Elkland Township, Tioga County
Elk Creek Township, Erie County
Elk Lick Township, Somerset County
Elk Township, Tioga County
Exeter Township, Wyoming County
Fairfield Township, Crawford County
Fairfield Township, Westmoreland County
Fairhope Township, Somerset County
Fairmont Township, Luzerne County
Fairview Township, Butler County
Fairview Township, Mercer County
Fallowfield Township, Washington County
Falls Township, Wyoming County
Fannett Township, Franklin County
Farmington Township, Clarion County
Farmington Township, Tioga County
Farmington Township, Warren County
Fawn Township, York County
Fayette Township, Juniata County
Fell Township, Lackawanna County
Findley Township, Mercer County
Fishing Creek Twp., Columbia County
Forks Township, Sullivan County
Foster Township, Luzerne County
Foster Township, Schuylkill County
Fox Township, Sullivan County
Frailey Township, Schuylkill County
Franklin Township, Bradford County
Franklin Township, Carbon County
Franklin Township, Columbia County
Franklin Township, Fayette County
Franklin Township, Greene County
Franklin Township, Huntingdon County
Franklin Township, Luzerne County
Franklin Township, Lycoming County
Franklin Township, Susquehanna County
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Freeport Township, Greene County
French Creek Township, Mercer County
Gaines Township, Tioga County
Gallagher Township, Clinton County
Gallitzin Township, Cambria County
Genesee Township, Potter County
Georges Township, Fayette County
German Township, Fayette County
Gibson Township, Cameron County
Gibson Township, Susquehanna County
Gilmore Township, Greene County
Gilpin Township, Armstrong County
Girard Township, Clearfield County
Girard Township, Erie County
Glade Township, Warren County
Goshen Township, Clearfield County
Graham Township, Clearfield County
Grant Township, Indiana County
Granville Township, Bradford County
Granville Township, Mifflin County
Gray Township, Greene County
Greene Township, Clinton County
Greene Township, Greene County
Greene Township, Mercer County
Greenfield Township, Blair County
Greenfield Township, Erie County
Greenville Township, Somerset County
Greenwood Township, Clearfield County
Greenwood Township, Columbia County
Greenwood Township, Crawford County
Greenwood Township, Juniata County
Green Township, Forest County
Green Township, Indiana County
Gregg Township, Centre County
Gregg Township, Union County
Grove Township, Cameron County
Gulich Township, Clearfield County
Haines Township, Centre County
Halfmoon Township, Centre County
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Hamilton Township, Monroe County
Hamilton Township, Tioga County
Hamlin Township, McKean County
Hanover Township, Luzerne County
Harford Township, Susquehanna County
Harmony Township, Forest County
Harmony Township, Susquehanna County
Harrison Township, Allegheny County
Harrison Township, Bedford County
Harrison Township, Potter County
Hartley Township, Union County
Hayfield Township, Crawford County
Hazle Township, Luzerne County
Hebron Township, Potter County
Hector Township, Potter County
Hegins Township, Schuylkill County
Hemlock Township, Columbia County
Henderson Township, Huntingdon County
Henderson Township, Jefferson County
Henry Clay Township, Fayette County
Herrick Township, Bradford County
Hickory Township, Forrest County
Highland Township, Chester County
Highland Township, Clarion County
Highland Township, Elk County
Hillsgrove Township, Sullivan County
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Hopewell Township, Bedford County
Hopewell Township, Cumberland County
Hopewell Township, Huntingdon County
Hopewell Township, Wshington County
Hopewell Township, York County
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Hovey Township, Armstrong County
Howard Township, Centre County
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Irwin Township, Venango County
Jackson Township, Butler County
Jackson Township, Cambria County
Jackson Township, Columbia County
Jackson Township, Greene County
Jackson Township, Huntingdon County
Jackson Township, Lebanon County
Jackson Township, Lycoming County
Jackson Township, Northumberland County
Jackson Township, Perry County
Jackson Township, Snyder County
Jackson Township, Susquehanna County
Jackson Township, Tioga County
Jackson Township, Venango County
Jay Township, Elk County
Jefferson Township, Greene County
Jefferson Township, Lackawanna County
Jenkins Township, Luzerne County
Jenks Township, Forest County
Jordan Township, Clearfield County
Jordan Township, Lycoming County
Jordan Township, Northumberland County
Juniata Township, Bedford County
Juniata Township, Blair County
Juniata Township, Huntingdon County
Karthaus Township, Clearfield County
Keating Township, McKean County
Keating Township, Potter County
Kelly Township, Union County
Kimmel Township, Bedford County
Kingsley Township, Forest County
Kingston Township, Luzerne County
King Township, Bedford County
Kline Township, Schuylkill County
Knox Township, Clearfield County
Knox Township, Jefferson County
Lackawannock Township, Mercer County
Lack Township, Juniata County
Lake Township, Luzerne County
Lake Township, Mercer County
Lamar Township, Clinton County
Laporte Township, Sullivan County
Larimer Township, Somerset County
Lathrop Township, Susquehanna County
Lawrence Township, Clearfield County
Lawrence Township, Tioga County
La Plume Township, Lackawanna County
Leacock Township, Lancaster County
Lebanon Township, Wayne County

Lehigh Township, Carbon County
Lehigh Township, Lackawanna County
Lehman Township, Luzerne County
Leidy Township, Clinton County
Lemon Township, Wyoming County
Lenox Township, Susquehanna County
Leroy Township, Bradford County
Lewis Township, Lycoming County
Lewis Township, Northumberland County
Lewis Township, Union County
Le Boeuf Township, Erie County
Liberty Township, Adams County
Liberty Township, Bedford County
Liberty Township, Centre County
Liberty Township, McKean County
Liberty Township, Susquehanna County
Liberty Township, Tioga County
Licking Creek Township, Fulton County
Licking Township, Clarion County
Limerick Township, Montgomery County
Limestone Township, Union County
Lincoln Township, Bedford County
Lincoln Township, Huntingdon County
Lincoln Township, Somerset County
Litchfield Township, Bradford County
Little Beaver Township, Lawrence County
Little Britain Township, Lancaster County
Little Mahanoy Township, Northumberland County
Locust Township, Columbia County
Logan Township, Blair County
Logan Township, Clinton County
Logan Township, Huntingdon County
Londonderry Township, Bedford County
Lower Augusta Township, Northumberland County
Lower Chanceford Township, York County
Lower Chichester Township, Delaware County
Lower Mahanoy Township, Northumberland County
Lower Mount Bethel Township, Northampton County
Lower Oxford Township, Chester County
Lower Towamensing Township, Carbon County
Lower Turkeyfoot Township, Somerset County
Lower Tyrone Township, Fayette County
Lower Windsor Township, York County
Lower Yoder Township, Cambria County
Loyalhanna Township, Westmoreland County
Loyalsock Township, Lycoming County
Lumber Township, Cameron County
Lurgan Township, Franklin County
Luzerne Township, Fayette County
Madison Township, Armstrong County
Madison Township, Clarion County
Madison Township, Columbia County
Madison Township, Lackawanna County
Mahanoy Township, Schuylkill County
Mahoning Township, Lawrence County
Manchester Township, Wayne County
Mann Township, Bedford County
Manor Township, Armstrong County
Marion Township, Butler County
Marion Township, Centre County
McCalmont Township, Jefferson County
McHenry Township, Lycoming County
McIntyre Township, Lycoming County
McKean Township, Erie County
McNett Township, Lycoming County
Mead Township, Warren County
Mehoopany Township, Wyoming County
Menallen Township, Fayette County
Menno Township, Mifflin County
Meshoppen Township, Wyoming County
Metal Township, Franklin County
Middlebury Township, Tioga County
Middlecreek Township, Somerset County
Middletown Township, Susquehanna County
Mifflin Township, Columbia County
Mifflin Township, Lycoming County
Miles Township, Centre County
Milford Township, Juniata County
Milford Township, Sumerset County
Millcreek Township, Clarion County
Millcreek Township, Lebanon County
Miller Township, Huntingdon County
Millstone Township, Elk County
Mill Creek Township, Lycoming County
Mill Creek Township, Mercer County
Mineral Township, Venango County
Monongahela Township, Greene County
Monroe Township, Bedford County
Monroe Township, Bradford County
Monroe Township, Juniata County
Monroe Township, Wyoming County
Montgomery Township, Franklin County
Montgomery Township, Indiana County
Montour Township, Columbia County
Moreland Township, Lycoming County
Morgan Township, Greene County
Morris Township, Clearfield County
Morris Township, Greene County
Morris Township, Huntingdon County
Morris Township, Tioga County
Morris Township, Washington County
Mount Carmel Township, Northumberland County
Mount Pleasant Township, Columbia County
Mount Pleasant Township, Wayne County
Mount Pleasant Township, Westmoreland County
Muncy Township, Lycoming County
Munster Township, Cambria County
Napier Township, Bedford County
Nelson Township, Tioga County
Nescopeck Township, Luzerne County
Neville Township, Allegheny County
Newport Township, Luzerne County
New Castle Township, Schuylkill County
Nicholson Township, Fayette County
Nicholson Township, Wyoming County
Nippenose Township, Lycoming County
Northampton Township, Sumerset County
Northeast Madison Township, Perry County
Northmoreland Township, Wyoming County
North Buffalo Township, Armstrong County
North Lebanon Township, Lebanon County
North Mahoning Township, Indiana County
North Shenango Township, Crawford County
North Towanda Township, Bradford County
North Union Township, Fayette County
North Union Township, Schuylkill County
North Woodbury Township, Blair County
Norwegian Township, Schuylkill County
Norwich Township, McKean County
Noxen Township, Wyoming County
Noyes Township, Clinton County
Oakland Township, Butler County
Oakland Township, Susquehanna County
Oil Creek Township, Venango County
Oil Creek Township, Crawford County
Oliver Township, Jefferson County
Oliver Township, Mufflin County
Oregon Township, Wayne County
Orwell Township, Bradford County
Osceola Township, Tioga County
Oswayo Township, Potter County
Otto Township, McKean County
Overfield Township, Wyoming County
Overton Township, Bradford County
Paint Township, Somerset County
Paradise Township, Lancaster County
Parker Township, Butler County
Parks Township, Armstrong County
Patterson Township, Beaver County
Peach Bottom Township, York County
Penn Township, Centre County
Penn Township, Huntingdon County
Penn Township, Lycoming County
Penn Township, Snyder County
Perry Township, Armstrong County
Perry Township, Clarion County
Perry Township, Fayette County
Perry Township, Greene County
Perry Township, Jefferson County
Perry Township, Mercer County
Perry Township, Snyder County
Peters Township, Franklin County
Piatt Township, Lycoming County
Pike Township, Bradford County
Pike Township, Clearfield County
Pike Township, Potter County
Piney Township, Clarion County
Pine Creek Township, Jefferson County
Pine Grove Township, Warren County
Pine Grove Township, Schuylkill County
Pine Township, Armstrong County
Pine Township, Columbia County
Pine Township, Crawford County
Pine Township, Indiana County
Pine Township, Lycoming County
Pittsfield Township, Warren County
Pittston Township, Luzerne County
Plainfield Township, Northampton County
Plains Township, Luzerne County
Plain Grove Township, Lawrence County
Pleasant Valley Township, Potter County
Plumcreek Township, Armstrong County
Plunketts Creek Township, Lycoming County
Plymouth Township, Luzerne County
Point Township, Northumberland County
Polk Township, Jefferson County
Portage Township, Potter County
Porter Township, Clarion County
Porter Township, Clinton County
Porter Township, Hunningdon County
Porter Township, Jefferson County
Porter Township, Lycoming County
Porter Township, Schuylkill County
Potter Township, Centre County
Preston Township, Wayne County
Pulaski Township, Beaver County
Putnam Township, Tioga County
Quemahoning Township, Somerset County
Quincy Township, Franklin County
Ralpho Township, Northumberland County
Randolph Township, Crawford County
Ransom Township, Lackawanna County
Rayburn Township, Armstrong County
Rayne Township, Indiana County
Reade Township, Cambria County
Redbank Township, Armstrong County
Redbank Township, Clarion County
Redstone Township, Fayette County
Reilly Township, Schuylkill County
Rice Township, Luzerne County
Richhill Township, Greene County
Richland Township, Clarion County
Richmond Township, Tioga County
Ridgebury Township, Bradford County
Ridgway Township, Elk County
Roaring Creek Township, Columbia County
Robinson Township, Washington County

Rockdale Township, Crawford County
Rockefeller Township, Northumberland County
Rome Township, Bradford County
Rome Township, Crawford County
Ross Township, Luzerne County
Ross Township, Monroe County
Roulette Township, Potter County
Rush Township, Centre County
Rush Township, Northumberland County
Rush Township, Susquehanna County
Rutland Township, Tioga County
Sadsbury Township, Lancaster County
Salem Township, Clarion County
Salem Township, Luzerne County
Salem Township, Mercer County
Salisbury Township, Lancaster County
Saltlick Township, Fayette County
Sandy Creek Township, Mercer County
Sandy Lake Township, Mercer County
Saville Township, Perry County
Schuylkill Township, Schuylkill County
Scott Township, Lackawanna County
Scott Township, Wayne County
Scrubgrass Township, Venango County
Sergeant Township, McKean County
Shade Township, Somerset County
Shamokin Township, Northumberland County
Sharon Township, Potter County
Sheffield Township, Warren County
Shenango Township, Lawrence County
Sheshequin Township, Bradford County
Shippensberg Township, Cumberland County
Shippen Township, Cameron County
Shippen Township, Tioga County
Shipley Township, Huntingdon County
Shrewsbury Township, Lycoming County
Shrewsbury Township, Sullivan County
Slippery Rock Township, Butler County
Slocum Township, Luzerne County
Smithfield Township, Bradford County
Smithfield Township, Huntingdon County
Smith Township, Washington County
Snake Spring Township, Bedford County
Snow Shoe Township, Centre County
Snyder Township, Blair County
Somerset Township, Somerset County
Southampton Township, Bedford County
Southampton Township, Somerset County
Southwest Township, Warren County
South Bend Township, Armstrong County
South Creek Township, Bradford County
South Huntingdon Township, Westmoreland County
South Lebanon Township, Lebanon County
South Mahoning Township, Indiana County
South Pymatung Township, Mercer County
South Shenango Township, Crawford County
South Versailles Township, Allegheny County
South Woodbury Township, Bedford County
Sparta Township, Crawford County
Springfield Township, Bradford County
Springfield Township, Erie County
Springfield Township, Fayette County
Springfield Township, Huntingdon County
Springfield Township, Mercer County
Springhill Township, Fayette County
Springhill Township, Greene County
Springville Township, Susquehanna County
Spring Creek Township, Elk County
Spring Creek Township, Warren County
Spring Township, Centre County
Spring Township, Crawford County
Spring Township, Snyder County
Spruce Creek Township, Huntingdon County
Spruce Hill Township, Juniata County
Standing Stone Township, Bradford County
Sterling Township, Wayne County
Steuben Township, Crawford County
Stevens Township, Bradford County
Stewardson Township, Potter County
Stewart Township, Fayette County
Stonycreek Township, Somerset County
Stowe Township, Allegheny County
St. Clair Township, Westmoreland County
St. Thomas Township, Franklin County
Sugarloaf Township, Columbia County
Sugar Grove Township, Warren County
Sullivan Township, Tioga County
Summerhill Township, Cambria County
Summerhill Township, Crawford County
Summit Township, Potter County
Summit Township, Somerset County
Susquehanna Township, Cambria County
Susquehanna Township, Juniata County
Sweden Township, Potter County
Sylvania Township, Potter County
Taylor Township, Blair County
Taylor Township, Centre County
Taylor Township, Fulton County
Tell Township, Huntingdon County
Terry Township, Bradford County
Thompson Township, Fulton County
Thompson Township, Susquehanna County
Tinicum Township, Delaware County
Tioga Township, Tioga County
Tionesta Township, Forest County
Toby Township, Clarion County
Todd Township, Fulton County
Tod Township, Huntingdon County
Towanda Township, Bradford County
Tremont Township, Schuylkill County
Troy Township, Bradford County
Troy Township, Crawford County
Turbett Township, Juniata County
Tuscarora Township, Bradford County
Tuscarora Township, Juniata County
Tyrone Township, Blair County
Ulster Township, Bradford County
Ulysses Township, Potter County
Union Township, Bedford County
Union Township, Clearfield County
Union Township, Crawford County
Union Township, Erie County
Union Township, Fulton County
Union Township, Huntingdon County
Union Township, Lebanon County
Union Township, Luzerne County
Union Township, Mifflin County
Union Township, Schuylkill County
Union Township, Snyder County
Union Township, Tioga County
Union Township, Union County
Upper Mahanoy Township, Northumberland County
Upper Mahantonga Township, Schuylkill County
Mifflin Township, Northampton County
Uppper Mount Bethel Township, Northampton County
Upper Nazareth Township, Northampton County
Upper Turkeyfoot Township, Somerset County
Upper Tyrone Township, Fayette County
Valley Township, Armstrong County
Vanpart Township, Beaver County
Venango Township, Butler County
Vernon Township, Crawford County
Victory Township, Venango County
Walker Township, Centre County
Walker Township, Juniata County
Walker Township, Schuylkill County
Warren Township, Bradford County
Warren Township, Franklin County
Warrior's Mark Township, Huntingdon County
Warsaw Township, Jefferson County
Washington Township, Armstrong County
Washington Township, Cambria County
Washington Township, Clarion County
Washington Township, Fayette County
Washington Township, Greene County
Washington Township, Indiana County
Washington Township, Jefferson County
Washington Township, Lawrence County
Washington Township, Snyder County
Washington Township, Wyoming County
Waterford Township, Erie County
Wayne Township, Armstrong County
Wayne Township, Clinton County
Wayne Township, Crawford County
Wayne Township, Erie County
Wayne Township, Greene County
Wayne Township, Lawrence County
Wayne Township, Mifflin County
Wayne Township, Schuylkill County
Wells Township, Bradford County
Wells Township, Fulton County
Westfield Township, Tioga County
West Abington Township, Lackawanna County
West Beaver Township, Snyder County
West Bethlehem Township, Washington County
West Branch Township, Potter County
West Buffalo Township, Union County
West Burlington Township, Bradford County
West Cameron Township, Northumberland County
West Carroll Township, Cambria County
West Chillisquaque Township, Northumberland County
West Fallowfield Township, Crawford County
West Finley Township, Washington County
West Franklin Township, Armstrong County
West Keating Township, Clinton County
West Lebanon Township, Lebanon County
West Mahanoy Township, Schuylkill County
West Mahoning Township, Indiana County
West Penn Township, Schuylkill County
West Providence Township, Bedford County
West Salem Township, Mercer County
West Shenango Township, Crawford County
West St. Clair Township, Bedford County
West Taylor Township, Cambria County
West Township, Huntington County
West Wheatfield Township, Indiana County
Wetmore Township, McKean County
Wharton Township, Fayette County
Wharton Township, Potter County
Whitley Township, Greene County
White Township, Cambria County
Wilkes-Barre Township, Luzerne County
Wilmington Township, Lawrence County
Wilmington Township, Mercer County
Wilmot Township, Bradford County
Windham Township, Bradford County
Windham Township, Wyoming County
Winfield Township, Butler County
Winslow Township, Jefferson County
Wolf Creek Township, Mercer County
Woodbury Township, Bedford County
Woodbury Township, Blair County

Woodcock Township, Crawford County
Woodward Township, Lycoming County
Wood Township, Huntingdon County
Worth Township, Centre County
Worth Township, Mercer County
Wyalusing Township, Bradford County
Wysox Township, Bradford County
Young Township, Indiana County
Young Township, Jefferson County
Zerbe Township, Northumberland County

Rhode Island

Bristol Town, Bristol County
New Shoreham Town, Washington County
Warren Town, Bristol County
West Warwick Town, Kent County

Vermont

Addison Town, Addison County
*Albany Town, Orleans County
*Alburg Town, Grand Isle County
Athens Town, Windham County
Bakersfield Town, Franklin County
Barnet Town, Caledonia County
*Barton Town, Orleans County
Belvidere Town, Lamoille County
Benson Town, Rutland County
Berkshire Town, Franklin County
Bethel Town, Windsor County
Bloomfield Town, Essex County
Braintree Town, Orange County
Brattleboro Town, Windham County
Bridport Town, Addison County
Brighton Town, Essex County
*Bristol Town, Addison County
Brownington Town, Orleans County
*Cabot Town, Washington County
*Cambridge Town, Lamoille County
Canaan Town, Essex County
Castleton Town, Rutland County
Charleston Town, Orleans County
Chelsea Town, Orange County
Corinth Town, Orange County
Coventry Town, Orleans County
Craftsbury Town, Orleans County
Danby Town, Rutland County
Danville Town, Caledonia County
*Derby Town, Orleans County
Dover Town, Windham County
Duxbury Town, Washington County
East Haven Town, Essex County
Eden Town, Lamoille County
Elmore Town, Lamoille County
*Enosburg Town, Franklin County
Fairfield Town, Franklin County
Fairlee Town, Orange County
Fair Haven Town, Rutland County
Franklin Town, Franklin County
Glover Town, Orleans County
Granby Town, Essex County
Greensboro Town, Orleans County
Groton Town, Caledonia County
Guildhall Town, Essex County
Halifax Town, Windham County
*Hardwick Town, Caledonia County
Highgate Town, Franklin County
Holland Town, Orleans County
Hubbardton Town, Rutland County
*Hyde Park Town, Lamoille County
Irasburg Town, Orleans County
Ira Town, Rutland County
Jamaica Town, Windham County
Jay Town, Orleans County
*Johnson Town, Lamoille County
Leicester Town, Addison County
Lincoln Town, Addison County
Lowell Town, Orleans County
*Ludlow Town, Windsor County
Lunenburg Town, Essex County
*Lyndon Town, Caledonia County
Maidstone Town, Essex County
Marlboro Town, Windham County
*Marshfield Town, Washington County
Montgomery Town, Franklin County
Moretown Town, Washington County
Morgan Town, Orleans County
*Morristown Town, Lamoille County
Newark Town, Caledonia County
Newport Town, Orleans County
Norton Town, Essex County
Orange Town, Orange County
Orwell Town, Addision County
Pawlet Town, Rutland County
Peacham Town, Caledonia County
*Plainfield Town, Washington County
Plymouth Town, Windsor County
*Poultney Town, Rutland County
Reading Town, Windsor County
*Richford Town, Franklin County
Ripton Town, Addison County
Rochester Town, Windsor County
*Rockingham Town, Windham County
Roxbury Town, Washington County
Royalton Town, Windsor County
Ryegate Town, Caledonia County
Sandgate Town, Bennington County
Searsburg Town, Bennington County
Sharon Town, Windsor County
Sheffield Town, Caledonia County
Sheldon Town, Franklin County
Springfield Town, Windsor County
Stannard Town, Caledonia County
Starksboro Town, Addison County
*Stowe Town, Lamoille County
Strafford Town, Orange County
St. Johnsbury Town, Caledonia County
Sudbury Town, Rutland County
Sutton Town, Caledonia County
*Swanton Town, Franklin County
Topsham Town, Orange County
Townshend Town, Windham County
*Troy Town, Orleans County
Tunbridge Town, Orange County
Vershire Town, Orange County
Victory Town, Essex County
Walden Town, Caledonia County
Waltham Town, Addison County
Wardsboro Town, Windham County
Washington Town, Orange County
*Waterbury Town, Washington County
Waterville Town, Lamoille County
Wells Town, Rutland County
Westfield Town, Orleans County
*Westminster Town, Windham County
Westmore Town, Orleans County
West Fairlee Town, Orange County
West Haven Town, Rutland County
West Rutland Town, Rutland County
Weybridge Town, Addison County
Wheelock Town, Caledonia County
*Whitingham Town, Windham County
Williamstown Town, Orange County
Windsor Town, Windsor County
Wolcott Town, Lamoille County
Woodbury Town, Washington County
Woodford Town, Bennington County
Worcester Town, Washington County

Puerto Rico

Adjuntas Municipio
Aguada Municipio
Aguas Buenas Municipio
Aibonito Municipio
Añasco Municipio
Arroyo Municipio
Barceloneta Municipio
Barranquitas Municipio
Cabo, Rojo Municipio
Camuy Municipio
Canóvanas Municipio
Cataño Municipio
Cayey Municipio
Ceiba Municipio
Ciales Municipio
Cidra Municipio
Coamo Municipio
Comerío Municipio
Corozal Municipio
Culebra Municipio
Dorado Municipio
Florida Municipio
Guanica Municipio
Guayama Muñicipio
Guayanilla Municipio
Gurabo Municipio
Hatillo Municipio
Hormigueros Municipio
Humacao Municipio
Isabela Municipio
Jayuya Municipio
Juana Diaz Municipio
Juncos Municipio
Lajas Municipio
Lares Municipio
Las Marías Municipio
Las Piedras Municipio
Loíza Municipio
Luquillo Municipio
Manatí Municipio
Maricao Municipio
Maunabo Municipio
Moca Municipio
Morovis Municipio
Naguabo Municipio
Naranjito Municipio
Orocovis Municipio
Patillas Municipio
Peñuelas Municipio
Quebradillas Municipio
Rincón Municipio
Rio Grande Municipio
Sabana Grande Municipio
Salinas Municipio
Santa Isabel Municipio
San Germán Municipio
San Lorenzo Municipio
San Sebastián Municipio
Toa Alta Municipio
Utuado Municipio
Vega Alta Municipio
Vega Baja Municipio
Vieques Municipio
Villalba Municipio
Yabucoa Municipio
Yauco Municipio

Dated: February 3, 1984.

Stephen J. Bollinger,

Assistant Secretary for Community Planning and Development.

[FR Doc. 84-3522 Filed 2-10-84; 8:45 am]
BILLING CODE 4210-29-M

federal register

Monday
February 13, 1984

Part III

Department of the Interior

Office of the Secretary

48 CFR Ch. 14

Acquisition Regulations; Proposed Rule

DEPARTMENT OF THE INTERIOR

Office of the Secretary

48 CFR Ch. 14

Department of the Interior Acquisition Regulation (DIAR)

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice invites comments on the Department of the Interior Acquisition Regulation (DIAR) which implements and supplements the Federal Acquisition Regulation (FAR). The DIAR will replace the current Interior Procurement Regulations (41 CFR Part 14) on April 1, 1984.

DATE: Comments must be received on or before March 14, 1984.

ADDRESS: Division of Acquisition and Grants, Office of Acquisition and Property Management, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: William Opdyke, Chief, Branch of Policy and Regulations, Division of acquisition and Grants, Office of Acquisition and Property Management, telephone (202) 343–3433.

SUPPLEMENTARY INFORMATION:

Explanation

The proposed acquisition regulations under this rulemaking action contain only those Department-wide policies, procedures, and contract clauses, and solicitation provisions which directly govern the contracting process or control the relationship between the Department's bureaus and offices and contractors or prospective contractors. Internal guidance involving designations, delegations of authority, administrative procedures, and reporting requirements necessary to implement the FAR within the Department is not contained in this action since such guidance is not required to be published in the **Federal Register** pursuant to FAR 1.301(b).

Primary Author

The primary author of this rule is William Opdyke, Office of Acquisition and Property Management, telephone (202) 343–3433.

Executive Order 12291 and Regulatory Flexibility Act

The Director, Office of Management and Budget has exempted agency procurement regulations from the requirements of Executive Order 12291 by memorandum dated December 15, 1983. The Department has certified that this document 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.*)

Paperwork Reduction Act

The information collection requirements contained in 48 CFR 1452.204–72, 1452.210–70, and 1452.225–70 will be submitted to the Office of Management and Budget for approval as required by 44 U.S.C. 3501 *et seq.* The collection of this information will not be required until it has been approved by the Office of Management and Budget. Comments on the information collection requirements should be submitted to Nancy Baldwin, Desk Officer, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 Jackson Place, Room 3001, Washington, D.C. 20503, as well as to the Departmental address listed above.

List of Subject in 48 CFR Chapter 14

Government procurement, Indian business and finance, Insurance.

For the reasons set out in the preamble, Chapter 14 of Title 48 of the Code of Federal Regulations is proposed as set forth below pursuant to the authority of the Secretary of the Interior contained in Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), and 5 U.S.C. 301.

Dated: February 2, 1984.

Richard R. Hite,

Deputy Assistant Secretary of the Interior.

It is proposed to add Chapter 14 to Title 48 of the Code of Federal Regulations to read as follows:

CHAPTER 14—DEPARTMENT OF THE INTERIOR ACQUISITION REGULATION

SUBCHAPTER A—GENERAL

Part 1401—Department of the Interior acquisition regulation system
Part 1403—Improper business practices and personal conflicts of interest
Part 1404—Administrative matters

SUBCHAPTER B—ACQUISITION PLANNING

Part 1407—Acquisition planning
Part 1409—Contractor qualifications
Part 1410—Specifications, standards and other purchase descriptions

SUBCHAPTER C—CONTRACTING METHODS AND CONTRACT TYPES

Part 1413—Small purchases and other simplified purchase procedures
Part 1414—Formal advertising
Part 1415—Contracting by negotiations

SUBCHAPTER D—SOCIOECONOMIC PROGRAMS

Part 1419—Small business and small disadvantaged business concerns
Part 1420—Labor surplus area concerns
Part 1424—Protection of privacy and freedom of information
Part 1425—Foreign acquisition

SUBCHAPTER E—GENERAL CONTRACTING REQUIREMENTS

Part 1428—Bonds and insurance
Part 1432—Contract financing
Part 1433—Disputes and appeals

SUBCHAPTER F—SPECIAL CATEGORIES OF CONTRACTING

Part 1436—Construction and architect—engineering contracts
Part 1437—Service contracting

SUBCHAPTER G—CONTRACT MANAGEMENT

Part 1442—Contract administration

SUBCHAPTER H—CLAUSES AND FORMS

Part 1452—Solicitation provisions and contract clauses
Part 1453—Forms

SUBCHAPTER A—GENERAL

PART 1401—DEPARTMENT OF THE INTERIOR ACQUISITION REGULATION SYSTEM

Subpart 1401.3—Agency Acquisition Regulations

Sec.
1401.301 Policy.
1401.302 Limitations.
1401.303 Codification and public participation.
1401.304 Agency control and compliance procedures.

Subpart 1401.6—Contracting Authority and Responsibilities

1401.601 General.
1401.602 Contracting officers.
1401.602–1 Authority.
1401.603 Selection, appointment and termination of appointment.
1401.603–1 General.
1401.670 Appointment and termination of appointment of contracting officers' representatives.
1401.670–1 General.
1401.670–2 Appointment.
1401.670–3 Limitations.
1401.670–4 Termination.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), and 5 U.S.C. 301.

Subpart 1401.3—Agency Acquisition Regulations

§ 1401.301 Policy.

(a) Subject to the authorities in (c) below, the Department issues acquisition regulations which implement or supplement the FAR under the Department of the Interior Acquisition Regulations (DIAR) System. The regulations, as part of the FAR system, are issued in accordance with the policy in FAR 1.301(a).

(b) Subject to the authorities in (c) below, the Department also issues internal guidance and instructions under the DIAR System in accordance with the policy in FAR 1.301(b).

(c) Regulations and internal guidance under the DIAR System are issued pursuant to the authority of the

Secretary of the Interior under 5 U.S.C. 301 and 40 U.S.C. 486(c). This authority has been delegated to the Assistant Secretary—Policy, Budget and Administration under Part 209, Chapter 4.1A of the Departmental Manual (209 DM 4.1A).

§ 1401.302 Limitations.

DIAR System regulations and internal guidance conform to the limitations in FAR 1.301 and consist of:

(a) Published and codified Department-wide regulations which implement or supplement FAR policies and procedures and directly govern the contracting relationship between the department's bureaus and offices and existing or potential contractors;

(b) Published and codified bureau-wide regulations which supplement FAR policies and procedures and govern the relationship between a bureau and existing or potential contractors to satisfy specific and unique needs of the particular bureau;

(c) Unpublished Department-wide internal guidance related to administrative implementation of FAR policies and procedures which does not directly affect existing or potential contractors; and

(d) Unpublished bureau-wide internal guidance which is necessary for administrative implementation of FAR or DIAR System requirements at organizational levels.

§ 1401.303 Codification and public participation.

(a) Implementing and supplementing regulations issued under the DIAR System are codified under Chapter 14 in Title 48, Code of Federal Regulations and conform to the requirements in FAR 1.303.

(b) Department-wide regulations (see 1401.302(a)) are assigned Parts 1401 through 1479 under 48 CFR.

(c) Bureau-wide regulations (see 1401.302(b)) are assigned Parts 1480–1499 under 48 CFR as follows:

1480–1481 Bureau of Indian Affairs
1482 Office of the Secretary
1483 Bureau of Reclamation
1484 Bureau of Land Management
1485 Bureau of Mines
1486 Geological Survey
1487 Office of Surface Mining
1488 Minerals Management Service
1489 National Park Service
1490 Fish and Wildlife Service
1491–1499 [Reserved]

(d) Public participation in the promulgation of the acquisition regulations which are published in the **Federal Register** shall follow the Department's rulemaking procedures prescribed in Part 318, Chapter 6 of the Departmental Manual (318 DM 6) and the procedures in FAR Subpart 1.5.

(e) Copies of Department-wide and bureau-wide acquisition regulations and Department-wide internal guidance may be obtained from the Office of Acquisition and Property Management, Office of the Secretary, U.S. Department of the Interior, Washington, D.C. 20240.

§ 1401.304 Agency control and compliance procedures.

(a) The DIAR system is under the direct oversight and control of the Director, Office of Acquisition and Property Management, who is responsible for review and issuance of all Department-wide and bureau-wide acquisition regulations published in the **Federal Register** to assure compliance with FAR Part 1. Review procedures are contained in Part 401 of the Departmental Manual (401 DM).

(b) The Director, Office of Acquisition and Property Management is also responsible for review and issuance of unpublished, Department-wide internal guidance under the DIAR System.

(c) Heads of contracting activities are responsible for establishment and implementation of formal procedures for oversight and control of all unpublished bureau-wide internal guidance issued to implement FAR or DIAR requirements. These procedures shall be reviewed and approved by the Director, Office of Acquisition and Property Management and shall include:

(1) Provisions for centralized issuance of all guidance and instructions using a directives system;

(2) Methods for periodic review and updating of all issuances;

(3) Distribution processes which assure timely receipt by all affected contracting offices; and

(4) Provisions for maintaining compliance with FAR 1.304.

(d) The Director, Office of Acquisition and Property Management is responsible for evaluating coverage under the DIAR System to determine applicability to other agencies and for recommending coverage to the FAR Secretariat for inclusion in the FAR.

(e) Recommendations for revision of existing FAR coverage or new FAR coverage shall be submitted by the head of the contracting activity to the Director, Office of Acquisition and Property Management for further action.

Subpart 1401.6—Contracting Authority and Responsibilities

§ 1401.601 General.

(a) The authority and responsibility vested in the Secretary to contract for authorized supplies and services is delegated to Assistant Secretaries.

(b) The contracting authority and responsibility delegated to Assistant Secretaries may be redelegated to heads of bureaus and offices under their supervision in accordance with Part 200, Chapter 3 of the Departmental Manual (200 DM 3). Such redelegations are published in bureau chapters of the Part 200 series of the Departmental Manual.

(c) Bureau heads and assistant or associate heads thereof (known as heads of contracting activities as defined in 1402.1) may redelegate contracting authority only as prescribed in 1401.603.

§ 1401.602 Contracting officers.

§ 1401.602–1 Authority.

Information on the limits of contracting officers' authority shall be maintained by the head of the contracting activity as required in FAR 1.602–1. The Office of Acquisition and Property Management shall also maintain this information.

§ 1401.603 Selection, appointment and termination of appointment.

§ 1401.603–1 General.

Heads of contracting activities (see Subpart 1402.1) are authorized to select and appoint contracting officers and terminate their appointment as prescribed in the Department's "Contracting Officers' Warrant System Manual." Copies of the manual may be obtained upon request from the Office of Acquisition and Property Management, Office of the Secretary, U.S. Department of the Interior, Washington, D.C. 20240.

§ 1401.670 Appointment and termination of appointment of contracting officers' representatives.

§ 1401.670–1 General.

A contracting officer may select and appoint an individual to act as an authorized representative in the administration of a contract based on the technical, professional and administrative qualifications of the individual.

§ 1401.670–2 Appointment.

(a) Contracting officers' representatives shall be appointed in writing by the contracting officer. The appointment shall state the scope and limitations of authority (see 1401.670–3) and identify the contract(s) which the representative will administer.

(b) Changes in the scope or limitations of authority shall be made by written amendments to the existing appointment or by issuance of a new appointment.

(c) A copy of the appointment shall be promptly forwarded to the contractor after issuance by the contracting officer.

§ 1401.670–3 Limitations.

Each appointment of a contracting officers' representative made by the contracting officer shall clearly state that the representative is not authorized under any circumstances to:

(a) Award, agree to, or execute any contract, contract modification, or notice of intent;

(b) Obligate, in any way, the payment of money by the Government;

(c) Make a final decision on any contract matter which is subject to the clause at FAR 52.233–1, Disputes; or

(d) Terminate, for any cause, the contractor's right to proceed.

§ 1401.670–4 Termination.

Termination of a contracting officer's representative appointment shall be made in writing by the contracting officer and shall state the date such termination is effective. A copy of the termination shall be promptly forwarded to the contractor after issuance by the contracting officer.

PART 1403—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

Subpart 1403.1—Safeguards

Sec.
1403.101 Standards of conduct.
1403.101–3 Agency regulations.

Subpart 1403.2—Contractor Gratuities to Government Personnel

1403.203 Reporting suspected violations of the Gratuities clause.
1403.203–70 Procedures.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), and 5 U.S.C. 301.

Subpart 1403.1—Safeguards

§ 1403.101 Standards of conduct.

§ 1403.101–3 Agency regulations.

Department of the Interior regulations governing the conduct and responsibilities of regular and special employees are contained in 43 CFR Part 20. Authorized exceptions to FAR 3.101–2 are contained in 43 CFR 20.735–7 and 20.735–8.

Subpart 1403.2—Contractor Gratuities to Government Personnel

§ 1403.203 Reporting suspected violations of the Gratuities clause.

§ 1403.203–70 Procedures.

(a) *Action Official.* The Director, Office of Acquisition and Property Management, is the Departmental official authorized to take action pursuant to FAR 3.204(c) against a contractor if it is determined that a violation of the clause at FAR 52.203–3, Gratuities, has occurred. This authority may not be delegated.

(b) *Referral.* Whenever a suspected violation of the clause at FAR 52.203–3, Gratuities, becomes known to a Department employee, the matter shall be reported to the cognizant contracting officer. The report shall be in writing and shall clearly state the circumstances surrounding the incident or incidents where it is alleged that the contractor offered or gave a gratuity to a Department employee and intended by the gratuity to obtain a contract or favorable treatment under a contract. The date(s), location(s) and name(s) of all parties involved in the incident shall be included in the report. The report shall also include a recommended course of action in accordance with FAR 3.204(c) and shall be submitted through the head of the contracting activity to the Director, Office of Acquisition and Property Management for disposition.

(c) *Notice to contractor.* After review of the report and consultation with the Office of the Solicitor and Office of the Inspector General, as appropriate, the Director, Office of Acquisition and Property Management shall determine further action to be taken. If required, the contractor shall be provided with a formal notice which summarizes the events involving the suspected violation and affords the contractor the opportunity to take the action(s) listed under FAR 3.204(b). The notice shall contain a time limit for reply and shall be sent by certified mail return receipt requested.

(d) *Decision.* Based on the contractor's response to the notice, the results of any further discussion with the contractor, its counsel or witnesses, the review of additional documentary evidence, and other pertinent information, the Director, Office of Acquisition and Property Management shall make a final and binding decision on the action to be taken in accordance with FAR 3.204(c) and shall provide the contractor with a formal notice of such action.

PART 1404—ADMINISTRATIVE MATTERS

Subpart 1404.4—Safeguarding Classified Information Within Industry

Sec.
1404.402 General.

Subpart 1404.7—Contractor Records Retention

1404.701 Purpose.
1404.702 Applicability.

Subpart 1404.8—Contract Files

Sec.
1404.804 Closeout of contract files.
1404.804–70 Release of claims.

Subpart 1404.70—Indian Preference

1404.7000 Scope of subpart.
1404.7001 Definitions.
1404.7002 Statutory requirements.
1404.7003 Applicability and contract clause.
1404.7004 Compliance enforcement.
1404.7005 Tribal preference requirements.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c) and 5 U.S.C. 301.

Subpart 1404.4—Safeguarding Classified Information Within Industry

§ 1404.402 General.

(a) The Department of the Interior has entered into an agreement with the Department of Defense (DOD) to be covered by the Defense Industrial Security Program (DISP). The agreement is contained in Appendix 1, Part 443, Chapter 1 of the Department Manual (443 DM 1).

(b) Classified acquisitions or contracts (see FAR 4.401) shall be subject to the instructions contained in the DOD publications listed in FAR 4.402(b).

Subpart 1404.7—Contractor Records Retention

§ 1404.701 Purpose.

This subpart contains additional record retention requirements of the Department of the Interior.

§ 1404.702 Applicability.

In addition to the clauses listed under FAR 4.702(a), FAR Subpart 4.7 shall apply to records generated under contracts containing the clause at § 1452.215–70, Examination of Records by the Department of the Interior.

Subpart 1404.8—Contract Files

§ 1404.804 Closeout of contract files.

§ 1404.804–70 Release of claims.

(a) The contracting officer shall insert the clause at § 1452.204–70, Release of Claims, in all construction contracts which exceed $25,000 and in all cost-reimbursement contracts which exceed $25,000. A release of claims clause may be inserted in other types of contracts when the contracting officer determines that the release is necessary to protect the interests of the Government.

(b) Form DI–137, Release of Claims (see 1453.204–70), shall be used for obtaining a release of claims.

Subpart 1404.70—Indian Preference

§ 1404.7000 Scope of subpart.

This subpart prescribes policies and procedures for implementation of

section 7(b) of the Indian Self-Determination and Education Assistance Act (Pub. L. 93–638, 88 Stat. 2205, 25 U.S.C. 450e(b)).

§ 1404.7001 Definitions.

For purposes of this subpart the following definitions shall apply:

"Indian" means a person who is a member of an Indian Tribe. If the contractor has reason to doubt that a person seeking employment preference is an Indian, the contractor shall grant the preference but shall require the individual within thirty (30) days to provide evidence from the Tribe concerned that the person is a member of the Tribe.

"Indian organization" means the governing body of any Indian Tribe or entity established or recognized by such governing body in accordance with the Indian Financing Act of 1974 (88 Stat. 77; 25 U.S.C. 1451).

"Indian-owned economic enterprise" means any Indian-owned commercial, industrial, or business activity established or organized for the purpose of profit provided that such Indian ownership shall constitute not less than 51 percent of the enterprise.

"Indian reservation" includes Indian reservations, public domain Indian allotments, former Indian reservations in Oklahoma, and land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act (85 Stat. 688; 43 U.S.C. 1601 et seq.).

"Indian Tribe" means an Indian Tribe, band, nation, or other recognized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688; 43 U.S.C. 1601), which recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"On or near Indian reservation" means on a reservation or the distance within that area surrounding an Indian reservation(s) that a person seeking employment could reasonably be expected to commute to and from in the course of a work day.

§ 1404.7002 Statutory requirements.

Section 7(b) of the Indian Self-Determination and Education Assistance Act requires that any contract or subcontract entered into pursuant to that Act, the Act of April 16, 1934 (48 Stat. 596; 25 U.S.C. 452), as amended, (the Johnson-O'Malley Act), or any other Act authorizing contracts with Indian organizations or for the benefit of Indians shall require that, to the greatest extent feasible: (a) Preferences and opportunities for training and employment in connection with the administration of such contracts shall be given to Indians, and (b) preference in the award of subcontracts in connection with the administration of such contracts shall be given to Indian organizations and to Indian-owned economic enterprises as defined in section 3 of the Indian Financing Act of 1974 (Sec. 3, Pub. L. 93–262; 88 Stat. 77; 25 U.S.C. 1452).

§ 1404.7003 Applicability and contract clause.

(a) The contracting officer shall insert the clause at 1452.204–71, Indian Preference—Department of the Interior, in solicitations issued and contracts awarded by: (1) The Bureau of Indian Affairs, except solicitations issued and contracts awarded pursuant to Title I and to Indian Tribes and Indian Organizations under Title II of Pub. L. 93–638 (25 U.S.C. 450 et seq., and 25 U.S.C. et seq., respectively), (2) a contracting activity other than the Bureau of Indian Affairs when the contract is entered into pursuant to an act specifically authorizing contracts with Indian organizations, and (3) a contracting activity other than the Bureau of Indian Affairs where the work to be performed is specifically for the benefit of Indians and is in addition to any incidental benefits which might otherwise accrue to the general public.

(b) The contracting officer shall insert the clause at § 1452.204–72, Indian Preference Program—Department of the Interior, in all solicitations issued and contracts awarded by a contracting activity which may exceed $50,000, which contain the clause required by paragraph (a) above and where it is determined by the contracting officer, prior to solicitation, that the work under the contract will be performed in whole or in part on or near an Indian reservation(s). The Indian Preference Program clause may also be included in solicitations issued and contracts awarded by a contracting activity which may not exceed $50,000, but which contain the clause required by paragraph (a) above and which, in the opinion of the contracting officer, offer substantial opportunities for Indian employment, training or subcontracting.

§ 1404.7004 Compliance enforcement.

(a) The contracting officer is responsible for conducting periodic reviews of the contractor to ensure compliance with the requirements of the clauses prescribed in 1404.7003. There reviews may be conducted with the assistance of the Indian Tribe(s) concerned.

(b) Complaints of noncompliance with the requirements of the clauses prescribed under § 1404.7003 which are received in writing by the contracting activity shall be promptly investigated by the contracting officer and a written disposition of the complaint shall be prepared.

§ 1404.7005 Tribal preference requirements.

(a) Where the work under a contract is to be performed on an Indian reservation, the contracting officer may supplement the clause at § 1452.204–72, Indian Preference Program—Department of the Interior, by adding specific Indian preference requirements of the Tribe on whose reservation the work is to be performed. The supplemental requirements shall be jointly developed for the contract by the contracting officer and the Tribe. Supplemental preference requirements must represent a further implementation of the requirements of section 7(b) of Pub. L. 93–638 and must be approved by the Office of the Solicitor for legal sufficiency before being added to a solicitation and resultant contract. Any supplemental preference requirements to be added to the clause at § 1452.204–72 shall be included in the solicitation and clearly identified in order to ensure uniform understanding of the additional requirements by all prospective bidders or offerors.

(b) Nothing in these regulations shall be interpreted to preclude Tribes from independently developing and enforcing their own tribal preference requirements. Such independently developed tribal preference requirements shall not, except as provided in (a) above, become a requirement in contracts covered under this subpart 1404.70 and must not hinder the Government's right to award contracts and to administer their provisions.

SUBCHAPTER B—ACQUISITION PLANNING

PART 1407—ACQUISITION PLANNING

Subpart 1407.3—Contractor Versus Government Performance

Sec.

1407.302 General.
1407.307 Appeals.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c) and 5 U.S.C. 301.

Subpart 1407.3—Contractor Versus Government Performance

§ 1407.302 General.

The Department has implemented the requirements of OMB Circular A–76 and FAR Subpart 7.3 in Part 403 of the Departmental Manual (403 DM).

§ 1407.307 Appeals.

The Department's appeals procedures requied by OMB Circular A–76 and FAR 7.307 are codified in 43 CFR Part 4, Subpart M.

PART 1409—CONTRACTOR QUALIFICATIONS

Subpart 1409.4—Debarment, Suspension and Ineligibility

Sec.
1409.400 Scope of subpart.
1409.404 Consolidated list of debarred, suspended and ineligible contractors.
1409.405 Effect of listing.
1409.405–1 Continuation of current contracts.
1409.406 Debarment.
1409.406–1 General.
1409.406–3 Procedures.
1409.407 Suspension.
1409.407–1 General.
1409.407–3 Procedures.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), and 5 U.S.C. 301.

Subpart 1409.4—Debarment, Suspension and Ineligibility

§ 1409.400 Scope of subpart.

As required by FAR 9.402(c), this subpart prescribes Departmental policies and procedures governing the debarment and suspension of contractors, the listing of the debarred and suspended contractors, and dissemination of this listing.

§ 1409.404 Consolidated list of debarred, suspended and ineligible contractors.

(a) The Division of Acquisition and Grants, Office of Acquisition and Property Management, is responsible for accomplishing the actions required in FAR 9.404(c).

(b) Monthly issues of the consolidated list shall be disseminated by the heads of contracting activities to all contracting offices after receipt from GSA.

(c) Weekly supplements to monthly lists shall be furnished to each bureau headquarters office by the Division of Acquisition and Grants, Office of Acquisition and Property Management. Each bureau shall maintain list supplements at a central location and issue instructions requiring contracting officers to contact this location in order to obtain current information and ensure effective use of the list as required by FAR 9.405.

§ 1409.405 Effect of listing.

The Director, Office of Acquisition and Property Management, is authorized to make the determinations listed in FAR 9.405(a). Requests for such determinations shall be submitted by the head of the contracting activity to the Director, Office of Acquisition and Property Management.

§ 1409.405–1 Continuation of current contracts.

The Director, Office of Acquisition and Property Management, is authorized to take the actions listed in FAR 9.405–1.

§ 1409.406 Debarment.

§ 1409.406–1 General.

(a) The Director, Office of Acquisition and Property Management, is the debarring official for the Department and is authorized to debar a contractor for any of the causes in FAR 9.406–2, using the procedures in 1409.406–3.

(b) The Director, Office of Acquisition and Property Management, is authorized to make the statement regarding debarment by another agency debarring official under the conditions in FAR 9.406–1(c).

§ 1409.406–3 Procedures.

(a) *Investigation and referral.* Whenever a cause for debarment, as listed in FAR 9.406–2, becomes known to a Department employee, the matter shall be referred to the head of the contracting activity involved. The head of the contracting activity shall consult with the Office of the Solicitor and the Office of Inspector General, as appropriate, and submit a formal recommendation which documents the cause for debarment to the Director, Office of Acquisition and Property Management.

(b) *Notice of proposal to debar.* Based upon review of the recommendation to debar and consultation with the Office of the Solicitor and Office of Inspector General, as appropriate, the Director, Office of Acquisition and Property Management shall initiate proposed debarment by taking the actions listed in FAR 9.406–3(c) and advising the contractor of the Department's rules under this Subpart 1409.4.

(c) *Factfinding proceedings.* For actions listed under FAR 9.406–3(b)(2), the Director, Office of Acquisition and Property Management shall afford the contractor the opportunity to appear at a hearing as required by FAR 9.406–3(b)(2)(i). The hearing shall be conducted by the Director, Office of Acquisition and Property Management, or designee, and shall be held at a location convenient to the parties concerned as determined by the Director and on a date and time stated. Subject to the provisions of 43 CFR Part 1, the contractor and any specifically named affiliates, may be represented by counsel or any duly authorized representative. Witnesses may be called by either party. The proceedings shall be conducted expeditiously and in such a manner that each part will have a full opportunity to present all information considered pertinent to the proposed debarment. A transcript of the proceedings shall be made available to the contractor under the conditions in FAR 9.406–3(b)(2)(ii).

(d) *Decision and notice.* The Director, Office of Acquisition and property Management shall make a decision on imposing debarment in accordance with the procedures in FAR 9.406–3(d) and the conditions in FAR 9.406–4 and 9.406–5. Notice of the decision shall be provided to the contractor and any affiliates involved in accordance with the procedures in FAR 9.406–3(e).

§ 1409.407 Suspension.

§ 1409.407–1 General.

(a) The Director, Office of Acquisition and Property Management is the suspension official for the Department and is authorized to suspend a contractor for any of the causes in FAR 9.407–2, using the procedures in § 1409.407–3.

(b) The Director, Office of Acquisition and Property Management is authorized to make the statement regarding suspension by another agency suspending official under the conditions in FAR 9.407–1(d).

§ 1409.407–3 Procedures.

(a) *Investigation and referral.* Whenever a cause for suspension, as listed in FAR 9.407–2, becomes known to a Department employee, the matter shall be referred to the head of the contracting activity involved. The head of the contracting activity shall consult with the Office of the Solicitor and the Office of Inspector General, as appropriate, and submit a formal recommendation which documents the cause for suspension to the Director, Office of Acquisition and Property Management.

(b) *Notice suspension.* Based upon review of the recommendation to suspend and consultation with the Office of the Solicitor and the Office of Inspector General, as appropriate, the Director, Office of Acquisition and Property Management shall initiate suspension by taking the actions listed in FAR 9.407–3(c) and advising the contractor of the Department's rules under this Subpart 1409.4.

(c) *Factfinding proceedings.* For actions listed under FAR 9.407–3(b)(2), the Director, Office of Acquisition and Property Management shall afford the contractor the opportunity to appear at a hearing as required by FAR 9.407–3(b)(2)(i). The hearing shall be conducted under the conditions in § 1409.406–3(c).

(d) *Suspension decision.* The Director, Office of Acquisition and Property Management shall make a final decision on suspension as prescribed in FAR 9.407–3(d). Notice of the decision shall be provided to the contractor and any affiliates involved in accordance with the procedures in FAR 9.407–3(d)(4).

PART 1410—SPECIFICATIONS, STANDARDS AND OTHER PURCHASE DESCRIPTIONS

Sec.
1410.004 Selecting specifications or descriptions for use.
1410.004–70 Brand name products or equal.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), and 5 U.S.C. 301.

§ 1410.004 Selecting specifications or descriptions for use.

(a) In accordance with FAR 10.004(b)(2), purchase descriptions shall not specify a product, or specific feature of a product, peculiar to a manufacturer unless it is determined in writing by the office initiating the purchase request that the product, or specific product feature, is essential to the Government's requirements and other similar products will not meet their requirements. This determination shall be in writing and shall accompany the purchase requisition.

(b) A "brand name or equal" purchase description shall be used only under the conditions listed in FAR 10.004(b)(3) and in accordance with the policies and procedures in § 1410.004–70.

(c) Bureaus and offices shall be responsible for requiring adequate packing, packaging, and marking requirements when acquiring supplies in accordance with FAR 10.004(e).

§ 1410.004–70 Brand name products or equal.

(a) *Limitations on use.* The identification of a requirement in a purchase description by use of one or more brand name products followed by the words "or equal" shall be used only under the conditions listed in FAR 10.004(b)(3). A "brand name product" means a current commercial product of a manufacturer described by its brand name, make, model number, catalog designation or other description by which it is regularly offered for sale to the public in the commerical market place.

(b) *Invitation requirements.* (1) "Brand name or equal" purchase descriptions in invitations shall identify salient characteristics of the product (see subparagraph (b)(2) of this 1410.004–70) and contain the following information to describe the specific item:

(i) Identification of the item by generic descriptions;

(ii) Make, model number, catalog designation (or other description), and identification of commerical catalog where it is listed; and

(iii) Name of manufacturer, producer, or distributor of the item and complete address.

(2) In accordance with the policy in FAR 10.002, whenever a "brand name or equal" purchase description is used, offerors shall be given the opportunity to offer products equal to the brand name if those products (including modifications thereto) satisfy the minimum needs of the Government. Therefore, all salient characteristics of the brand name or equal product which are determined by the office initiating the purchase request to be essential to the Government's minimum needs shall be separately identified under the heading of "salient characteristics" and included in the purchase description contained in the solicitation so the offeror understands the information to be submitted with its bid when offering an "equal" product for evaluation. In addition, the following statement shall be included at the end of each "brand name or equal" description in a solicitation for an offeror to identify its "equal" product:

"Offerors proposing to furnish an "equal" product, in accordance with the "Brand Name or Equal" provision of this solicitation, shall insert the following description for the product.

Bidding on:
Manufacturer's Name: _____
Address: _____
Product Name (if any): _____
Product make, model, or catalog description: _____

Offerors shall also be responsible for submitting all additional information on the above product necessary for the Government to determine whether the product offered meets the salient characteristics of the "brand name" as listed in the solicitation."

(3) In addition, the provision at 1452.210–70, Brand Name or Equal-Department of the Interior, shall be inserted by the contracting officer in solicitations where a "brand name or equal" purchase description is used.

SUBCHAPTER C—CONTRACTING METHODS AND CONTRACT

PART 1413—SMALL PURCHASES AND OTHER SIMPLIFIED PURCHASE PROCEDURES

Subpart 1413.1—General

Sec.
1413.103 Policy.

Subpart 1413.4—Imprest Fund

1413.404 Conditions for use.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), and 5 U.S.C. 301.

Subpart 1413.1—General

§ 1413.103 Policy

Small purchases and other simplified purchase methods shall be conducted in accordance with FAR Part 13 and the Department's "Sources of Supply and Small Purchase Handbook" or equivalent bureau procedures approved by the Director, Office of Acquisition and Property Management. Copies of the Handbook may be obtained upon written request from the Office of Acquisition and Property Management, Office of the Secretary, U.S. Department of the Interior, Washington, D.C. 20240.

Subpart 1413.4—Imprest Fund

§ 1413.404 Conditions for use.

The Department of the Treasury has approved for the Department dollar limits other than those in FAR 13.404(a) for small purchase transactions using imprest funds. Imprest funds may be used for small purchases when the transaction does not exceed $300 under normal conditions or $500 under emergency conditions.

PART 1414—FORMAL ADVERTISING

Subpart 1414.4—Opening of Bids and Award of Contract

Sec.
141.406 Mistakes in bid.
1414.406–3 Other mistakes disclosed before award.
1414.407 Award.
1414.407–8 Protests against award.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), and 5 U.S.C. 301.

Subpart 1414.4—Opening of Bids and Award of Contract

§ 1414.406 Mistakes in bids.

§ 1414.406–3 Other mistakes disclosed before award.

(a) The Director, Office of Acquisition and Property Management is authorized to make the administrative determinations under FAR 14.406–3, except as set forth in (b) below.

(b) If a bidder requests permission to withdraw a bid rather than correct it, and: (1) The evidence is clear and convincing as to the mistake, or (2) the evidence reasonably supports the existence of a mistake but is not clear and convincing, the head of the contracting office is authorized to make a written determination permitting the bidder to withdraw the bid after review in accordance with bureau procedures and concurrence by the appropriate Office of the Solicitor. (See FAR 14.406–3 (c) and (e).) Copies of all determinations made pursuant to this authority must be promptly transmitted to the Director, Office of Acquisition and Property Management. If the evidence of the intended bid is clear and convincing, even though the bidder has not requested permission to correct the bid, the case shall be processed in accordance with (d) below.

(c) As required by FAR 14.406–3(f), each proposed administrative determination shall have the concurrence of the Office of the Solicitor prior to submission to the Director, Office of Acquisition and Property Management.

(d) Suspected or alleged mistakes in bids shall be processed in accordance with the requirements of FAR 14.406–3(g). Except as prescribed in (b) above, the contracting officer shall submit a report together with the supporting data described in FAR 14.406–3(g)(3) through the head of the contracting activity to the Director, Office of Acquisition and Property Management. Incomplete reports may result in a delay in obtaining a determination.

(e) The Director, Officer of Acquisition of Property Management is responsible for maintaining records of administrative determinations as required in FAR 14.406–3(h).

§ 1414.407 Award.

§ 1414.406–8 Protests against award.

(a) *Responsibility.* The Office of the Solicitor shall be responsible for handling bid protests lodged with the General Accounting Office (GAO). All communications relative to protests at the GAO shall be coordinated with the Assistant Solicitor for Procurement and Patents.

(b) *Determination to make award.*

(1) If a written protest before award has been lodged with the contracting activity only, the appropriate procedures of FAR 14.407–8 (a) and (b) shall be followed. Prior to making an award of a contract under the circumstances in FAR 14.407–8(b)(4), the contracting officer shall obtain the advice of the Assistant Solicitor for Procurement and Patents.

(2) If a protest before award has been lodged directly with the GAO and the contracting officer determines in writing that it is necessary to make an award under the circumstances in FAR 14.407–8(b)(4), such determination must be submitted by the head of the contracting activity concerned to the Director, Office of Acquisition and Property Management for approval before award of the contract. The Director, Office of Acquisition and Property Management shall be responsible for coordination with GAO as required in FAR 14.407–8(b)(3).

(c) *Notice of protest.* Upon being advised by the GAO of the receipt of a protest before or after award, the Office of the Solicitor shall inform the appropriate contracting activity which shall immediately notify the contracting officer. As required by FAR 14.407–8(a)(3), the contracting officer shall then promptly notify all interested persons, including bidders (or the contractor if the protest is after award) involved in or affected by the protest, that a protest has been lodged with the GAO and the basis for the protest. A written record of such telephonic notices shall be placed in the contract file. After receiving a copy of the protest from GAO and its request for an administrative report, the Office of the Solicitor will promptly furnish the same to the contracting activity involved which shall, in turn, promptly transmit copies to the contracting officer and request a written report. The contracting officer shall promptly transmit by letter a copy of the protest to all interested persons previously notified and include a statement requiring furnishing of views and information directly to the GAO. Copies of such cover letters shall be sent concurrently to the Assistant Solicitor for Procurement and Patents. Cover letters shall contain the advice contained in FAR 14.407–8(a)(3), including instructions that any comments submitted to GAO should also be submitted to the contracting officer and the Assistant Solicitor for Procurement and Patents.

(d) *Submission of report.*

(1) All personnel shall handle protests on a priority basis. Within 25 working days after receipt by the Office of the Solicitor of the GAO's request for an administrative report, such report or a statement setting forth the reasons for delay and the expected date of submission shall be submitted to the GAO. The contracting activity shall have no more than 15 working days from receipt of the request for an administrative report from the Office of the Solicitor to deliver such report to the Assistant Solicitor for Procurement and Patents.

(2) The administrative report responsive to the protest shall be appropriately titled and dated; shall cite the GAO file number; shall include the documents and statements required by FAR 14.407–8(a)(2), and shall be signed by the contracting officer or representative. Reports shall be prepared with the assistance of the local attorney-advisor of the Office of the Solicitor. If appropriate, the report shall contain a statement regarding any urgency for the acquisition and the extent to which a delay in award may result in significant performance difficulties or additional expense to the Government. If award is not urgent, a statement shall be included giving an estimate of the length of time an award may be delayed without significant expense or difficulty in performance. The contracting activity shall submit an original and for four complete copies of the contracting officer's report to the Assistant Solicitor for Procurement and Patents, plus one complete copy for each interested person. Contracting officers shall assure that no trade secrets or commercial or financial information which is privileged or confidential is disclosed to unauthorized parties. Transmittal letters forwarding the report to the GAO and to interested persons shall be prepared by the Office of the Solicitor. All reports to GAO shall be reviewed and surnamed by the Chief, Division of Acquisition and Grants, Office of Acquisition and Property Management, prior to submittal to GAO within three working days of receipt from the Office of the Solicitor.

PART 1415—CONTRACTING BY NEGOTIATION

Subpart 1415.1—General Requirements for Negotiation

Sec.

1415.106 Contract clauses.

1415.106–1 Examination of records by the Department of the Interior clause.

Subpart 1415.4—Solicitation and Receipt of Proposals and Quotations

1415.413 Disclosure and use of information before award.

1415.413–70 Department of the Interior procedures.

Subpart 1415.5—Unsolicited Proposals

1415.506 Agency Procedures.

Subpart 1415.6—Source Selection

1415.607 Disclosure of mistakes before award.

Subpart 1415.8—Price Negotiation

1415.803 General.

1415.804 Cost or pricing data.

Sec.

1415.804–3 Exceptions from or waiver of submission of certified cost or pricing data.

Subpart 1415.9—Profit

1415.902 Policy.
1415.905 Profit analysis factors.
1415.905–1 Common factors.
1415.905–70 Calculation of profit objective.

Authority: Sec. 205(c), 63 Stat. 390, 40 U.S.C. 486(c) and 5 U.S.C. 301.

Subpart 1415.1—General Requirements for Negotiation

§ 1415.106 Contract clauses.

§ 1415.106–70 Examination of records by the Department of the Interior clause.

The contracting officer shall insert the clause at § 1452.215–70, Examination of Records by the Department of the Interior, in all contracts requiring the clause at FAR 52.215–1, Examination of Records by the Comptroller General, as prescribed in FAR 15.106–1(b).

Subpart 1415.4—Solicitation and Receipt of Proposals and Quotations

§ 1415.413 Disclosure and use of information before award.

§ 1415.413–70 Department of the Interior procedures.

(a) *General.* This section establishes alternate requirements and procedures, which shall be used instead of those prescribed in FAR 15.413, for the use and disclosure of trade secret information and confidential commercial and financial information contained in solicited proposals.

(b) *Definitions.* For the purposes of this section and the Freedom of Information Act (5 U.S.C. 552), the following terms shall have the meanings set forth below:

(1) "Trade Secret" means an unpatented, secret, commercially valuable plan, appliance, formula, or process, which is used for the making, preparing, compounding, treating or processing of articles or materials which are trade commodities.

(2)(i) "Confidential commercial or financial information" means any business information (other than trade secrets) which is exempt from the mandatory disclosure requirement of the Freedom of Information Act (5 U.S.C. 552).

(ii) Exemptions from mandatory disclosure which may be applicable to business information contained in proposals includes exemption (4), which covers "commercial and financial information obtained from a person and privileged or confidential," and exemption (9), which covers "geological and geophysical information, including maps, concerning wells."

(c) *Marking of solicited proposals.* A solicited proposal may contain trade secrets or confidential commercial or financial information which the offeror, or its subcontractors, prefers not to be disclosed to the public or used by the Government for any purpose other than evaluation of the proposal. To notify the Government of trade secrets and confidential commercial or financial information contained in a proposal, offerors shall mark the cover page of the proposal and each affected page of the proposal with the legends specified in the solicitation provision at § 1452.215–71, Use and Disclosure of Proposal Information—Department of the Interior. Contracting officers and other government personnel evaluating a proposal shall not refuse to consider the proposal because it contains information identified as trade secret information or confidential commercial or financial information.

(d) *Use of information.* (1) Information in a proposal identified by an offeror as trade secret information or confidential commercial and financial information shall be used by the Government only for the purpose of evaluating the proposal, except that: (i) If a contract is awarded to the offeror as a result of or in connection with submission of the proposal, the Government shall have the right to use the information as provided in the contract, and (ii) if the same information is obtained from another source without restriction it may be used without restriction.

(2)(i) If a request under the Freedom of Information Act seeks access to information in a proposal identified as trade secret information or confidential commercial and financial information, full consideration will be given to offerors's view that the information constitutes trade secrets or confidential commercial or financial information.

(ii) The offeror will also be promptly notified of the request and given an opportunity to provide additional evidence and argument in support of its position, unless administratively unfeasible to do so. If it is determined that information claimed by the offeror to be trade secret information or confidential commercial or financial information is not exempt from disclosure under the Freedom of Information Act, the offeror will be notified of this determination prior to disclosure of the information.

(e) *Failure to mark.* The Government assumes no liability for the disclosure or use of information contained in a proposal if not marked in accordance with paragraph (c) of this section. If a request under the Freedom of Information Act is made for information in a proposal not marked in accordance with paragraph (c) of this section, the offeror concerned shall be notified promptly of the request and given an opportunity to provide its position to the Government. However, failure of an offeror to mark information contained in a proposal as trade secret information or confidential commercial and financial information will be treated by the Government as evidence that the information is not exempt from disclosure under the Freedom of Information Act, absent a showing that the failure to mark was due to unusual or extenuating circumstances, such as a showing that the offeror had intended to mark, but that markings were omitted from the offeror's proposal due to clerical error.

(f) *Solicitation provision.* The provision at § 1452.215–71, Use and Disclosure of Proposal Information—Department of the Interior shall be inserted in all requests for proposals and requests for quotations.

(g) *Government handling notice.* The following Government notice shall be placed by the contracting officer on the cover page of each solicited proposal upon receipt in order to ensure proper handling. This is a Government notice for internal handling purposes and does not affect any obligations or rights the Government may have with regard to the use or disclosure of information contained in the proposal or quotation:

GOVERNMENT NOTICE FOR HANDLING PROPOSALS

This proposal shall be used and disclosed for evaluation purposes only, and a copy of this Government notice shall be applied to any reproduction or abstract thereof. Any restrictive legends used by the offeror to makr trade secrets or confidential commercial or financial information in accordance with solicitation provision, "Use and Disclosure of Proposal Information—Department of the Interior," shall also be strictly complied with.

Subpart 1415.5—Unsolicited Proposals

§ 1415.506 Agency procedures.

Procedures for the disposition of unsolicited proposals as required by FAR 15.506 are contained in the Department's "Handbook for Submission of Unsolicited Proposals." Copies of the handbook may be obtained upon request from the Office of Acquisition and Property Management, Department of the Interior, Washington, D.C. 20240.

Subpart 1415.6—Source Selection

§ 1415.607 Disclosure of mistakes before award.

The head of the contracting office is authorized to make the determination permitting proposal correction in accordance with the conditions in FAR 15.607(c)(3) after approval of the determination by the Office of the Solicitor has been obtained.

Subpart 1415.8—Price Negotiation

§ 1415.803 General.

(a) Where the contractor insists on a price or demands a profit or fee that the contracting officer considers unreasonable, and the contracting officer has taken all authorized actions to resolve the matter (see FAR 15.803), the contract action shall be referred to the head of the contracting activity or designee at a level higher than the contracting officer, for final resolution.

(b) Resolution under (a) above shall be documented, signed by the head of the contracting activity or designee, and included in the contract file.

§ 1415.804 Cost or pricing data.

§ 1415.804-3 Exemptions from or waiver of submission of certified cost or pricing data.

(a) The head of the contracting office is authorized to approve the contracting officer's finding supporting the unreasonableness of the lowest price (see FAR 15.804-3(b)(2)(iii)).

(b) The Director, Office of Acquisition and Property Management is authorized to waive the requirement for submission of certified cost or pricing data. (See FAR 15.804-3(i).)

(c) Requests for waiver under (b) above shall be submitted in writing by the head of the contracting activity and shall contain a statement as to the reasons the waiver is necessary and the efforts made to obtain the data from the contractor or prospective contractor.

Subpart 1415.9—Profit

§ 1415.902 Policy.

(a) It is the Department's policy to use a structured approach for determining the profit or fee prenegotiation objective in acquisition actions that require cost analysis based on the profit analysis factors in FAR 15.905, as implemented and supplemented in § 1415.905.

(b) The following types of acquisitions are exempt from the requirements of the structured approach in § 1415.905, but the contracting officer shall comply with FAR 15.905-1 when analyzing profit for these contracts or actions:

(1) All actions which do not require cost analysis;

(2) Architect-engineer contracts;

(3) Construction contracts;

(4) Contracts primarily requiring delivery of material supplied by subcontractors;

(5) Termination settlements; and

(6) Cost-plus-award-fee contracts.

(c) In developing a profit or fee objective, the contracting officer shall comply with the requirements in FAR 15.903.

(d) When profit analysis is required, any amount proposed by the prospective contractor for the cost of money for facilities capital allowable under FAR 31.205-10 shall be deducted from the prenegotiation cost base objective before calculating the profit objective (see 1415.905-1(a)(5) and 1415.905-70(b)(1)).

(e) The head of the contracting activity is responsible for establishing procedures to ensure compliance with this subpart.

§ 1415.905 Profit-analysis factors.

(a) The Department uses the factors listed in FAR 15.905-1 in its structured approach. 1415.905-1 contains additional guidance on evaluating each factor and subfactor for purposes of determining a weighted profit or fee for the factor or subfactor.

(b) The Department has added another subfactor to those prescribed for contractor effort in FAR 15.905-1(a). This subfactor, "other costs," is described under § 1415.905-1(a)(5).

(c) Procedures for calculating profit or fee prenegotiation objectives are prescribed in § 415.905-70.

(d) Form DI-1920, Structured Approach for Profit/Fee Objective—Department of the Interior (1453.215-71), shall be used to facilitate the calculation of the profit or fee objective.

§ 1415.905-1 Common factors.

The following guidance supplements the policy prescribed for profit-analysis factors in FAR 15.905-1. Weight ranges are prescribed for each factor or subfactor, as appropriate, for use in evaluating and calculating the specific weighted profit or fee objective (see 1415.905-70).

(a) *Contractor effort.* This factor measures the prospective contractor's contribution to the overall effort to meet contract performance requirements in an efficient and cost-effective manner. considerations include the resources necessary for the prospective contractor to accomplish the conversion of labor and materials into the required contract items, the difficulty or complexity of the work to be performed, and the degree to which the contract requires a new approach or technique to be utilized for successful performance. This factor requires an analysis of the cost content of subfactors in FAR 15.905-(a) as supplemented below, and includes an additional subfactor covering other costs. These subfactors may be modified, as necessary, to maintain consistency with cost categories used by prospective contractors. Any amount proposed for cost of money for facilities capital and allowable under FAR 31.205-10 shall be deducted from the cost base objective used for calculating the profit objective as prescribed in 1415.905-70.

(1) *Material acquisition (1 to 4%).* In evaluating the prospective contractor's managerial and technical effort under this subfactor, consideration shall also include: (i) How the purchasing and subcontracting programs will contribute to the performance of the contract, and (ii) the extent of competition to be achieved in the award of subcontracts.

(2) *Conversion of direct labor (4 to 12%).* In evaluating the contribution of direct labor, considerations include: (i) The amount of scientific or unusual or scarce engineering expertise needed in comparison to journeyman labor or supporting personnel, (ii) the diversity (or lack thereof) of scientific and engineering disciplines required for contract performance and the corresponding need for engineering supervision and coordination, (iii) the quality of professional or engineering type skills required for service contract labor in comparison to semi-professional or other type skills to be employed, and (iv) the variety and complexity of manufacturing and other types of related skills and experience required and the prospective contractor's resources for meeting these requirements.

(3) *Conversion-related indirect costs (3 to 8%).* Elements of overhead and other indirect items of expense of the prospective contractor shall be individually analyzed to determine the extent to which they directly contribute to the conversion of labor and materials into the contract items.

(4) *General management (4 to 8%).* In evaluating the prospective contractor's other indirect costs and G&A expense, consideration shall include the degree to which management problems may occur during contract performance and the management expertise which may be required to resolve them.

(5) *Other costs (1 to 3%).* This subfactor, which is not included under FAR 15.905-1, measures the contribution of all other direct costs including travel,

direct support, and hiring of consultants to contract performance. Any amount proposed for facilities capital cost of money and allowable under FAR 31.205–10 shall be subtracted from the cost objective established for this subfactor and shall not be considered in the cost base used for calculating the profit objective (see 1415.905–70(b)(1)).

(b) *Contract cost risk (0 to 7%).* This factor is measured by evaluating the cost risk in terms of the degree of cost responsibility the prospective contractor assumes, the reliability of the cost estimates in relation to type of work under the contract, and the complexity of the work to be performed. Consideration shall also be given the degree to which the prospective contractor's subcontracting program may transfer real cost risk to subcontractors.

(1) *Cost reimbursement contracts (0 to 3%).* Generally, a cost-plus-fixed-fee contract would not justify compensation for risk in excess of 0%, unless the contract contains cost risk features such as overhead ceilings where ½ to 1% may be justified. Cost-plus-incentive fee contracts may justify weightings of 1 to 3% depending on target cost reliability, the share ratio of the fee, and whether cost incentives or multiple incentives are involved.

(2) *Fixed-price contracts (3 to 7%).* The range of weightings for fixed-price contracts is wide to accommodate the many types of fixed-price arrangements and the varying cost risks associated with these arrangements. Generally, a firm fixed-price contract for complex work involving a critical performance schedule would justify a weighting near the top of the range.

(c) *Federal socioeconomic programs (−.5 to +.5%).* This factor measures the extent of the prospective contractor's successful participation and proposed positive actions in support of Federal socioeconomic programs, including women-owned business programs. The prospective contractor's policies and procedures which display unusual initiative in support of socioeconomic programs and have achieved successful results shall be given a positive weighting. A failure or unwillingness on the part of the prospective conractor to support these programs shall be considered inadequate performance and shall result in a corresonding weighting.

(d) *Capital investments (−2 to +2%).* In evaluating investments, consideration shall include an analysis of the cost impact the facilities to be provided by the prospective contractor will have on total contract costs. If the prospective contractor furnishes its own facilities which significantly lowers the contract cost, a positive profit weighting is justified. Government financing or furnishing of required facilities, however, shall result in a negative weighting. Consideration shall also include the frequency of payment by the Government and the impact the contract is anticipated to have on the prospective contractor's cash flow. Generally, a negative weighting shall be given for payments more frequent than monthly. For payments less frequent than monthly, a positive weighting is justified.

(e) *Cost control and other past accomplishments (−1 to +1%).* This factor measures present and previous demonstration of efficient and economic contract performance for related work by the prospective contractor. Consideration shall include quality of work, ability to meet performance and delivery schedules, productivity improvements, efficiency in cost control and reduction, accuracy and reliability of cost estimates, and compliance with contract terms and conditions. Consistent excellent performance by the prospective contractor in the areas above, in comparison with other contractors in similar circumstances, shall justify a positive weighting. Unsuccessful or poor performance shall result in a corresponding rating.

(f) *Independent development.* No weight ranges are set forth for this factor since its significance in contributing to contract performance depends on the degree the development efforts, if any, are relevant to the contract end items. Other considerations include initiative of the prospective contractor in determining the need and application of the development, the extent of the prospective contractor's cost risks in the development, and the extent of direct or indirect development cost recovery from Government sources.

§ 1415.905–70 Calculation of profit objective.

(a) Development of a profit or fee objective shall not begin until the contracting officer has;

(1) Made a thorough review of the work to be performed under the acquisition action;

(2) Collected and analyzed all available information on the prospective contractor; and

(3) Analyzed the prospective contractor's cost proposal and compared the cost elements of the proposal with the elements of the Government's cost estimate for the contract work (see FAR 15.803(b)).

(b) The contracting officer shall calculate a dollar profit amount for each of the factors and subfactors in FAR 15.905–1 and 1415.905–1 by using a percentage within the designated weight range for each factor as prescribed in § 1415.905–1. Form DI–1920, Structured Approach for Profit/Fee Objective—Department of the Interior (see 1453.215–71), shall be used to facilitate calculation of the objective in accordance with the following steps:

(1) Using the prenegotiative objective established as required in FAR 15.807, determine the Government's cost objective for each of the subfactors listed in FAR 15.905–1(a) and 1415.905–1(a). An additional subfactor, "other costs," shall be used to consider all other direct costs (see 1415.905–1(a)(5)). Subtract from the "other cost" objective any amount proposed for the cost of money for facilities capital and allowable under FAR 31.205–10, as this amount is not to be included in the cost base for calculation of the profit objective.

(2) Using the weight ranges in § 1415.905–1(a), determine a specific percentage for each subfactor and multiply this percentage by the cost objective determined for the subfactor under (1) above to calculate a weighted profit amount for each subfactor.

(3) Total the individual cost objectives for each of the subfactors in (1) above to calculate the Government's total prenegotiation objective.

(4) Using the weight ranges in § 1415.905–1(b)-(f), determine a specific percentage for each of the factors in FAR 15.905–1(b)-(f).

(5) Multiply the percentage determined for each of the factors in (4) above by the Government's total prenegotiation objective calculated in (3) above to obtain a weighted profit amount for each factor.

(6) Total the individual weighted profit amounts calculated in (2) and (5) above to obtain the total profit or fee prenegotiation objective amount.

SUBCHAPTER D—SOCIOECONOMIC PROGRAMS

PART 1419—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

Subpart 1419.2—Policies

Sec.

1419.201 General policy.

Subpart 1419.5—Set-asides for Small Business

1419.503 Setting aside a class of acquisitions.

1419.503–70 Class set-aside for construction acquisitions.

1419.505 Rejection of set-aside recommendations.

Subpart 1419.7—Subcontracting With Small Business and Small Disadvantaged Business Concerns

Sec.

1419.705 Responsibilities of the contracting officer under the subcontracting assistance program.

1419.705–70 Requesting a subcontracting plan.

Subpart 1419.8—Contracting With the Small Business Administration (the 8(a) program)

1419.810 Contract administration.

1419.810–70 Evaluation of 8(a) contractor performance.

Subpart 1419.9—Contracting Opportunities for Women-owned Business

1419.901 Policy.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), and 5 U.S.C. 301.

Subpart 1419.2—Policies

§ 1419.201 General policy.

(a) In accordance with Part 111, Chapter 8 of the Departmental Manual (111 DM 8), the Office of Small and Disadvantaged Business Utilization (OSDBU) is responsible for performing all functions and duties prescribed in FAR 19.201(c) and for:

(1) Developing and maintaining policies, procedures, regulations, and guidelines for the effective administration of the Department's small business and small disadvantaged business programs; and

(2) Providing functional direction and policy guidance to personnel in the implementation of the programs under paragraph (a)(1) above.

(b) In addition to the requirements of FAR 19.201(b), heads of contracting activities or their designees shall be responsible for:

(1) Establishment of annual goals in accordance with Subpart 1419.7; and

(2) Appointment of a full-time Business Utilization and Development Specialist (BUDS), as prescribed in FAR 19.201(d), for each contracting office where:

(i) Annual contract obligations regularly exceed $20 million or represent a substantial part of the bureau's total contracting program; and

(ii) The number, type, and size of contract transactions provide sufficient opportunities for small business and small disadvantaged business participation.

(3) Appointment of a part-time BUDS for each contracting office where the nature of the contracting program requires such action to ensure accomplishment of annual program goals.

(c) Business Utilization and Development Specialists appointed as prescribed in (b) above shall be responsible for:

(1) Assisting contracting officers in carrying out the policies as set forth in FAR Part 19 and Part 1419.

(2) Establishing an effective outreach program, which shall include but not be limited to:

(i) Locating new and emerging small business and small disadvantaged business concerns which have actual or potential capabilities to fulfill Interior's acquisition requirements, assuring that such firms are included on bidders mailing lists or source lists;

(ii) Advising and counseling small business and small disadvantaged business concerns on ways to increase their participation in contract and subcontract opportunities by: Explaining bid and proposal submission requirements; serving as the focal point to ensure that small business and small disadvantaged business concerns have access to appropriate acquisition, management, technical and other program and project personnel; and directing small business and small disadvantaged business concerns to the Small Business Administration or the Minority Business Development Agency (Department of Commerce) for assistance when appropriate;

(iii) Participating in the activities of local small business and disadvantaged business associations, Minority Business Opportunity Committees, and Indian tribal councils to apprise them of the contracting activity's needs and to increase small business and disadvantaged business contracting opportunities; and

(iv) Performing outreach efforts through interaction with Federal, state and local entities and other pertinent associations and groups; participating in business and economic development conferences, and providing training opportunities in support of business and economic development programs.

(3) Assisting in the acquisition process by:

(i) Assuring that the contracting office(s) or activity is kept abreast of new or revised small business and small disadvantaged business concern regulations, policies, procedures and other related information;

(ii) Assisting in the advance acquisition planning process (see Subpart 1407.1);

(iii) Reviewing each acquisition requirement over $25,000 as well as small purchases;

(iv) Participating in proposal evaluation activities (when appropriate or when requested by the contracting officer);

(v) When appropriate, attending debriefings to unsuccessful small business and small disadvantaged business concerns; and

(vi) Assuring that a fair proportion of eligible small business and small disadvantaged business concerns are included on solicitation mailing lists and source lists.

(4) Maintaining all records and files necessary to demonstrate maximum support for the program; assuring compilation of current, accurate, and complete data, preparing all reports pertaining to small business and small disadvantaged business activities.

Subpart 1419.5—Set-asides for Small Business

§ 1419.503 Setting aside a class of acquisitions.

§ 1419.503–70 Class Set-aside for construction acquisitions.

(a) To assure that a fair portion of the Department's contracts are placed with small business concerns, all acquisitions for construction (as defined in FAR 36.102) estimated to cost $1 million or less shall be set aside on a class basis for exclusive participation by small business concerns except where small purchase procedures are used to accomplish the acquisition or when the acquisition involves emergency repair work. If the construction site is located in a labor surplus area, the acquisition shall be set aside for the exclusive participation of small businesses located in labor surplus areas (see FAR 19.504(a)). Any modification of this policy by the contracting officer shall be conducted in accordance with FAR 19.506.

(b) All acquisitions for construction estimated to cost in excess of $1 million shall be set aside on a case-by-case basis for exclusive participation of small business concerns or small business concerns located in labor surplus areas under the conditions in FAR 19.502–2 and 20.201–1.

§ 1419.505 Rejection of set-aside recommendations.

(a) As prescribed in FAR 19.505, the Assistant Secretary—Policy, Budget and Administration is authorized to reply to the Administrator of SBA on any SBA appeal of a contracting officer's set-aside recommendation.

(b) A written justification in support of the contracting officer's decision to reject the set-aside recommendation shall be approved by the head of the contracting activity (or designee). It shall then be forwarded for sequential

review through the Director, Office of Small and Disadvantaged Business Utilization and the Director, Office of Acquisition and Property Management, for action by the Assistant Secretary—Policy, Budget and Administration.

Subpart 1419.7—Subcontracting with Small Business and Small Disadvantaged Business Concerns

§ 1419.705 Responsibilities of the contracting officer under the subcontracting assistance program.

§ 1419.705–70 Requesting a subcontracting plan.

When a subcontracting plan is requested, the contracting officer shall:

(a) Send the offeror or bidder a request for the plan and include a copy of a sample subcontracting plan outline (see 1453.219–71).

(b) Specify a time limit for submission of the plan.

Subpart 1419.8—Contracting with the Small Business Administration (the 8(a) program)

§ 1419.810 Contract administration.

§ 1419.810–70 Evaluation of 8(a) contractor performance.

(a) It is the policy of the Department to require evaluation of SBA 8(a) contractor performance by the contracting activity using form DI–1919, Performance Evaluation (8(a)). (See 1453.219–72.)

(b) The report shall be prepared at the time of final acceptance of the work or after contract termination. Ordinarily, the evaluating official who prepares the report should be the person responsible for monitoring contract performance. The authorized representative of the contracting officer shall provide timely evaluation of the SBA 8(a) contractor's performance.

(c) If the evaluating official concludes that the contractor's overall performance was poor or unsatisfactory, the contractor shall be advised in writing that a report of this performance is being proposed and the basis for the evaluation. If the contractor submits any comments, the evaluating official shall include them in the report, resolve any alleged factual discrepancies, and make appropriate changes in the report.

(d) Each performance report shall be filed in accordance with bureau procedures and a copy of the report shall be promptly forwarded to the Office of Small and Disdvantaged Business Utilization.

Subpart 1419.9—Contracting Opportunities for Women-owned Business

§ 1419.901 Policy.

(a) The Office of Small and Disadvantaged Business Utilization is responsible for carrying out the Department's women-owned business enterprise program in accordance with Part 111, Chapter 8 of the Departmental Manual (111 DM 8).

(b) Annual goals for contract awards to women-owned businesses shall be established as prescribed in 1419.202–70.

(c) Small women-owned businesses shall be considered for subcontracting opportunities under FAR 19.702 and subcontract awards shall be reported as prescribed in FAR 19.704.

PART 1420—LABOR SURPLUS AREA CONCERNS

Subpart 1420.1—General

Sec.

1420.102 General policy.

Subpart 1420.2—Set-asides

1420.201 Set-asides for labor surplus area concerns.

1420.201–70 Set-asides for construction acquisitions.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), and 5 U.S.C. 301.

Subpart 1420.1—General

§ 1420.102 General policy.

As prescribed under Part 111, Chapter 8 of the Departmental Manual (III DM 8), the Office of Small and Disadvantaged Business Utilization is responsible for carrying out the Department's labor surplus area program in accordance with the policies in FAR Part 20.

Subpart 1420.2—Set-asides

§ 1420.201 Set-asides for labor surplus area concerns.

§ 1420.201–70 Set-asides for construction acquisitions.

(a) As prescribed in § 1419.503–70, all acquisitions for construction, alteration, or repair of buildings, structures, or other real property which are estimated to cost $1 million or less shall be set aside on a class basis for combined small business, labor surplus area concerns when the construction site is located in a labor surplus area.

(b) Construction acquisitions estimated to exceed $1 million in cost may be set aside for labor surplus area concerns by the contracting officer under the conditions prescribed in FAR 20.201–1.

PART 1424—PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

Subpart 1424.1—Protection of Individual Privacy

Sec.

1424.102 General.

1424.103 Procedures.

1424.104 Contract clauses.

Subpart 1424.2—Freedom of Information Act

1424.202 Policy.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), and 5 U.S.C. 301.

Subpart 1424.1—Protection of Individual Privacy

§ 1424.102 General.

Procedures for implementing the Privacy Act of 1974 and Departmental regulations under 43 CFR Part 2, Subpart D, are contained in Part 317 of the Departmental Manual (317 DM).

§ 1424.103 Procedures.

When required by FAR 24.103(b)(2), the contracting officer shall provide the contractor with a copy of the Department's Privacy Act regulations codified in 43 CFR Part 2, Subpart D.

§ 1424.104 Contract clauses.

The clause at FAR 52.224–1, Privacy Act Notification, as prescribed in FAR 24.104(a), shall be supplemented in accordance with § 1452.224–1.

Subpart 1424.2—Freedom of Information Act

§ 1424.202 Policy.

(a) The Department's implementation of the Freedom of Information Act is codified in regulations under 43 CFR 2.11 through 2.20.

(b) It is the policy of the Department to alert prospective contractors which place restrictions on the disclosure and use of proposal data that certain data may be subject to disclosure under a Freedom of Information Act request. (See 1415.413 and 1452.215–71.)

PART 1425—FOREIGN ACQUISITION

Subpart 1425.2—Buy American Act—Construction Materials

Sec.

1425.202 Policy.

1425.203 Evaluating offers.

1425.204 Violations.

1425.205 Solicitation provision.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), and 5 U.S.C. 301.

Subpart 1425.2—Buy American Act—Construction Materials

1425.202 Policy.

(a) The Assistant Secretary—Policy, Budget and Administration shall make the determinations prescribed in FAR 25.202(a)(2) and FAR 25.203(a).

(b) The Director, Office of Acquisition and Property Management shall make the determination prescribed in FAR 25.202(a)(3) in accordance with the procedures in § 1425.108.

(c) Determinations under (a) above shall be prepared by the contracting officer and submitted by the head of the contracting activity to the Director, Office of Acquisition and Property Management for further action.

(d) Determinations approved under FAR 25.202(a)(2) shall require listing of excepted material in the contract as prescribed in FAR 25.202(c).

§ 1425.203 Evaluating offers.

(a) Unless the Assistant Secretary—Policy, Budget and Administration determines otherwise, when the cost of a comparable domestic construction material exceeds by more than 6 percent the cost of a foreign construction material proposed in an offer, use of the domestic construction material would unreasonably increase the cost of the contract and use of the foreign construction material is authorized and acceptable. This evaluation shall be made for each foreign construction material proposed in an offer and not specifically excepted by the solicitation. The cost of construction material shall be computed to include all delivery costs to the construction site, and the cost of foreign construction material shall also include any applicable duty (whether or not a duty-free entry certificate may be issued).

(b) The provision at § 1425.225–70, Buy American Act Notice—Department of the Interior, requires offerors proposing to use foreign construction materials to provide adequate information for Government evaluation under (a) above, and permits alternate offers for comparable domestic construction materials at stated prices. When a foreign construction material is not authorized under (a) above, evaluation of the offer shall be made on the basis of the stated price for comparable domestic construction material. If the offer does not state a price for comparable domestic construction material, and use of the foreign construction material is not authorized under (a) above, the offer shall be rejected.

(c) The acceptable offer that remains low after adding (for evaluating purposes only) 6 percent of the cost of all foreign construction materials authorized for use under (a) above shall be considered the successful offer. The contract awarded under these circumstances shall contain a list of the authorized foreign construction materials as required by FAR 25.202(c) and the clause at FAR 52.225–5, Buy American Act—Construction Materials.

(d) Determinations for authorization to use evaluation methods other than those prescribed in this section shall be prepared by the contracting officer and submitted by the head of the contracting activity to the Director, Office of Acquisition and Property Management for further action. The determination shall specify particular domestic construction materials which are expected to unreasonably increase the cost or are impracticable, and the percentage differential to be used in evaluating such materials. If the determination is approved, the Director, Office of Acquisition and Property Management shall authorize appropriate revisions to the provision at 1452.225–70.

§ 1425.204 Violations.

Failure of the contractor to comply with the clause at FAR 52.225–5, Buy American Act—Construction Materials, shall be documented in a report by the contracting officer and submitted to the head of the contracting activity for initiation of debarment action in accordance with Subpart 1409.4.

§ 1425.205 Solicitation provision.

In addition to the requirements of FAR 25.205, the contracting officer shall insert the provision at § 1452.225–70, Buy American Act Notice—Department of the Interior, in solicitations for construction inside the United States. For determinations made under FAR 25.202(a)(2) that use of a domestic construction material would be impracticable (see § 1452.202), the material shall be listed under paragraph (a) of the provision at § 1452.225–70.

SUBCHAPTER E—GENERAL CONTRACTING REQUIREMENTS

PART 1428—BONDS AND INSURANCE

Subpart 1428.1—Bonds

Sec.
1428.101 Bid guarantees.
1428.101–70 Annual bid bonds.
1428.104 Annual performance bonds.

Subpart 1428.3—Insurance

1428.301 Policy.
1428.306 Insurance under fixed-price contracts.
1428.306–70 Insurance for aircraft service contracts.
1428.311 Solicitation provision and contract clause on air liability insurance under cost-reimbursement contracts.
1428.311–2 Contract clause.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), and 5 U.S.C. 301.

Subpart 1428.1—Bonds

§ 1428.101 Bid guarantees.

§ 1428.101–70 Annual bid bonds.

(a) Bidders shall submit annual bid bonds to the Office of Acquisition and Property Management, Office of the Secretary, U.S. Department of the Interior, Washington, D.C. 20240.

(b) The Office of Acquisition and Property Management will maintain and disseminate all information regarding annual bid bonds.

§ 1428.104 Annual performance bonds.

Annual performance bonds shall be submitted to the location prescribed in § 1428.101–70.

Subpart 1428.3—Insurance

§ 1428.301 Policy.

It is the policy of the Department of the Interior to insure its own risks only when such action is in the best interest of the Government. Circumstances where contractors are required to carry insurance are listed under FAR 28.301 and FAR 28.306. In these circumstances, the clause at § 1452.338–70, Indemnification—Department of the Interior, shall be inserted in the contract.

§ 1428.306 Insurance under fixed-price contracts.

§ 1428.306–70 Insurance for aircraft services contracts.

(a) *Policy.* In accordance with FAR 28.306(a), it is the policy of the Department of the Interior to establish minimum insurance requirements for certain types of aircraft services contracts in order to protect the Government and its contractors.

(b) *Applicability.* The clauses prescribed by paragraph (c) of this section are applicable to all fixed-price contracts involving use of aircraft with either contractor-furnished or Government-furnished pilot except for one-time charters when Government exposure is minimal and time limitations are present.

(c) *Clauses.* The following clauses shall be used as prescribed:

(1) The contracting officer shall insert the clause at § 1452.228–71, Risk and Indemnities—Department of the Interior, in all fixed price contracts for operation of aircraft with contractor-furnished pilot.

(2) The contracting officer shall insert the clause to § 1452.228–72, Liability for Loss or Damage—Department of the Interior, in all fixed-price contracts involving the use of aircraft with Government-furnished pilot where the Government does not have a property interest in the aircraft.

(3) The contracting officer shall insert the clause at § 1452.288–73, Liability for Loss or Damage—Department of the Interior, (Property Interest), in all fixed-price controls involving the use of aircraft with Government-furnished pilot where the Government has a property interest in the aircraft (e.g., lease with purchase option).

§ 1428.311 Solicitation provision and contract clause of liability insurance under cost-reimbursement contracts.

§ 1428.311–2 Contract clause.

The clause a FAR 52.228–7, Insurance—Liability to Third Persons, as prescribed in FAR 28.311–2, shall be modified for use in accordance with the instructions in § 1452.228–7.

PART 1432—CONTRACT FINANCING

Subpart 1432.3—Loan Guarantees for Defense Production

Sec.
1432.304 Procedures.
1432.304–2 Certificate of eligibility.

Subpart 1432.4—Advance Payments

1432.402 General.
1432.404 Exclusions.

Subpart 1432.8—Assignment of Claims

1432.805 Procedure.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), and 5 U.S.C. 301.

Subpart 1432–3—Loan Guarantees for Defense Production

§ 1432.304 Procedures.

§ 1432.304–2 Certificate of eligibility.

(a) The Assistant Secretary—Policy, Budget and Administration shall authorize guaranteed loan applications and transmit them to the Federal Reserve Bank as prescribed in FAR 32.304–2(h).

(b) Applications for loan guarantees (see FAR 32.304–1) and the contracting officer's certificate of eligibility (see FAR 32.304–2) shall be submitted by the head of the contracting activity to the Director, Office of Acquisition and Property Management for further action under (a) above.

Subpart 1432.4—Advance Payments

§ 1432.402 General.

(a) Except for contracts excluded under (b) below and under 1432.404, the Chief, Division of Acquisition and Grants, Office of Acquisition and Property Management, is authorized to approve findings and determinations and contract terms for advance payments as prescribed in FAR Subpart 32.4.

(b) The Assistant Secretary for Indian Affairs is authorized to approve findings and determinations and contract terms for advance payments as prescribed in FAR Subpart 32.4 for:

(1) Contracts with States or similar public bodies for foster home care of Indian children for periods not in excess of 90 days;

(2) Contracts with state universities or similar public bodies for surveys of physical resources and the development of studies of social and economic factors affecting Indian tribes without specific security for periods not in excess of 90 days; or

(3) Contracts with Indian tribal contractors which are totally Indian-owned and controlled nonprofit businesses and which qualify for contracts with the Bureau of Indian Affairs. The amount of the advance payments authorized shall not exceed $250,000.

(c) The contracting officer shall review and analyze the contractor's application for advance payments to determine if it meets the information requirements of FAR 32.408. Applications which do not contain the required information shall not be processed until it is obtained from the contractor.

(d) The contracting officer shall submit a recommendation for approval or disapproval of the contractor's request through the head of the bureau finance office (see FAR 32.402(e)(2)) to the head of the contracting activity for transmittal to the Chief, Division of Acquisition and Grants under (a) above. Recommendations which do not contain the information required by FAR 32.409–1 or FAR 32.409–2 will not be processed by the Division of Acquisition and Grants.

(e) The Assistant Secretary for Indian Affairs is required to make a detailed report to the Assistant Secretary—Policy, Budget and Administration on all advance payments authorized under (b)(1) and (b)(2) above at the close of each fiscal year.

§ 1432.404 Exclusions.

Advance payments may be used under the Bureau of Indian Affairs service contracts (including services which may extend beyond the current fiscal year) made pursuant to the Act of June 4, 1936 (25 U.S.C. 452), the Act of August 3, 1956 (25 U.S.C. 309), and statutes terminating Government supervision over certain Indian tribes, without regard to FAR 32.402(e), when the current Department Appropriations Act authorizes and requires advance payments in these circumstances.

Subpart 1432.8—Assignment of Claims

§ 1432.805 Procedure.

Department of the Interior form DI–83, Notice of Assignment, and form DI–84, Instrument of Assignment, shall be used by an assignee when complying with the requirements in FAR 32.803(e). (See 1453.232–70.)

PART 1433—DISPUTES AND APPEALS

Sec.
1433.003 Applicability.
1433.003–70 Interior Board of Contract Appeals.
1433.011 Contracting officer's decision.
1433.012 Contracting officer's duties upon appeal.
1433.014 Contract clause.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), and 5 U.S.C. 301.

§ 1433.003 Applicability.

(a) The Assistant Secretary—Policy, Budget and Administration shall make the determination prescribed under FAR 33.003(b).

(b) Determinations under (a) above shall be submitted by the head of the contracting activity to the Director, Office of Acquisition and Property Management for further action.

§ 1433.003–70 Interior Board of Contract Appeals.

(a) The Interior Board of Contract Appeals, IBCA, is authorized by the Secretary to consider and determine appeals from decisions of a contracting officer arising under a contract or relating to a contract made by the Department or any other executive agency when such agency or the Administrator of the Office of Federal Procurement Policy has duly designated the IBCA to decide the appeal.

(b) The address of the IBCA is 4015 Wilson Boulevard, Arlington, Virginia 22203.

(c) The IBCA rules of procedure are in 43 CFR Part 4, Subpart C.

§ 1433.011 Contracting officer's decision.

The written decision required by FAR 33.011(a)(4) shall include, in the paragraph listed under FAR 33.011(a)(4)(v), specific reference to the Interior Board of Contract Appeals (IBCA), 4015 Wilson Boulevard, Arlington, Virginia, 22203 and its procedures under 43 CFR Part 4. The IBCA optional small claims (expedited)

procedures and accelerated procedures under 43 CFR 4.113 shall also be referenced as required by FAR.

§ 1433.012 Contracting officer's duties upon appeal.

(a) When a notice of appeal has been received, the contracting officer shall endorse on the appeal the date of mailing (or the date of receipt if the notice was not mailed) and forward it to the IBCA by certified mail within 5 days of receipt. The Office of the Solicitor shall also be notified of the appeal by the contracting officer. (See 43 CFR 4.103.)

(b) The contracting officer shall prepare and transmit the data, documentation, and information required by 43 CFR 4.104 in the form of an appeal file to the IBCA, appropriate office of the Solicitor, and appellant or appellant's counsel within 30 days after receipt of a notice of appeal or advice that an appeal has been docketed by the IBCA.

§ 1433.014 Contract clause.

The Disputes clause contained in FAR 52.233–1 shall be used with its Alternate I in all solicitations and contracts of the Department.

SUBCHAPTER F—SPECIAL CATEGORIES OF CONTRACTING

PART 1436—CONSTRUCTION AND ARCHITECT-ENGINEERING CONTRACTS

Subpart 1436.2—Special Aspects of Contracting for Construction

Sec.
1436.209 Construction contracts with architect-engineer firms.

Subpart 1436.5—Contract Clauses

1436.570 Prohibition against use of lead-based paint.

Subpart 1436.6—Architect-Engineer Services

1436.602 Selection of firms for architect-engineer contracts.
1436.602–1 Selection criteria.
1436.602–4 Selection authority.
1436.602–5 Short selection processes for contracts not to exceed $10,000.
1436.603 Collecting data on and appraising firm's qualifications.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), and 5 U.S.C. 301.

Subpart 1436.2—Special Aspects of Contracting for Construction

§ 1436.209 Construction contracts with architect-engineer firms.

(a) As required by FAR 36.209, no contract for construction of a project shall be awarded to the firm that designed the project or its subsidiaries or affiliates without the written approval of the Director, Office of Acquisition and Property Management.

(b) Requests for approval under (a) above shall be made by the head of the contracting activity, through the appropriate Office of the Solicitor, to the Director, Office of Acquisition and Property Management. The request shall include the reason(s) why award to the design firm is required; an analysis of the facts involving potential or actual organizational conflicts of interest including benefits and detriments to the Government and the prospective contractor; and the measures which are to be taken to avoid, neutralize, or mitigate conflicts of interest.

Subpart 1436.5—Contract Clauses.

§ 1436.570 Prohibition against use of lead-based paint.

(a) *Policy.* The Lead-Based Paint Poisoning Prevention Act, (42 U.S.C. 4831), as amended by the National Consumer Health Information and Health Promotion Act of 1976 (Sec. 204, Pub. L. 94–317 (42 U.S.C. 4831)), prohibits the use of lead-based paint in Federal or federally-assisted construction or rehabilitation of residential structures. Implementing regulations of the Secretary of Housing and Urban Development under 24 CFR Part 35 requires agencies to include appropriate provisions in contracts or subcontracts for construction or rehabilitation of residential structures.

(b) *Definitions.* As used in this section, "residential structure" means any house, apartment, or structure intended for human habitation including any institutional structure where persons reside such as an orphanage, boarding school dormitory, day care center, or extended care facility.

(c) *Procedures.* The contracting officer shall insert the clause at § 1452.236–70, Prohibition Against Use of Lead-Based Paint, in solicitations and contracts when construction of residential structures or rehabilitation (including dismantling, demolition, or removal) of residential structures is contemplated.

Subpart 1436.6—Architect-Engineer Services

§ 1436.602 Selection of firms for architect-engineer contracts.

§ 1436.602–1 Selection criteria.

(a) In addition to the selection criteria under FAR 36.602–1(a), the following additional criteria shall be used in the evaluation of each potential contractor when applicable to a particular acquisition:

(1) Computer assisted design capability and capacity (where such design is required.)

(2) Adequacy of facilities for performance of the work including those necessary to provide specialized services that may be required.

(3) Volume and nature of present workload as it relates to the ability to perform the work required.

(4) Experience and qualifications of proposed key personnel including specialized technical skills, project coordination and management skills, and experience in working together as a team.

(5) Availability of additional contractor personnel or consultants to support expansion or acceleration of the project.

(6) Other specific criterion as may be required.

(b) Heads of contracting activities are authorized to approve the use of design competition under the conditions in FAR 36.602–1(b).

§ 1436.602–4 Selection authority.

The head of the contracting activity is authorized to serve as the designated selection authority in accordance with FAR 36.602–4.

§ 1436.602–5 Short selection processes for contracts not to exceed $10,000.

The selection process prescribed in FAR 36.602–5(a) shall be used for architect-engineer contracts not expected to exceed $10,000.

1436.603 Collecting data on and appraising firms' qualifications.

(a) Heads of contracting activities which require architect-engineer services shall establish procedures to comply with the requirements of FAR 36.603.

(b) Copies of procedures established under (a) above shall be submitted to the Director, Office of Acquisition and Property Management for review and approval. The procedrues shall include a list of names, addresses, and phone numbers of offices or boards assigned to maintain architect-engineer qualification data files. The list shall be updated annually and submitted to the Director, Office of Acquisition and Property Management no later than 30 days after the beginning of each fiscal year.

PART 1437—SERVICE CONTRACTING

Subpart 1437.70—Appraisal Services (Real Property)

Sec.
1437.7000 Scope of subpart.
1437.7001 Policy.

Sec.
1437.7002 Contractor qualification requirements.
1437.7003 Appraisal standards.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), and 5 U.S.C. 301.

Subpart 1437.70—Appraisal Services (Real Property)

§ 1437.7000 Scope of subpart.

This subpart prescribes policies and procedures for acquiring real property appraisal services by contract.

§ 1437.7001 Policy.

Real property appraisal services shall be acquired by negotiation under the authority in FAR 15.204. The procedures for acquiring architect-engineer services, as prescribed in FAR Subpart 36.6, shall not be used to acquire real property appraisal services.

§ 1437.7002 Contractor qualification requirements.

(a) If it is anticipated that a real property appraisal to be acquired by contract may be subject to future court action, the contractor shall be a qualified appraiser as listed in the file maintained by the Land and Natural Resources Division, U.S. Department of Justice. This requirement shall be treated as a special standard of responsibility (see FAR 9.104–2).

(b) The contracting officer shall include the requirements of (a) above in all solicitations for real property appraisal services which may be subject to future court action.

§ 1437.7003 Appraisal standards.

(a) All real property appraisals made under a contract shall conform to the requirements of the Interagency Land Acquisition Conference publication "Uniform Appraisal Standards for Federal Land Acquisitions" published by the Government Printing Office.

(b) The standards in (a) above shall be made a part of all solicitations and resulting contracts for real property appraisal services.

SUBCHAPTER G—CONTRACT MANAGEMENT

PART1442—CONTRACT ADMINISTRATION

Subpart 1442.12—Novation and Change-of-Name Agreements

Sec.
1442.1204 Agreement to recognize a successor in interest (novation agreement).

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), and 5 U.S.C 301.

Subpart 1442.12—Novation and Change-of-Name Agreements

§ 1442.1204 Agreements to recognize a successor in interest (novation agreement).

For protection of Government rights in accrual of inventions, patents and data, the novation agreement format prescribed in FAR 42.1204(e) shall be supplemented by adding the following item (10) under section (b) of the agreement:

(10) The transferor agrees that any rights in inventions, patents, and data which accrue to the Government or to third party beneficiaries under the contracts between the tranferor and the Government shall not be diminished as a result of the transfer instruments or this agreement.

SUBCHAPTER H—CLAUSES AND FORMS

PART 1452—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

Sec.
1452.000 Scope of part.

Subpart 1452.2—Texts of Provisions and Clauses

1452.200 Scope of subpart.
1452.204–70 Release of claims.
1452.204–71 Indian preference.
1452.204–72 Indian preference program.
1452.210–70 Brand name or equal.
1452.215–70 Examination of records by the Department of the Interior.
1452.215–71 Use and disclosure of proposal information.
1452.224–1 Privacy Act notification.
1452.225–70 Buy American Act notice.
1452.228–7 Insurance—liability to third persons.
1452.228–70 Indemnification.
1452.228–71 Risk and indemnities.
1452.228–72 Liability for loss or damage.
1452.228–73 Liability for loss or damage (property interest).
1452.236–70 Prohibition against use of lead-based paint.
1452.237–70 Information collection.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), and 5 U.S.C. 301.

§ 1452.000 Scope of part.

This part prescribes Department of the Interior provisions and clauses for use in acquisition.

Subpart 1452.2—Texts of Provisions and Clauses

§ 1452.200 Scope of subpart.

This subpart sets forth the texts of all DIAR provisions and clauses. Conistent with the numbering scheme prescribed in FAR 52.101 and the approach used in FAR Subpart 52.2, this subpart is arranged by subject matter, in the same order as, and keyed to, the parts of the DIAR in which provisions and clause requirements are addressed.

§ 1452.204–70 Release of Claims.

As prescribed in 1404.804–70, insert the following clause in all construction contracts which exceed $25,000 and in all cost-reimbursement contracts which exceed $25,000.

RELEASE OF CLAIMS—DEPARTMENT OF THE INTERIOR (APR. 1984)

After completion of work and prior to final payment, the contractor shall furnish to the contracting officer a release of claims (DI–137) against the United States relating to this contract, other than claims excepted from the operation of the release.

[End of Clause]

§ 1452.204–71 Indian Preference.

As prescribed in 1404.7003(a), insert the following clause in solicitations issued and contracts awarded: (a) By the Bureau of Indian Affairs except those pursuant to Title I and to Indian Tribes and Indian Organizations under Title II of Pub. L. 93–638 (25 U.S.C. 450 et seq. and 25 U.S.C 455 et seq., respectively); (b) a contracting activity other than the Bureau of Indian Affairs when the contract is entered into pursuant to an act specifically authorizing contracts with Indian organizations; and (c) a contracting activity other than the Bureau of Indian Affairs when the work to be performed is specifically for the benefit of Indians and is in addition to any incidental benefits which might otherwise accrue to the general public.

INDIAN PREFERENCE—DEPARTMENT OF THE INTERIOR (APR. 1984)

(a) The Contractor agrees to give preferences to Indians who can perform the work required regardless of age (subject to existing laws and regulations), sex, religion, or tribal affiliation for training and employment opportunities under this contract and, to the extent feasible consistent with the efficient performance of this contract, training and employment preferences and opportunities shall be provided to Indians regardless of age (subject to existing laws and regulations), sex, religion, or tribal affiliation who are not fully qualified to perform under this contract. The Contractor also agrees to give preference to Indian organizations and Indian-owned economic enterprises in the awarding of any subcontracts consistent with the efficient performance of this contract. The Contractor shall maintain such records as are necessary to indicate compliance with this paragraph.

(b) In connection with the Indian employment preference requirements of this clause, the Contractor shall also provide opportunities for training incident to such employment. Such training shall include on-the-job, classroom, or apprenticeship training which is designed to increase the vocational effectiveness of an Indian employee.

(c) If the Contractor is unable to fill its training and employment needs after giving full consideration to Indians as required by

this clause, those needs may be satisfied by selection of persons other than Indians in accordance with the clause of this contract entitled "Equal Opportunity."

(d) If no Indian organizations or Indian-owned economic enterprises are available for awarding of subcontracts in connection with the work performed under this contract, the contractor agrees to comply with the provisions of this contract involving utilization of small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, or labor surplus are concerns.

(e) As used in this clause:

(1) "Indian" means a person who is a member of an Indian Tribe. If the Contractor has reason to doubt that a person seeking employment preference is an Indian, the Contractor shall grant the preference but shall require the individual within thirty (30) days to provide evidence from the Tribe concerned that the person is a member of that Tribe.

(2) "Indian Tribe" means an Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 668; 43 U.S.C. 1601) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(3) "Indian organization" means the governing body of any Indian Tribe or entity established or recognized by such governing body in accordance with the Indian Financing Act of 1974 (88 Stat. 77; 25 U.S.C. 1451); and

(4) "Indian-owned economic enterprise" means any Indian-owned commercial, industrial, or business activity established or organized for the purpose of profit provided that such Indian ownership shall constitute not less than 51 percent of the enterprise.

(f) The Contractor agrees to include the provisions of the clause including this paragraph (f) in each subcontract awarded under this contract.

(g) In the event of noncompliance with this clause, the Contractor's right to proceed may be terminated in whole or in part by the Contracting Officer and the work completed in a manner determined by the Contracting Officer to be in the best interests of the Government.

[End of clause]

§ 1452.204-72 Indian Preference Program.

As prescribed in 1404.7003(b), insert the following clause in all solicitations and contracts, awarded by the contracting activity which may exceed $50,000, and which contain the clause at 1452.204-71, and where it is determined by the Contracting Officer, prior to solicitation, that the work under the contract will be performed in whole or in part on or near an Indian reservation(s). The clause may also be included in solicitations issued and contracts awarded by a contracting activity which may not exceed $50,000 but which contain the clause at § 1452.204-71 and which, in the opinion of the contracting officer, offer substantial opportunities for Indian employment, training, and subcontracting.

INDIAN PREFERENCE PROGRAM—DEPARTMENT OF THE INTERIOR (APR. 1984)

(a) In addition to the requirements of the clause of this contract entitled "Indian Preference—Department of the Interior," the Contractor agrees to establish and conduct an Indian preference program which will expand the opportunities for Indian organizations and Indian-owned economic enterprises to receive a preference in the awarding of subcontracts and which will expand opportunities for Indians to receive preference for training and employment in connection with the work to be performed under this contract. In this connection, the contractor shall:

(1) Designate a liaison officer who will: (i) Maintain liaison with the Government and Tribe(s) on Indian preference matters; (ii) supervise compliance with the provisions of this clause; and (iii) administer the Contractor's Indian preference program.

(2) Advise its recruitment sources in writing and include a statement in all advertisements for employment that Indian applicants will be given preference in employment and training incident to such employment.

(3) Not less than twenty (20) calendar days prior to commencement of work under this contract, post a written notice in the Tribal office of any reservations on which or near where the work under this contract is to be performed, which sets forth the Contractor's employment needs and related training opportunities. The notice shall include the approximate number and types of employees needed, the approximate dates of employment; the experience or special skills required for employment, if any; training opportunities available; and all other pertinent information necessary to advise prospective employees of any other employment requirements. The Contractor shall also request the Tribe(s) on or near whose reservation(s) the work is to be performed to provide assistance to the Contractor in filling its employment needs and training opportunities. The Contracting Officer will advise the Contractor of the name, location, and phone number of the Tribal officials to contact in regard to the posting of notices and requests for Tribal assistance.

(4) Establish and conduct a subcontracting program which gives preference to Indian organizations and Indian-owned economic enterprises as subcontractors and suppliers under this contract. Consistent with the efficient performance of this contract, the Contractor shall give public notice of existing subcontracting opportunities by soliciting bids or proposals only from Indian organizations or Indian-owned economic enterprises. The Contractor shall request assistance and information on Indian firms qualified as suppliers or subcontractors from the Tribe(s) on or near whose reservation(s) the work under the contract is to be performed. The Contracting Officer will advise the Contractor of the name, location, and phone number of the Tribal officials to be contacted in regard to the request for assistance and information. Public notices and solicitations for existing subcontracting opportunities shall provide an equitable opportunity for Indian firms to submit bids or proposals by including: (i) A clear description of the supplies or services required including quantities, specifications, and delivery schedules which facilitiate the participation of Indian firms; (ii) a statement indicating the preference will given to Indian organizations and Indian-owned economic enterprises in accordance with Section 7(b) of Pub. L. 93-638; (88 Stat. 2205; 25 U.S.C. 450e(b)); (iii) definitions for the terms "Indian organization" and "Indian-owned economic enterprise" as prescribed under the "Indian Preference—Department of the Interior" clause of this contract; (iv) a representation to be completed by the bidder or offeror that it is an Indian organization or Indian-owned economic enterprise; and (v) a closing date for receipt of bids or proposals which provides sufficient time for preparation and submission of a bid or proposal. If after soliciting bids from Indian organizations and Indian-owned economic enterprises, no responsive bid is received, the Contractor shall comply with the requirements of paragraph (d) of the "Indian Preference—Department of the Interior" clause of this contract. If one or more responsive bids are received, award shall be made to the low responsible bidder if the bid price is determined to be reasonable. If the low responsive bid is determined to be unreasonable as to price, the Contractor shall attempt to negotiate a resonable price and award a subcontract. If a reasonable price cannot be agreed upon, the Contractor shall comply with the requirements of paragraph (d) of the "Indian Preference—Department of the Interior" clause of the contract.

(5) Maintain written records under this contract which indicate: (1) The names and addresses of all Indians seeking employment for each employment position available under this contract; (ii) the number of types of positions filled by: (A) Indians, and (B) non-Indians, and the name, address and position of each Indian employed under this contract; (iii) for those positions where there are both Indian and non-Indian applicants, and a non-Indian is selected for employment, the reason(s) why the Indian applicant was not selected; (iv) actions taken to give preference to Indian organizations and Indian-owned economic enterprises for subcontracting opportunities which exist under this contract; (v) reasons why preference was not given to Indian firms as subcontractors or suppliers for each requirement where is was determined by the Contractor that such preference would not be consistent with the efficient performance of the contract; and (vi) the names and addresses of all Indian organizations and Indian-owned economic enterprises: (A) Contacted, and (B) receiving subcontract awards under this contract.

(6) The Contractor shall submit to the Contracting Officer for approval a semiannual report which summarizes the

Contractor's Indian preference program and indicates (i) the number and types of available positions filled and dollar amounts of all subcontracts awarded to (a) Indian organizations and Indian-owned economic enterprises and (b) all other firms.

(7) Records maintained pursuant to this clause will be kept available for review by the Government until expiration of one (1) year after final payment under this contract, or for such longer period as may be required by any other clause of this contract or by applicable law or regulation.

(b) For purpose of this clause, the following definitions of terms shall apply:

(1) The terms "Indian," "Indian Tribe," "Indian Organization," and "Indian-owned economic enterprise" are defined in the clause of this contract entitled "Indian Preference."

(2) "Indian reservation" includes Indian reservation, public domain Indian allotments, former Indian reservations in Oklahoma, and land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act (85 Stat. 688; 43 U.S.C. 1601 et seq.).

(3) "On or near an Indian Reservation" means on a reservation or reservations or within that area surrounding an Indian reservation(s) where a person seeking employment could reasonably be expected to commute to and from in the course of a work day.

(c) Nothing in the requirements of this clause shall be interpreted to preclude Indian Tribes from independently developing and enforcing their own Indian preference requirements. Such requirements must not hinder the Government's right to award contracts and to administer their provisions.

(d) The Contractor agrees to include the provisions of this clause including this paragraph (d) in each subcontract awarded under this contract to notify the Contracting Officer of such subcontracts.

(e) In the event of noncompliance with this clause, the Contractor's right to proceed may be terminated in whole or in part by the Contracting Officer and the work completed in a manner determined by the Contracting Office to be in the best interest of the Government.

[End of clause]

§ 1452.210–70 Brand Name or Equal.

As prescribed in 1410.004–70(c), insert the following provision in solicitations which contain a "brand name or equal" purchase description:

BRAND NAME OR EQUAL—DEPARTMENT OF THE INTERIOR (APR. 1984)

(As used in this clause, the term "brand name" includes identification of products by make and model.)

(a) If items called for by this solicitation have been identified in the schedule by a "brand name or equal" description, such identification is intended to be descriptive, but not restrictive, and is to indicate the quality and characteristics of products that will be satisfactory. Bids offering "equal" products (including products of the brand name manufacturer other than the one described by brand name) will be considered for award if such products are clearly identified in the bids or proposals and are determined by the Government to meet fully the salient characteristics requirements listed in the solicitation.

(b) Unless the bidder clearly indicates in its bid that it is offering an "equal" product, its bid shall be considered as offering a brand name product referenced in the solicitation.

(c)(1) If the bidder proposes to furnish an "equal" product, the brand name, if any, of the product to be furnished shall be inserted in the space provided in the solicitation, or such product shall be otherwise clearly identified in the bid. The evaluation of bids and the determination as to equality of the product offered shall be the responsibility of the Government and will be based on information furnished by the bidder or identified in its bid as well as other information reasonably available to the contracting activity. **CAUTION TO BIDDERS:** The contracting activity is not responsible for locating or securing any information which is not identified in the bid and reasonably available to the contracting activity. Accordingly, to assure that sufficient information is available, the bidder must furnish as a part of its bid all descriptive material (such as cuts, illustrations, drawings, or other information) necessary for the contracting activity to: (i) Determine whether the product offered meets the salient characteristics requirement of the solicitation; and (ii) establish exactly what the bidder proposes to furnish and what the Government would be binding itself to purchase by making an award. The information furnished may include specific reference to information previously furnished or to information otherwise available to the contracting activity.

(2) If the bidder proposes to modify a product so as to make it conform to the requirements of the solicitation, it shall: (i) Include in his bid a clear description of such proposed modifications; and (ii) clearly mark any descriptive material to show the proposed modifications.

(3) Modifications proposed after bid opening to make a product conform to a brand name product referenced in the solicitation will not be considered.

§ 1452.215–70 Examination of records by the Department of the Interior.

As prescribed in 1415.106.1, insert the following clause in all contracts containing the clause at FAR 52.215–1, Examination of Records by the Comptroller General (see FAR 15.106–1(b)):

EXAMINATION OF RECORDS BY THE DEPARTMENT OF THE INTERIOR (APR. 1984)

For purposes of the Examination of Records by the Comptroller General (APR 1984) clause of this contract (FAR 52.214–1), the Secretary of the Interior, the Inspector General, and their duly authorized representative(s) from the Department of the Interior shall have the same access and examination rights as the Comptroller General of the United States.

[End of clause]

§ 1452.215–71 Use and disclosure of proposal information.

As prescribed in 1415.413–70, insert the following provision in requests for proposals and requests for quotations instead of the provision at FAR 52.215–12:

USE AND DISCLOSURE OF PROPOSAL INFORMATION—DEPARTMENT OF THE INTERIOR (APR. 1984)

(a) *Definitions.* For the purposes of this provision and the Freedom of Information Act (5 U.S.C. 552), the following terms shall have the meaning set forth below:

(1) "Trade Secret" means an unpatented, secret, commercially valuable plan, appliance, formula, or process, which is used for making, preparing, compounding, treating or processing articles or materials which are trade commodities.

(2) "Confidential commercial or financial information" means any business information (other than trade secrets) which is exempt from the mandatory disclosure requirement of the Freedom of Information Act, 5 U.S.C. 552. Exemptions from mandatory disclosure which may be applicable to business information contained in proposals include exemption (4), which covers "commercial and financial information obtained from a person and privileged or confidential," and exemption (9), which covers "geological and geophysical information, including maps, concerning wells."

(b) If the offeror, or its subcontractor(s), believes that the proposal contains trade secrets or confidential commercial or financial information exempt from disclosure under the Freedom of Information Act, (5 U.S.C. 552), the cover page of each copy of the proposal shall be marked with the following legend:

"The information specifically identified on pages —— of this proposal constitutes trade secrets or confidential commercial and financial information which the offeror believes to be exempt from disclosure under the Freedom of Information Act. The offeror requests that this information not be disclosed to the public, except as may be required by law. The offeror also requests that this information not be used in whole or part by the Government for any purpose other than to evaluate the proposal, except that if a contract is awarded to the offeror as a result of or in connection with the submission of the proposal, the Government shall have the right of use the information to the extent provided in the contract."

(c) The offeror shall also specifically identify trade secret information and confidential commercial and financial information on the pages of the proposal on which it appears and shall mark each such page with the following legend:

"This page contains trade secrets or confidential commercial and financial information which the offeror believes to be exempt from disclosure under the Freedom of Information Act and which is subject to the legend contained on the cover page of this proposal."

(d) Information in a proposal identified by an offeror as trade secret information or confidential commercial and financial information shall be used by the Government only for the purpose of evaluating the proposal, except that: (i) If a contract is awarded to the offeror as a result of or in connection with submission of the proposal, the Government shall have the right to use the information as provided in the contract; and (ii) if the same information is obtained from another source without restriction it may be used without restriction.

(e) If a request under the Freedom of Information Act seeks access to information in a proposal identified as trade secret information or confidential commercial and financial information, full consideration will be given to the offeror's view that the information constitutes trade secrets or confidential commerical or financial information. The offeror will also be promptly notified of the request and given an opportunity to provide additional evidence and argument in support of its position, unless administratively unfeasible to do. If it is determined that information claimed by the offeror to be trade secret information or confidential commerical or financial information is not exempt from disclosure under the Freedom of Information Act, the offeror will be notified of this determination prior to disclosure of the information.

(f) The Government assumes no liability for the disclosure or use of information contained in a proposal if not marked in accordance with paragraphs (b) and (c) of this provision. If a request under the Freedom of Information Act is made for information in a proposal not marked in accordance with paragraphs (b) and (c) of this provision, the offeror concerned shall be promptly notified of the request and given an opportunity to provide its position to the Government. However, failure of an offeror to mark information contained in a proposal as trade secret information or confidential commerical or financial information will be treated by the Government as evidence that the information is not exempt from disclosure under the Freedom of Information Act, absent a showing that the failure to mark was due to unusual or extenuating circumstances, such as a showing that the offeror had intended to mark, but that markings were omitted from the offeror's proposal due to clerical error.

[End of provision]

§ 1452.224-1 Privacy Act Notification.

(a) As prescribed in § 1424.104, the clause at FAR 52.244-1, Privacy Act Notification, shall be modifed before insertion into solicitations and contract by.

(1) Changing the title of the clause to read "PRIVACY ACT NOTIFICATION (APR. 1984) (DEVIATION)"; and

(2) Adding the following sentence to the end of the clause:

"Applicable Department of the Interior regulations are set forth in 43 CFR 2, Subpart D, and may be obtained by submitting a written request to the Privacy Act Officer, Officer of the Assistant Secretary—Policy, Budget and Administration, Department of the Interior, Washington, D.C. 20240."

(b) As prescribed in FAR 52.103(a) and 52.107(f), the clause at FAR 52.252-6, Authorized Deviation in Clauses, shall be inserted into solicitations and contracts containing the clause in (a) above.

§ 1452.225-70 Buy American Act Notice.

As prescribed in § 1425.205, insert the following provision in solicitations for construction inside the United States:

BUY AMERICAN ACT NOTICE—DEPARTMENT OF THE INTERIOR (APR. 1984)

(a) The Buy American Act (41 U.S.C. 10) generally requires that only domestic construction material be used in the performance of this contract (see the clause titled "Buy American Act—Construction Materials"). This requirement does not apply to the following construction materials:

[List excepted material or indicate "none".]

(b) Offers based on the use of other foreign construction material may be acceptable for award if the Government determines that—

(1) Comparable domestic construction material in sufficient and reasonably available quantities, of a satisfactory quality, is unavailable; or

(2) Use of comparable domestic construction material is impracticable or would unreasonably increase the cost.

(c) Any offer based on the use of one or more other foreign construction materials shall include data, in the format listed in paragraph (e) below, clearly demonstrating that the cost of each foreign construction material, plus 6 percent, is less than the cost of each comparable domestic construction material. The cost of construction material shall be computed to include all delivery costs to the construction material and shall also include any applicable duty (whether or not a duty-free entry certificate may be issued).

(d) For evaluation purposes, the Government shall add to the offer 6 percent of the cost of foreign material which qualifies for acceptance under paragraph (c) above.

(e) For foreign construction material which does not qualify for acceptance under paragraph (c) above, the Government shall evaluate the offer on the basis of the stated price for comparable domestic construction material. *Therefore, if the offer does not state a price for a comparable domestic construction material, and the foreign construction material does not qualify for acceptance under paragraph (c) above, the offer shall be rejected as nonresponsive.*

(f) For evaluation purposes under paragraph (c) above, the following information shall be included in the offer for the use of one or more foreign construction materials:

FOREIGN AND DOMESTIC CONSTRUCTION MATERIALS COST COMPARISON

Construction material description	Unit	Quantity	Cost including all delivery costs to construction site [1] (dollars)
Item 1:			
Foreign construction material			
Comparable domestic construction material			
Item 2:			
Foreign construction material			
Comparable domestic construction material			

[1] Also include applicable duty for foreign material.

[End of provision]

§ 1452.228-7 Insurance—Liability to third persons.

(a) As prescribed in § 1428.311-2, the clause at FAR 52.228-7, Insurance—Liability to Third Persons, shall be modified before insertion into solicitations and contracts by:

(1) Changing the title of the clause to read "INSURANCE—LIABILITY TO THIRD PERSONS (APR 1984) (DEVIATIONS)"; and

(2) Changing the first sentence in subparagraph (c)(2) of the clause to read "For certain liabilities (and expenses incidental to such liabilities) to third persons not compensated by insurance or otherwise but subject to the 'Limitation of Cost' or 'Limitation of Funds' clause of this contract."

(b) As prescribed in FAR 52.103(a) and 52.107(f), the clause at FAR 52.252-6, Authorized Deviations in Clauses, shall be inserted into solicitations and contracts containing the clause in (a) above.

§ 1452.228-70 Indemnification.

As prescribed in 1428.301, insert the following clause in all contracts where circumstances warrant the carrying of insurance by the contractor (see FAR 28.301 and 28.306):

INDEMNIFICATION—DEPARTMENT OF THE INTERIOR (APR. 1984)

(a) The Contractor shall indemnify the hold the Government harmless for any and all losses, damages, or liability on account of personal injury, death, or property damange, or claims for personal injury, death, or property damage of any nature whatsoever and by whomsoever made, arising out of the activities of the Contractor, its employees, subcontractors, or agents under the contract. For the purpose of fulfilling its obligations under this paragraph, the Contractor shall procure and maintain during the term of this contract and any extension thereof liability insurance in form satisfactory to the Contracting Officer by an insurance company which is acceptable to the Contracting Officer. The name insured parties under the

policy shall be the Contractor and the United States of America. The amounts of the insurance shall be not less than as follows:

$———— each person.*
$———— each occurrence.*
$———— property damage.*

(b) Each policy or certificate evidencing the insurance shall contain an endorsement which provides that the insurance company will notify the Contracting Officer 30 days prior to the effective date of any cancellation or termination of the policy or certificate or any modification of the policy or certificate which adversely affects the interest of the Government in such insurance. The notice shall be sent by registered mail and shall identify this contract, the name and address of the contracting office, the policy and the insured.

(c) Prior to the commencement of work hereunder the Contractor shall furnish the Contracting Officer with acceptable evidence showing that the insurance coverage described in this clause has been obtained.

*These amounts to be set by the Contracting Officer.

[End of clause]

§ 1452.228–71 Risk and indemnities.

As prescribed in § 1428.306–70(c)(1), insert the following clause in all fixed-price contracts for operating of aircraft with contractor-furnished pilot:

RISK AND INDEMNITIES—DEPARTMENT OF THE INTERIOR (APR. 1984)

The Contractor hereby agrees to indemnify and hold harmless the Government, its officers and employees from and against all claims, demands, damages, liabilities, losses, suits and judgments (including all costs and expenses incident thereto) which may be suffered by, accrue against, be charged to or recoverable from the Government, its officers and employees by reason of injury to or death of any person other than officers, agents, or employees of the Government or by reason of damage to property of others of whatsoever kind (other than the property of the Government, its officers, agents or employees) arising out of the operation of the aircraft. In the event the Contractor holds or obtains insurance in support of this covenant, a Certificate of Insurance shall be delivered to the Contracting Officer.

[End of clause]

§ 1452.228–72 Liability for loss or damage.

As prescribed in § 1428.306–70(c)(2), insert the following clause in all fixed-price contracts involving the use of aircraft with Government-furnished pilot where the Government does not have a property interest in the aircraft:

LIABILITY FOR LOSS ON DAMAGE—DEPARTMENT OF THE INTERIOR (APR. 1984)

(a) The Contractor shall indemnify and hold the Government harmless from any and all loss or damage to the aircraft furnished under this contract except as provided in paragraph (d) below. For the purpose of fulfilling its obligation under this clause, the Contractor shall procure and maintain during the term of this contract, and any extension thereof, hull insurance acceptable to the Contracting Officer. The Contractor's insurance coverage shall apply to pilots furnished by the Government who operate the aircraft. The contractor may request a list of Government pilots by name and qualification who are potential pilots.

(b) Prior to the commencement of work hereunder, the Contractor shall furnish to the Contracting Officer a copy of the insurance policy or policies or a certificate of insurance issued by the underwriter(s) showing that the coverage required by this clause has been obtained.

(c) Each policy or certificate evidencing the insurance shall contain an endorsement which provides that the insurance company will notify the Contracting Officer 30 days prior to the effective date of any cancellation or termination of any policy or certificate or any modification of a policy or certificate which adversely affects the interests of the Government in such insurance. The notice shall be sent by registered mail and shall identify this contract, the name and address of the contracting office, the policy, and the insured.

(d) If the aircraft is damaged or destroyed while in the custody and control of the Government, the Government will reimburse the Contractor for the deductible stipulated in the insurance coverage (if any) as follows:

(1) In-Motion Accidents—Up to 5% of the current insured value of the aircraft stated in the policy, or $10,000.00, whichever is less.

(2) Not In-Motion Accidents—Up to $250.00 per accident. Such reimbursement shall not be made, however, for loss or damage to the aircraft resulting from: (1) Normal wear and tear, (2) negligence or fault in maintenance of the aircraft by the Contractor, or (3) a defect in construction of the aircraft or a component thereof.

(e) If damage to the aircraft is established to be the fault of the Government, rental payments to the Contractor during the repair period will be made as set forth elsewhere in this contract. The Government may, at its option, make necessary repairs or return the aircraft to the Contractor for repair. In the event the aircraft is lost, destroyed, or damaged so extensively as to be beyond repair, no rental payment will be made to the Contractor thereafter.

(f) Any failure to agree as to the responsibility of the Government or the Contractor under this clause shall, after a final finding and determination by the Contracting Officer, be considered a dispute within the meaning of the "Disputes" clause of this contract.

[End of clause]

§ 1452.228–73 Liability for loss or damage (property interest).

As prescribed in § 1428.306–70(c)(3), insert the following clause in all fixed-price contracts involving the use of aircraft with Government-furnished pilot where the Government has a property interest in the aircraft (e.g., lease with purchase option):

LIABILITY FOR LOSS OR DAMAGE—DEPARTMENT OF THE INTERIOR (APR. 1980)

(a) The Government assumes all risk and liability for damage to or loss of the aircraft for the term of this contract, while the aircraft is in the Government's possession, except for: (1) Normal wear and tear to the aircraft, or (2) loss which occurs as a result of negligence or fault in maintenance of the aircraft by the contractor, or (3) loss resulting from a latent defect in the construction of the aircraft or a component thereof.

(b) In the event of damage to the aircraft, the Government may, at its option, make the necessary repairs with its own facilities, or by contract, or pay the Contractor the reasonable cost of repair of the aircraft. If damage to the aircraft is established to be the fault of the Government, rental payments to the Contractor during the repair period will be made as set forth elsewhere in this contract.

(c) In the event the aircraft is lost, destroyed, or damaged so extensively as to be beyond repair, no rental payment will be made to the Contractor thereafter, but the Government will pay to the Contractor a sum equal to the fair market value of the aircraft just prior to such loss, destruction, or extensive damage, less the salvage value of the aircraft.

(d) The Contractor certifies that the contract price does not include any cost attributable to insurance or to any reserve fund it has established to protect its interests in or use of the aircraft, regardless of whether or not the insurance coverage applies for the period during which the Government has possession of the aircraft. If, in the event of loss or damage to the aircraft, the Contractor receives compensation for such loss or damage, in any form, from any source, the amount of such compensation shall be credited to the Government in determining the amount of the Government's liability under this clause; except that this shall not apply to proceeds of insurance received solely as an advance of insurance pending determination of Government liability, or for an increment of value of the aircraft beyond the value for which the Government is responsible.

(e) In the event of loss or damage, the Government shall be subrogated to all rights of recovery by the Conractor against third parties for such loss or damage and such rights shall be immediately assigned to the Government. Except as the Contracting Officer may permit in writing, the Contractor shall neither release nor discharge any third party from liability for such loss or damage nor otherwise compromise or adversely affect the Government's surogation or other rights hereunder. The Contractor shall cooperate with the government in any suit or action undertaken by the Government against any such third party.

(f) Any failure to agree as to the responsibility of the Government or the Contractor under this clause shall, after a final finding and determination by the Contracting Officer, be considered a dispute within the meaning of the "Disputes" clause of this contract.

[End of clause]

§ 1452.236–70 Prohibition against use of lead-based paint.

As prescribed in 1436.570, insert the following clause in solicitations and contracts when construction of residential structures or rehabilitation (including dismantling, demolition, or removal) of residential structures is contemplated:

PROHIBITION AGAINST USE OF LEAD-BASED PAINT—DEPARTMENT OF THE INTERIOR (APR. 1984)

No lead-based paint containing more than .5 or 1 percent lead by weight (calculated as lead metal) in the total nonvolatile content of paint, or the equivalent measure of lead in the dried film of paint already applied, or both, or with respect to paint manufactured after June 23, 1977, no lead-based paint containing more than .06 or 1 percent lead by weight (calculated as lead metal) in the total nonvolatile content of the paint, or the equivalent measure of lead in the dried film of paint already applied, or both, shall be used in the construction or rehabilitation of residential structures under this contract or any resulting subcontracts.

[End of clause]

§ 1542.237–70 Information collection.

As prescribed in § 1437.713, insert the following clause in solicitations and contracts where collection of information upon identical items from ten or more public respondents is required or may be required:

INFORMATION COLLECTION—DEPARTMENT OF THE INTERIOR (APR. 1984)

If performance of this contract requires the contractor to collect information upon identical items from ten or more public respondents, no action shall be taken or funds expended in the solicitation or collection of such information until the contractor has received from the Contracting Officer written notification that approval has been obtained from the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1980. The Contractor agrees to provide all information requested by the Contracting Officer which is necessary to obtain approval from OMB.

[End of Clause]

PART 1453—FORMS

Sec.

1453.000 Scope of part.

Subpart 1453.2—Prescription of forms

1453.200 Department of the Interior forms.
1453.204 Administrative matters.
1453.204–70 Release of claims (DI–137).
1453.215 Contracting by negotiation.
1453.215–71 Structured approach for profit/fee objective (DI–1920).
1453.219 Small business and small disadvantaged business concerns.
1453.219–71 Sample subcontracting plan outline.
1453.219–72 Performance evaluation (8(a)) (DI–1919).
1453.232 Contract financing.
1453.232–70 Assignment of claims (DI's 83, 84).

Subpart 1453.3—Illustrations of Forms

1453.300 Scope of subpart.
1453.303 Agency forms.
1453.303–70 Sample subcontracting plan outline format.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), and 5 U.S.C. 301.

§ 1453.000 Scope of part.

This part (a) prescribes Department of the Interior (DI) forms for use in acquisition, (b) illustrates these forms, and (c) contains procedures for exceptions to forms prescribed in FAR Part 53 or this Part 1453.

Subpart 1453.2—Prescription of Forms

§ 1453.200 Department of the Interior forms.

This subpart prescribes Department of the Interior (DI) forms for use in acquisition. Consistent with the approach used in FAR Subpart 53.2, this subpart is arranged by subject matter, in the same order as, and keyed to, the parts of the DIAR in which the form usage requirements are addressed.

§ 1453.204 Administration matters.

§ 1453.204–70 Release of claims (DI–137).

DI–137, Release of claims, is prescribed for use in obtaining a contractor release of claims as specified in § 1404.804–70.

§ 1453.215 Contracting by negotiation.

§ 1453.215–71 Structured approach for profit/fee objective (DI–1920).

Form DI–1920, Structured Approach for Profit/Fee Objective—Department of the Interior is prescribed for use in calculating the profit or fee prenegotiation objective as required in § 1415.905.

§ 1453.219 Small business and small disadvantaged business concerns.

§ 1453.219–71 Sample subcontracting plan outline.

The Sample Subcontracting Plan Outline format is prescribed for use in requesting subcontracting plans as specified in § 1419.705–70.

§ 1453.219–72 Performance evaluation (8(a)) (DI–1919).

DI–1919, Performance Evaluation (8(a)), is prescribed for use in evaluating the performance of SBA 8(a) contractors as specified in 1419.810–70.

§ 1453.232 Contract financing.

§ 1453.232–70 Assignment of claims (DI's 83, 84).

The following forms are prescribed for use in connection with making a written notice of assignment as specified in FAR Subpart 32.8 and Subpart 1432.8:

(a) DI–83 (1/72), Notice of Assignment. (See 1432.805.)

(b) DI–84 (1/72), Instrument of Assignment. (See 1432.805.)

Subpart 1453.3—Illustrations of Forms

§ 1453.300 Scope of subpart.

This subpart contains illustrations of Department of the Interior (DI) forms used in acquisition as prescribed by the DIAR.

§ 1453.303 Agency forms.

This section illustrates Department of the Interior (DI) forms specified by the DIAR for use in acquisition. The forms are illustrated in numerical order.

BILLING CODE 4310-10-M

Form DI–83
(January 1972)

UNITED STATES
DEPARTMENT OF THE INTERIOR

NOTICE OF ASSIGNMENT

SEE INSTRUCTIONS ON REVERSE BEFORE COMPLETING FORM

TO: *(check one)*

☐ Contracting Officer, or

☐ Surety_____
(Name)

Re Contract Number_____ Dated_____

With_____ of_____
(Contractor) (City) (State) (Zip Code)

For_____
(Project Identification)

PLEASE TAKE NOTICE that moneys due or to become due under the contract described above have been assigned to the undersigned pursuant to the provisions of the Assignment of Claims Act of 1940, as amended, 54 Stat. 1029; 65 Stat. 41 (31 U.S.C. 203, 41 U.S.C. 15). A true copy of the instrument of assignment executed by the contractor on *(date)* , is attached to the original hereof.

Payments due or to become due under such contract shall be made to the undersigned assignee.

Please complete and return all copies of this Notice as indicated on the reverse hereof.

_____ By_____
(Name of Assignee) (Name and Title of Officer of Assignee)

_____ _____
(Street Address) (Signature)

_____ _____
(City) (State) (Zip Code) (Date)

Receipt is hereby acknowledged of the above Notice and a copy of the instrument of assignment. These were received at ☐ a.m. ☐ p.m., on *(date)*

FOR USE OF CONTRACTING OFFICER	*FOR USE OF SURETY*
	(Surety Name)
(Name of Contracting Officer)	By_____ (Name and Title of Signing Officer)
(Signature)	(Signature of Surety Officer)

INSTRUCTIONS

Under the Assignment of Claims Act of 1940, as amended (31 U.S.C 203, 41 U.S.C 15), moneys due or to become due from the United States under a contract providing for payments aggregating $1,000 or more may be assigned to a bank, trust company, Federal lending agency, or other recognized financing institution in the absence of a contract provision forbidding assignment. Unless otherwise permitted by the contract: (1) an assignment must cover all further amounts payable under the contract; (2) shall not be subject to further assignment; and (3) shall not be made to more than one party, except that assignment may be made to one party acting as agent or trustee for two or more parties participating in the financing. The assignee is required to provide a notice of assignment to the Contracting Officer; to the surety, if there is one; and to the disbursing officer, if any, designated in the contract to make payments.

In order to avoid possible invalidity of an assignment, and to provide a notice of assignment to all parties concerned, the following instructions should be followed carefully:

1. *Assignee:*

(a) Send an original and two copies of this *Notice of Assignment* (DI–83), together with one true copy* of an instrument of assignment**, *to the Contracting Officer.*

(b) Send by certified mail, return receipt requested, another original and three copies of this Notice of Assignment, together with one true copy * of the instrument of assignment, *to the surety*—if bond(s) were provided by a surety under the contract. *(See Instruction 4 below for additional required action by assignee.)*

2. *Contracting Officer:*

(a) Acknowledge receipt of this Notice of Assignment on the original and all copies.

(b) Forward one acknowledged copy of this Notice of Assignment plus the true copy of the instrument of assignment *to the appropriate finance officer.*

(c) Return one acknowledged copy of this Notice of Assignment *to the assignee.*

(d) Retain the original Notice of Assignment.

3. *Surety:*

(a) Acknowledge receipt of this Notice of Assignment on the original and all copies.

(b) Return three acknowledged copies of this Notice of Assignment *to the assignee.*

(c) Retain the original Notice of Assignment and the true copy of the instrument of assignment.

4. *Assignee:*

(a) Retain one copy of this Notice of Assignment acknowledged by the surety.

(b) Forward two copies of this Notice of Assignment acknowledged by the surety, *to the Contracting Officer.* If the surety has refused to acknowledge receipt of this Notice of Assignment, the assignee *must* prepare an affidavit to that effect, attach the postal return receipt which covered the mailing of this Notice of Assignment to the surety, and forward them *to the Contracting Officer.*

5. *Contracting Officer:*

(a) Retain either the affidavit and postal receipt from the assignee or one of the copies of this Notice of Assignment acknowledged by the surety.

(b) Forward a copy of the affidavit, or the copy of this Notice of Assignment acknowledged by the surety *to the appropriate finance officer.*

** A true copy of an instrument of assignment may be a*

(a) complete machine copy of the original;

(b) complete duplicate copy of the original; or

(c) certified copy of the original, typewritten or otherwise, if it is accurate and complete in all respects and is accompanied by a certificate, executed by a Notary Public or other officer legally authorized to administer oaths, to the effect that it is a true copy.

*** DI–84 completed, may be used as the instrument of assignment.*

Form DI–84
(January 1972)

UNITED STATES
DEPARTMENT OF THE INTERIOR

INSTRUMENT OF ASSIGNMENT

KNOW ALL MEN THAT pursuant to the provisions of the Assignment of Claims Act of 1940 as amended (31 U.S.C. 203, 41 U.S.C. 15), for value received, the undersigned Assignor (Contractor) does hereby assign irrevocably unto
of
,
as Assignee, all right, title, and interest in all moneys now due or to become due from, and not already paid by the United States of America under Contract No. , dated , for , previously entered into by and between the United States of America and the Assignor. The Assignor states that no previous assignment has been made, and no additional assignment will be made under the said contract; and authorizes payment of moneys now due or to become due to be made by checks drawn to the order of the said Assignee.

IN WITNESS WHEREOF, The undersigned Assignor has caused this assignment to be executed this day of , 19

(Assignor) By (Signature)

(Street Number or R.F.D.) (Name)

(City) (State) (Zip Code) (Title)

ACKNOWLEDGMENT

(Complete only if Assignor is an individual or partnership)

State of)
ss:
County of)

I, , a Notary Public in and for the County of State of , do hereby certify that on this day of , 19 , personally appeared before me the above signator , to me personally known, who, being by me duly sworn, duly acknowledged the execution of the above assignment to be his voluntary act and deed.

[NOTARIAL SEAL]

My commission expires

(Signature of Notary Public)

AUTHORITY TO MAKE ASSIGNMENT

(Complete only if Assignor is a corporation)

I, certify that I am of the corporation named as Assignor herein; that who executed this assignment on behalf of the said corporation was then of the said corporation, acting for and on its behalf by authority of its governing body.

[SEAL]

(Date) (Signature)

DI–137
(November 1971)

UNITED STATES
DEPARTMENT OF THE INTERIOR

Contract Number

Date

RELEASE OF CLAIMS

WHEREAS, by the terms of the above contract for , entered into by the United States of America, hereinafter also referred to as the United States, and the contractor , it is provided that after completion of all work, and prior to final payment, the contractor will furnish the United States with a release of all claims;

NOW, THEREFORE, in consideration of the above premises and the payment by the United States to the contractor of the amount now due under the contract, to wit, the sum of dollars ($), the contractor hereby remises, releases, and forever discharges the United States, its officers, agents, and employees, of and from all manner of debts, dues, liabilities, obligations, accounts, claims, and demands whatsoever, in law and in equity, under or by virtue of the said contract except:

IN WITNESS WHEREOF, the contractor has executed this release this day of , 19

(Contractor) By (Signature)

(Check one)

☐ Corporation ☐ Joint Venture
☐ Partnership ☐ Individual

(Name)

(Street Number or R.F.D.) (Title)

(City) (State) (Zip Code)

COMPLETE ONLY IF CONTRACTOR IS A CORPORATION

I, , CERTIFY That I am the of the corporation named as contractor herein; that , who signed this release on behalf of the corporation, was then of said corporation; and that said release was duly signed for an on behalf of said corporation by authority of its governing body

SEAL

(Signature)

Department of the Interior

EVALUATION REPORT ON 8(a) CONTRACTOR PERFORMANCE

1. Purchasing Office and Address: _____

2. Name of Contractor and Address: _____

3. Contract Number: _____ 4. Date of Award: _____ 5. Cost: _____

6. Number of Modifications: ____
Reasons for Modifications (Explain) _____

7. Contractor's Overall Performance: Excellent ___ Good ___ Fair ___ Poor __

8. Quality of Product Or Service Provided: Excellent __ Good __ Fair __ Poor __

9. Compliance With Essential Contract Terms And Specifications: Yes __ No __
If no, explain. _____

10. Was Required Delivery Schedule Met? Yes ___ No ___ If no, explain.

11. Was Contract Performed Within Negotiated Price? Yes ___ No ___ (Explain)

12. Lessons Learned/Additional Comments: _____

13. Signature/Date: _____ Contracting Officer _____ Contracting Officer's Technical Representative

DI-1919 (10/83)

STRUCTURED APPROACH FOR PROFIT/FEE OBJECTIVE
DEPARTMENT OF THE INTERIOR

CONTRACTOR	RFP/CONTRACT NO.	MOD. NO.

FACTOR/SUBFACTOR	WEIGHT RANGE	Column A(%) WEIGHT ASSIGNED		Column B($) PRENEGOTIATION COST OBJECTIVE		Column C($) PROFIT/FEE OBJECTIVE (COLUMN A X COLUMN B)
CONTRACTOR EFFORT						
Material Acquisition	1% to 4%		X		=	
Conversion of Direct Labor	4% to 12%		X		=	
Conversion-Related Indirect Costs	3% to 8%		X		=	
General Management	4% to 8%		X		=	
Other Cost (Subtract Facilities Capital Cost of Money)			X		=	
1 Total Contractor Effort (Add Columns)				$		$
OTHER FACTORS	WEIGHT RANGE	WEIGHT ASSIGNED		TOTAL COST OBJECTIVE (FROM LINE 1, COLUMN B)		PROFIT/FEE OBJECTIVE (COLUMN A X COLUMN B)
2 Contract Cost Risk	0% to 7%		X		=	
3 Federal Socioeconomic Programs	+ - .5%		X		=	
4 Capital Investments	+ - 2%		X		=	
5 Cost Control and Other Past Accomplishments	+ - 1%		X		=	
6 Independent Development			X		=	
TOTAL PROFIT/FEE OBJECTIVE (ADD LINES 1-6, COLUMN C)						$

DIAR (48 CFR) 1453.215-70 APRIL 84 DI-1920

BILLING CODE 4310-10-C

§ 1453.303-70 Sample subcontracting plan outline format.

Small Business and Small Disadvantaged Business Subcontracting Plan Outline Format

Date:
Contractor:
Address:
Solicitation or Contract Number:
Item/Service:

The following, together with any attachments, is hereby submitted as a Subcontracting Plan to satisfy the applicable requirements of Pub. L. 95-507.

1. (a) The following percentage goals (expressed in terms of a percentage of total planned subcontracting dollars) will be applicable to any contract awarded as a result of this solicitation:

(i) Small Business Concerns: ——% of total planned subcontracting dollars under this contract will go to subcontractors who are small business concerns.

(ii) Small Disadvantaged Business Concerns: ——% of total planned subcontracting dollars this contract will go to subcontractors who are small business concerns owned and controlled by socially and economically disadvantaged individuals.

(b) The following dollar values correspond to the percentage goals shown in (a) above:

(i) Total dollars planned to be subcontracted to small business: $———.

(ii) Total dollars planned to be subcontracted to small disadvantaged business: $———.

(c) The total estimated dollar value of all planned subcontracting (to all types of business) under this contract is $———.

(d) The following principal products and/or services will be subcontracted under this contract, and the distribution among small and small disadvantaged business is as follows:

(Products/services planned to be subcontracted to Small Business Concerns are identified by * and to Small Disadvantaged by **)

(e) The following method was used in developing subcontract goals (e.g., what source lists were used and what organizations were or will be contacted to obtain SB and SDB sources)

Indirect and overhead costs (check one): have been —— have not been —— included in the goals specified in 1(a) and 1(b).

If "have been" is checked, explain the method used in determining the proportionate share of indirect and overhead costs to be incurred with small business and small disadvantaged business subcontractors.

2. The following individual will administer the subcontracting program:

Name:
Address:
Telephone:
Title:

This individual's specific duties, as they relate to the firm's subcontracting program, are as follows: General overall responsibility for review, monitoring and execution of the plan including but not limited to:

(a) Obtaining small and small disadvantaged business sources from all applicable agencies such as SBA and MBDA.

(b) Assuring inclusion of SB and SDB firms in all solicitations where appropriate.

(c) Attending or arranging for attendance at Business Opportunity Workshops, Minority Business Enterprise Seminars, Trade Fairs.

(d) Conducting or arranging for conduct of motivational training for purchasing personnel pursuant to the intent of Pub. L. 95-507.

(e) Monitoring attainment of proposed goals.

(f) Reviewing solicitations to remove statements, clauses, etc., which may tend to prohibit SB and SDB participation.

(g) Additions to (or deletions from) to the duties specified above are as follows:

3. The following efforts will be taken to assure that small and small disadvantaged concerns will have an equitable opportunity to compete for subcontracts:

(a) Outreach efforts will be made as follows:

(i) Contacts with minority and small business trade associations. Name at least three (3).

(ii) Contracts with business development organizations. Name at least two (2).

(iii) Attendance at small and minority business procurement conferences and trade fairs. Provide examples.

(b) The following internal efforts will guide and encourage buyers:

(i) Workshops, seminars, and training programs will be conducted.

(ii) Activities will be monitored to evaluate compliance with this subcontracting plan.

(c) Small and disadvantaged business source lists, guides, and other data identifying small and disadvantaged business vendors will be maintained and utilized by buyer in soliciting subcontracts.

(d) Additions to (or deletions from) the above listed efforts are as follows:

4. The bidder (offeror) agrees that the clause entitled Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individulals will be included in all subcontracts which offer further subcontracting opportunities, and all subcontractors except Small Business Concerns who receive subcontracts in excess of $500,000 or in the case of a contract for the construction of any public facility, $1,000,000, will be required to adopt and comply with a subcontracting plan similar to this one. Such plans will be reviewed by comparing them with the provisions of Pub. L. 95-507, and assuring that all minimum requirements of an acceptable subcontracting plan shall be determined on a case-by-case basis depending on the supplies/services involved, the availability of potential small and disadvantaged subcontractors, and prior experience. Once approved and implemented, plans will be monitored through the submission of periodic reports, and/or, as time and availability of funds permit, periodic visits of subcontractors facilities or review applicable records and subcontracting program progress.

5. The bidder (offeror) agrees to submit such periodic reports and cooperate in any studies surveys as may be required by the contracting agency or the Small Business Administration in order to determine the extent of compliance by the bidder with the subcontracting plan.

6. The bidder (offeror) agrees to maintain at least the following types of records to document compliance with this subcontracting plan:

(a) Small and disadvantaged business source lists, guides and other data identifying SB and SDB vendors.

(b) Organizations contracted for small and disadvantaged business sources.

(c) On a contract-by-contract basis, records on all subcontract solicitations over $100,000, indicating on each solicitation: (1) Whether small business was solicited, and if not, why not; (2) whether small disadvantaged business was solicited, and if not, why not; (3) reasons for the failure of solicited small business or small disadvantaged business to receive the subcontract award.

(d) Records to support other outreach efforts: Contracts with Minority and Small Business Trade Associations, etc. Attendance at small and minority business procurement conferences and trade fairs.

(e) Records to support internal activities to guide and encourage buyers: workshops, seminars, training programs, etc. Monitoring activities to evaluate compliance.

(f) On a contract-by-contract basis, records to support award data submitted to the Government to include name and address of subcontractor.

(g) Records to be maintained in addition to the above are as follows:

Signed:
Typed Name:
Title:
Date:

[FR Doc. 84-3406 Filed 2-10-84; 8:45 am]

BILLING CODE 4310-10-M

federal register

Monday
February 13, 1984

Part IV

Commodity Futures Trading Commission

17 CFR Part 1 et al.

Regulation of Certain Leverage Transactions; Interim Final Rule

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1, 3, 4, 31, 145, 147 and 190

Regulation of Certain Leverage Transactions

AGENCY: Commodity Futures Trading Commission.

ACTION: Interim final rules.

SUMMARY: The Commodity Futures Trading Commission ("Commission") has adopted interim final rules which establish a comprehensive regulatory scheme designed to govern the offer and sale to the public of leverage transactions [1] for the purchase of silver bullion, gold bullion, bulk silver coins, bulk gold coins, copper, platinum, Deutsche marks, Japanese yen, Swiss francs and British pounds. The adoption of these rules will not affect the temporary moratoria which the Commission has previously imposed on the entry of new firms into the leverage transaction business, 17 CFR 31.1, 31.2.

In conjunction with the issuance of these rules, the Commission, in **Federal Register** notices which will be separately published, will propose and seek public comment upon a fee to be charged for each application for registration of a leverage commodity filed with the Commission and a fee to be charged for audits of leverage transaction merchants.

EFFECTIVE DATE: These interim rules shall become effective on April 13, 1984. Sections 31.5(c) and 31.5(d), however, shall become effective February 13, 1984.

FOR FURTHER INFORMATION CONTACT: David R. Merrill, Assistant General Counsel, Office of the General Counsel, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, telephone (202) 254–9880; Lawrence B. Patent, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, telephone (202) 254–8955; or Paul M. Architzel, Chief Counsel, Division of Economics and Education, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, telephone (202) 254–6990.

SUPPLEMENTARY INFORMATION:

I. Introduction

In section 234 of the Futures Trading Act of 1982, Pub. L. No. 97–444, 96 Stat. 2322 (1983), Congress amended Section 19(c) of the Commodity Exchange Act ("Act"), 7 U.S.C. 23(c), to require the Commission to regulate leverage contracts in gold or silver bullion or bulk coins or in any other commodities other than those that were specifically enumerated in Section 2(a)(1) of the Act prior to the amendments to the Act in 1974. Leverage transactions in these enumerated commodities are prohibited by Section 19(a) of the Act, 7 U.S.C. 19(a).

Accordingly, the Commission on June 1, 1983, determined to propose and solicit public comments upon comprehensive regulations governing the offer and sale of leverage contracts involving certain commodities which were being marketed in accordance with the temporary moratoria. These regulations, among other things, included provisions concerning the definition of the term leverage contract, designation of leverage contracts to be offered and sold, the registration of firms and salespersons engaged in marketing leverage transactions, minimum financial requirements for leverage firms, requirements concerning the repurchase of leverage transactions, disclosure and segregation of customers' funds requirements, financial reports, recordkeeping and reporting requirements, and prohibitions concerning unlawful representations and guarantees against loss. On June 23, 1983, the Commission published in the **Federal Register** a notice of availability of these proposed regulations which gave interested persons sixty days within which to submit written comments (48 FR 28668).

In response to these proposals, approximately sixty written comments were received by the Commission. The commentors included firms claiming to be engaged in a leverage business, contract markets, futures commission merchants, individuals, academicians, a metals broker, law firms, an industry trade association, a securities exchange, the National Futures Association ("NFA"), the North American Securities Administrators Association, and the United States Department of Justice. The Commission has carefully reviewed each of these comments and, based upon that review and its careful reconsideration of its proposal, is now adopting rules which it believes are not only responsive to the concerns of the commentors but are also fully consistent with the Commission's regulatory responsibilities under the Commodity Exchange Act.

As noted above, the rules adopted herein, while final, are deemed by the Commission to be of an interim nature primarily for two reasons. First, the Commission intends to continue in effect for a time after these rules become effective its regulatory moratoria on the entry of new firms into the regulated leverage business in order to evaluate the efficacy of these rules and, therefore, to facilitate a determination of when and under what terms and conditions to lift the moratoria in the future. Second and as more fully discussed below, although the Commission is not aware of any evidence that short sales of leverage contracts were engaged in during any relevant time period, the Commission, in response to several comments on this issue, will in the immediate future be soliciting additional, specific public comments concerning whether such short sales are contemplated under the Act, and if so, what additional customer protections or other amendments to these regulations would be necessary if such transactions were to be permitted.

Through its definition in these interim final rules of a leverage contract, the Commission is exercising its exclusive regulatory jurisdiction over transactions that fall within the scope of Section 19 of the Act. In adopting that definition, the Commission has exercised its authority to specify the standardized contracts that Congress expected to be regulated under Section 19 of the Act. H. Rep. No. 964, 97th Cong. 2d Sess. 51 (1982). As a result, any transaction involving a leverage contract as defined in Rule 31.4(w) for the delivery of a commodity registered under Rule 31.6 is subject to the comprehensive regulation governing the offer and sale of such contracts in Part 31, including the existing moratoria; any leverage contract, as so defined, for the delivery of a commodity enumerated in 19(a) of the Act is subject to the Congressional prohibition contained in that Section; and any leverage contract, as so defined, for the delivery of any other commodity remains subject to the Commission's existing regulatory moratorium set forth in Rule 31.2. In contrast, those transactions that do not meet the Commission's definition of a leverage contract are not within the Commission's regulatory jurisdiction

[1] As used herein, "leverage transaction" or "leverage contract" generally refers to a standardized contract for the delivery of a commodity that is commonly known to the trade as a margin account, margin contract, leverage account or leverage contract and includes any contract, account, arrangement, scheme, or device that serves the same function or functions as, or is marketed or managed in substantially the same manner as, such a standardized contract. *See* Section 19(a) of the Commodity Exchange Act, as amended ("Act"), 7 U.S.C. 23(a) (1982). The Commission has adopted more specific definitions of the terms "leverage transaction" and "leverage contract" in these rules as more fully discussed hereinafter.

under Section 19 of the Act and are not subject to Commission registration and regulation pursuant to Part 31. This "bright line" distinction between transactions subject to exclusive Commission jurisdiction under Section 19 and those not subject to Commission regulation thereunder is one of the salutary effects of the comprehensive definition adopted by the Commission. Those transactions not subject to exclusive Commission jurisdiction under Section 19 are open to regulation and enforcement by the states. *See* Section 12(e)(2)(C) of the Act. The Commission staff has undertaken communications with the states which will continue in an effort to coordinate full regulatory coverage in the area of these transactions.

The rules which the Commission is now adopting reflect the Commission's evaluation of the comments it has received and the Commission's further evaluation of its regulatory objectives in this rulemaking proceeding. The Commission has carefully weighed the concerns expressed by the commentors and, where possible, has modified its rule proposals to eliminate unnecessary regulatory burdens and any impediments to competition consistent with its regulatory responsibilities under the Act.

II. Definition of Leverage Contract

Proposed § 31.4 contained definitions of certain terms used throughout the proposed rules. Revisions made to these definitions from what had been proposed are explained below, as necessary, in the context of the summaries of the substantive regulatory provisions to which they relate.

Proposed § 31.4(w) defined the term "leverage contract" to mean a standardized contract for the long-term (ten years or longer) purchase by a customer of a commodity which provides for: (1) The initial and maintenance payments of a percentage of the spot-price value of the commodity, (2) periodic payment of a carrying charge or a fee on the unpaid balance, (3) delivery of a commodity in an amount and form which can be readily resold in normal commercial or retail channels, (4) delivery of the underlying commodity after satisfaction of the balance due on the contract by the customer, (5) repurchase of the contract by the person or firm who sold the contract to the customer upon demand by the customer, and (6) determination of the contract purchase and repurchase price by the person or firm who sold the contract and who acts as a principal in every contract.

The Commission solicited and received a number of comments on this proposed definition which the Commission has now carefully considered in reviewing this provision. While several commentors supported the Commission's proposed definition, the majority of commentors who addressed the definition felt that it should be amended in a number of respects. As a result, the Commission has made several changes to the proposed definition.

The provision in the proposed definition of leverage contract calling for the periodic payment of a carrying charge or fee on the unpaid balance was criticized by several commentors. It was suggested that this was not an essential characteristic of a leverage contract. It was also noted that leverage firms commonly have permitted their customers to fix in advance and prepay all or a portion of these carrying charges and that this practice should be permitted to continue. One commentor noted that it currently does not require the periodic payment of these charges and fees but rather allows them to accrue in its leverage customer's account until the leverage transaction to which they relate is completed. In response to these comments, the Commission has amended the definition of leverage contract to permit either the periodic payment by the leverage customer or the accrual by the LTM of a carrying charge or fee on the unpaid balance of the price of the contract.[2] Section 31.4(w)(3). The Commission continues to believe, however, that the periodic billing of leverage customers for these leverage fees or carrying charges, which purportedly represent charges for interest, storage and insurance, has long been a common characteristic of leverage contracts.

The provision in the proposed definition requiring repurchase of leverage contracts by the LTM upon demand by the customer was also objected to by several commentors. It was argued that such a requirement was especially unworkable in a volatile market, and that the requirement traditionally has not been an element of a leverage contract as known to the trade. As more fully set forth below in a discussion of proposed § 31.10, the Commission has eliminated this portion of its proposal from the final rules.

Proposed § 31.4(w)(vi) included the provision that an LTM was a principal in every leverage transaction. This provision has now been separately set forth in § 31.4(w)(1).

Several commentors objected to defining leverage contracts as only long-term transactions of 10 years or more in duration. In particular, the view was expressed that this was inconsistent with the customary practices of the leverage industry and with the legislative history underlying the Commission's authority over leverage contracts. The Commission, however, continues to believe that, as the legislative history and other evidence indicates, leverage contracts as commonly known to the trade have traditionally been long-term contracts of at least this duration. This view is supported by congressional testimony which emphasized the long-term nature of leverage contracts presented by persons themselves claiming to be involved in a leverage business. *See, e.g., Hearings on H.R. 13113 Before the Senate Committee on Agriculture and Forestry*, 93rd Cong., 2d Sess. 749, 751 (1974) (statement of M. Martin Rom, Chairman of the Board, International Precious Metals Corp.); *Hearings on H.R. 10285 Before the Subcommittee on Agricultural Research and General Legislation of the Senate Committee on Agriculture, Nutrition and Forestry*, 95th Cong., 2d Sess. 625 (1978) (Statement of International Precious Metals Corp.). As a result, the Commission has not changed the proposed definition of leverage contract in this regard.

Several commentors expressed concern regarding the limitation of the proposed definition of leverage contract to the purchase of commodities by customers from LTMs and, therefore, the implicit exclusion from the proposed definition of the sale of commodities by leverage customers to LTMs, which were referred to by the commentators as "short sales." These commentors generally suggested that excluding such short sales from the definition would contradict a long-standing industry practice of making such short sales to customers and Congress' understanding of these instruments as leverage contracts.

The Commission, however, is unaware of evidence that such "short sales" of leverage contracts were in fact engaged in during any relevant time period. Indeed, the same testimony before Congress as cited above in discussing the duration of leverage contracts stressed that these contracts were intended as long-term purchases of commodities. Moveover, it would appear that long-term short sales, from an economic point of view, may be inconsistent with a stated purpose of

[2] The Commission contemplates that such periodic payments or accrual will be monthly or quarterly.

leverage contracts as a hedge against inflation.

Notwithstanding these factors, and in light of the general comments received concerning the existence of "short" leverage contracts, the Commission has determined to leave this issue open at the present time and to seek further, specific public comment thereon before determining whether Section 19 contemplates short sales by customers and, if so, how these rules might be amended to encompass the marketing of short sales of leverage contracts to the public. Accordingly, the Commission in the immediate future will publish in the **Federal Register** a notice of proposed rulemaking in which it will seek specific comments concerning the nature and characteristics of such instruments, how these instruments can be considered to be within the scope of Section 19 of the Act, the history of the entry into such instruments by the public, and how, if the Commission determines to include such instruments within its definition, the regulatory scheme created by these rules could be modified to accommodate the regulation of the marketing of such instruments consistent with the public interest and the anti-fraud, anti-manipulation and financial solvency standards of Section 19.

III. Definition of Leverage Commodity

The Commission has modified its proposed definition of "type of leverage commodity or contract" as proposed in § 31.4(g) to a definition of "leverage commodity." A leverage commodity is defined as a commodity which is the subject of a leverage contract and whose value is reflected in a widely-accepted and broadly-disseminated commercial or retail cash price series. This requirement is intended to enable leverage customers to determine the value of the leverage commodity independently of the leverage transaction merchant. Thus, the specification of an accurate, easily-available cash price series should assist leverage customers in calculating the resale value of leverage commodities. Where necessary, premiums to or discounts from this price series may be specified. *See* Commission rule § 31.4(g). Commission Rule § 31.4(g) also sets forth the distinguishing characteristics of a leverage commodity.

Several commentors opposed the requirement of a cash price series and suggested that appropriate cash price series do not exist for all commodities which are currently the subjects of leverage contracts. The Commission believes, however, that leverage customers and prospective leverage customers should be able to ascertain the current economic value of the leverage commodity in order to evaluate the worth of a leverage contract. Because the majority of leverage customers will most likely be members of the public, not experts in the markets for the commodities which are the subjects of leverage contracts, such customers would have no means of ascertaining the true economic value of the contract in the absence of an appropriate cash price series. The Commission believes that where this type of information is not available to the typical leverage customer, the commodity is not an appropriate subject of a leverage contract.

The Commission expects that the value of most leverage commodities registered with it will be reflected in a price series published in the national press, with discounts from (or premiums to) that price. For example, a leverage commodity might be a kilo of gold with a prevailing 3 percent discount from the London afternoon price fix reflective of its value in retail cash market channels. The value of a pack of twenty Kruggerrands might, on the other hand, be reflected in a 1 percent premium over the London afternoon price fix of gold bullion.

Several commentors questioned the proposed definition of type of commodity and contract, noting that several contracts of varying durations may be offered on the same commodity. The Commission has considered these comments and clarified its proposed rule. As modified, Commission Rule § 31.4(g) also now incorporates the distinguishing characteristics of a leverage commodity which were included previously in § 31.6(a) of the proposed rules. Each leverage commodity is specified by its delivery unit and, for the purposes of this part of the Commission's rules, each leverage commodity is separately distinguished. For example, 2,000 ounces of silver is a different leverage commodity from 1,000 ounces of silver and, as discussed below, would require separate registration.[3]

Each leverage commodity based on gold and silver bullion or platinum is distinguished by each of the following characteristics: (1) The nominal size of the delivery pack and range of tolerable weights, *e.g.*, 1,000 troy ounces of silver plus or minus 10 percent; (2) the composition of the delivery pack and tolerances as to its components, *e.g.*, thirty-two one ounce bars of gold or one one-kilo bar of gold; (3) the nominal bar weights and range of tolerable weights, *e.g.*, a 1,000 ounce bar of silver no more than 1100 nor less than 950 troy ounces; (4) the minimum guaranteed quality measured in terms of purity or fineness or by ASTM or other specified standards; (5) a list of deliverable refiners with their recognized brands or markings and a list of acceptable countries of origin; (6) the required packaging of bars or wrapping of individual bars, if any; (7) the method of commodity pricing, *e.g.*, fineness times actual gross delivered weight in ounces times per ounce price; (8) location(s) of delivery facility(ies) and type of facility(ies), such as warehouse, vault or other depository; and (9) the transportation and registration arrangements provided for customers taking delivery and associated costs, such as for bonding or vault outcharges.

For gold and silver bulk coins, by which is meant gold coins in packs of multiple coins and silver coins in canvas or similar bags, each leverage commodity is distinguished by each of the following characteristics: (1) The delivery unit, characterized by country of origin, name of coin, and, as appropriate, number of nominal value of coins; (2) composition of the delivery pack and tolerances, *e.g.*, mixed U.S. dimes and quarters, with up to 75% of total weight accounted for by either coin; (3) the specifications concerning individual coins, including fineness, nominal coin weight and range of tolerable weights, and coin minting dates, if applicable; (4) the method of packaging, such as sealed transparent tube or bag; (5) the method of commodity pricing, *e.g.*, fineness times actual gross delivered weight in ounces times per ounce price; (6) delivery alternatives, such as by receipt or invoice or by physical delivery, including location(s) and type of delivery facility(ies) such as warehouse, vault or other depository; and (7) the transportation and registration arrangements provided for customers taking delivery and associated costs, such as for bonding or vault outcharges.[4]

For the types of copper set forth in § 31.4(b)(2), each leverage comodity is distinguished by: (1) The nominal size of the delivery pack and range of tolerable weights, *e.g.*, 10,000 pounds of copper cathode, plus or minus 2 percent; (2) the composition of the delivery pack and tolerances as components, *e.g.*, ingots

[3] As discussed in greater detail below, separate leverage contracts need not be registered with the Commission; only different leverage commodities will be separately registered.

[4] Several commentors opposed the Commission's indication of minimum lot sizes for coins in the proposed rules. The Commission has deleted any reference to minimum lots in its § 31.4(g)(1).

and/or ingot bars; (3) the nominal weights and range of tolerable weights, if applicable, for deliverable cathodes, ingots, ingot bars, billets, wire bars, cakes and slabs; (4) the minimum guaranteed quality measured by ASTM or other specified standards; (5) a list of deliverable refiners and processors, with their recognized brands or markings, and a list of acceptable countries of origin; (6) the required packaging of cathodes, ingots, ingot bars, billets, wire bars, cakes or slabs or wrapping of individual cathodes, ingots, ingot bars, billets, wire bars, cakes or slabs, if any; (7) the method of commodity pricing, *e.g.*, actual gross delivery weight in pounds times per pound copper price plus or minus a differential for variations in form or quality; (8) delivery alternatives, such as by receipt or invoice or by physical delivery, including location(s) and type of delivery facility(ies); and (9) the transportation and registration arrangements provided for customers taking delivery and associated costs.

Several firms claiming to be in the business of offering leverage contracts stated that various foreign currencies had been offered as the subject of leverage contracts before February 2, 1979, the date the Commission's moratorium on firms engaged in the business of offering or selling leverage contracts involving commodities other than gold and silver bullion and bulk coins became effective. Accordingly, the Commission has modified its definition of leverage commodity to allow the possibility of leverage contracts involving Deutsche marks, British pounds, Swiss francs and Japanese yen. For the foreign currencies listed in § 31.4(g)(3), the distinguishing characteristics include the amount and country of origin and the manner of delivery.

It should be noted that the distinguishing characteristics for each of these metals and foreign currencies are intended to be read as a whole; if any one characteristic changes then the commodity will be a different leverage commodity.

IV. Continuation of the Moratoria

In conjunction with proposing these rules, the Commission made known its intention to continue in effect for a time its regulatory moratoria rules on the entry of new firms into a leverage business, 17 CFR 31.1 and 31.2.[5] A number of commentors objected to the continuation of the moratoria primarily on the ground that those rules are anticompetitive and that the investing public could better be served by open competition under the Commission's regulatory scheme. It was also suggested that the Commission could enhance competition without totally eliminating the moratoria by modifying the present moratoria so that subsidiaries or affiliates of currently-registered FCMs could become eligible to market leverage contracts pursuant to the Commission's regulatory scheme.

The Commission has carefully considered each of these comments and also has reviewed its own position concerning the moratoria. While the Commission does not deny that some anticompetitive effect may result from the continuation of the moratoria for a time, the Commission has nevertheless concluded that the benefits which will accrue to the public from a temporary continuation of the moratoria after these rules are implemented will outweigh any adverse effect upon competition which might result from the moratoria. In this regard, the Commission believes that, by continuing the moratoria for a time after these rules have been implemented, it will be provided an opportunity to gain valuable knowledge from temporarily regulating a limited number of leverage firms engaged in marketing leverage contracts involving a limited number of commodities. Such experience will better enable the Commission to determine whether modifications of these interim rules are warranted and whether trading in certain additional commodities pursuant to leverage contracts and/or by an expanded number of firms would be consistent with the public interest and the Congressional requirement that the Commission's rules be designed to ensure effectively the financial solvency of such transactions and prevent manipulation or fraud. In this way, the Commission expects to be able to determine most effectively when, and under what terms and conditions, to lift all or selected portions of the regulatory moratoria.

This approach to the lifting of the moratoria is also consistent with Congress' recognition during the Commission's 1982 legislative reauthorization process that increasing demands on the Commission's limited resources justify caution by the Commission in removing the moratoria. Specifically, the conference committee considering the bill that subsequently was enacted as the Futures Trading Act of 1982 noted:

> The conferees recognize the increasing demands upon the Commission's resources and accordingly do not object to the current regulatory moratoria maintaining the status quo in the industry until such time as a comprehensive regulatory system is in place and the Commission is capable of regulating an expanded leverage industry. The moratoria are not ratified and extended in the bill itself, however, since they are inherently anticompetitive and thus contrary to the fundamental objectives of economic competition and the free marketplace. The conferees intend for the Commission to terminate these moratoria as quickly as the Commission determines it is prudent to do so.

H.R. Rep. No. 964, 97th Cong., 2d Sess. 51–52 (1982).[6]

In conjunction with the issue of continuing the moratoria, the Commission sought comments concerning membership in a self-regulatory organization registered by the Commission under Section 17 of the Act, 7 U.S.C. 21, of all persons engaged in a leverage business and registered under these rules. With one exception, commentors addressing this issue, including NFA, were generally supportive of this concept. The Commission continues to believe that the existence and registration under the Act of such a self-regulatory organization would be generally beneficial, and could be a significant factor in expediting the removal of the moratoria. The Commission, therefore, encourages those engaged in leverage businesses to work toward this goal.

V. Unlawful Conduct

Proposed § 31.5 would have required LTMs both to be registered with the Commission as leverage transaction merchants and to be designated to trade specific types of leverage commodities and contracts. The commentors generally agreed that it should be unlawful conduct for unregistered LTMs to be engaged in business and the Commission is basically adopting this requirement as proposed. As more fully discussed below, however, the Commission has replaced the term "designation" of leverage commodities with the term "registration." Therefore, § 31.5(a)(1) generally makes it unlawful for any person to offer and sell a leverage contract unless the leverage commodity which is the subject of the leverage contract has been registered

[5] Section 31.1 generally imposes a moratorium on the entry of new firms into the business of offering or selling leverage contracts involving gold or silver bullion or bulk coins which were not in that business on June 1, 1978. Section 31.2 imposes a similar moratorium on the entry of new firms into the business of offering or selling leverage contracts involving commodities other than gold or silver which were not in that business on February 2, 1979.

[6] *See also* S. Rep. No. 384, 97th Cong., 2d Sess. 52 (1982); H.R. Rep. No. 565, Part 1, 97th Cong., 2d Sess. 108–109 (1982).

with the Commission in accordance with § 31.6.

VI. Registration

As proposed, the Commission's regulations governing the registration of firms and individuals engaged in leverage transactions would have been contained in Part 31 as §§ 31.7 and 31.8, respectively. The procedures proposed by the Commission for the registration of such persons were patterned after those applicable to futures commission merchants ("FCMs") and their associated persons ("APs"). Firms which offered and sold leverage contracts would have been required thereby to register as leverage transaction merchants ("LTMs") and their sales personnel and supervisors would have been required to register as leverage representatives ("LRs"). As in the case of FCMs and their APs, LTMs and LRs would have been exempt from registration as commodity trading advisors ("CTAs") if the advisory services which they offered were limited to leverage transactions and were solely incidental to their respective businesses as an LTM or as a leverage representative.

Under the Commission's proposal, a leverage representative would need to have been sponsored by a leverage transaction merchant in order to be granted registration. Also, a leverage representative could not have been simultaneously associated with more than one leverage transaction merchant as a leverage representative, nor with an FCM or an introducing broker as an associated person.

The Commission has carefully considered the comments received on its proposal and has reconsidered the appropriate regulatory framework for participants in the leverage business in light of those comments. Although the commentors generally supported the Commission's concept of registration for LTMs and leverage representatives as set forth in §§ 31.7 and 31.8 of the proposed rules, a number of the commentors offered specific recommendations. Wherever possible the Commission has attempted to integrate those recommendations into the final rules.

Before discussing the specific changes to the Commission's proposal which are being adopted herein, the Commission wishes to note that it has determined that it is appropriate to incorporate the registration provisions with respect to leverage transaction merchants and their principals, supervisors and salespersons into the Commission's existing registration framework as fully as practicable. Accordingly, the Commission has determined to relocate the registration requirements contained in proposed §§ 31.7 and 31.8 within Part 3 of the Commission's current regulations and to consolidate them to the extent possible with the existing registration provisions.[7] The Commission believes that this approach promotes ease of reference and helps to ensure the internal consistency of the registration program for all Commission registrants. Thus, proposed § 31.7, requiring the registration of leverage transaction merchants, has been adopted essentially as proposed, but has been redesignated as new § 3.17.[8]

In this connection, and in accordance with the suggestion of one commentor, the Commission also has determined to register those individuals who solicit or accept customers' orders from leverage customers, or who supervise any person or persons so engaged, as associated persons of the sponsoring leverage transaction merchant in lieu of adopting its proposed new category of registrant, the leverage representative.[9] Registering sales personnel and supervisors of each category of registrant as associated persons of such category also serves to simplify the Commission's administrative systems for tracking such persons' registration histories. The definition of the term "associated person" has been revised accordingly to reflect this change. See § 1.3(aa)(5).[10]

A. Associated Persons

By incorporating those provisions providing for the registration of the APs of LTMs in new § 3.18, the Commission will generally assure that identical procedures are employed in those cases where an individual is applying for registration for the first time, whether the AP will be associated with an FCM or introducing broker (§ 3.12(c)) with a CTA or CPO (§ 3.16(c)) or with an LTM (§ 3.18(c)).[11] Similarly, and in response to the concerns expressed by the commentors, the standards and procedures for the expedited reregistration of an AP which terminates its association with a sponsoring FCM, introducing broker, CTA, commodity pool operator ("CPO") or LTM will be identical for all categories of AP registration. Sections 3.12(d), 3.16(d), and 3.18(d).

Further, in order to minimize any adverse impact of these rules on those firms and individuals qualified to engage in a leverage business in accordance with the Commission's temporary moratoria, the Commission has adopted new § 31.5(d). Section 31.5(d) sets forth the compliance requirements for AP applicants who are associated with a sponsoring LTM or an affiliated FCM in accordance with §§ 31.1 and 31.2 on the publication date of this **Federal Register** release. In order to comply with the requirements of § 31.5(d), LTMs must

[7] 17 CFR Part 3.

[8] As proposed, § 31.7(c) would have established procedures to provide for the addition of principals subsequent to the filing of the Form 7–R by an LTM. This provision was based upon similar provisions for FCMs, CTAs, CPOs, and introducing brokers as set forth in §§ 3.10(c), 3.13(c), 3.14(c) and 3.15(c), respectively. In order to streamline the registration regulations, the Commission has determined to add a new § 3.34, which consolidates all the above-cited provisions, including proposed §31.7(c), which provide for the addition of principals in one rule. Thus, the Commission has removed paragraph (c) from §§ 3.10, 3.13, 3.14 and 3.15.

[9] As proposed, and as is the case for FCMs and introducing brokers, leverage transaction merchants and associated persons of LTMs will be exempt from registration as CTAs if the advisory services which they offer are limited to leverage transactions and are solely incidental to their businesses as leverge transaction merchants. The Commission notes that the definition of a "commodity trading advisor" set forth in section 2(a)(1)(A) of the Act was amended in 1982 to include specifically "any person who * * * engages in the business of advising others * * * as to the nature of or the advisability of trading in * * * any leverage transaction authorized under section 19 * * *." Pub. L. No. 97–444, § 201(2). The Commission does not interpret § 2(a)(1)(A) to require leverage transaction merchants and their employees to register as CTAs if the Commission permits another form of registration which obviates that necessity. The purpose of this amendment was to ensure that persons who give advice regarding leverage transactions are registered with the Commission notwithstanding that persons who give advice regarding cash commodities are not required to register. Section 19 of the Act vests in the Commission plenary authority to require leverage transaction merchants and their employees to register in capacities other than the capacities of CTAs and APs of CTAs. The registration process and the standards for review of such applications are essentially the same in either case. *See also* Commission Rule 4.14(a)(3) (17 CFR 4.14(a) (3) (1983)) which provides an exemption from registration as a CTA to anyone registered as an associated person if the person's commodity trading advice is issued solely in connection with its employment as an associated person.

[10] In this regard, the Commission notes that it stated in its proposal that the Commission considered leverage representatives to be the equivalent of associated persons for purposes of the "statutory disqualification" provisions set forth in section 8a of the Act. This has now been made express in the rule itself. Therefore, as was intended in the Commission's proposal, under these final rules the Commission may refuse to register, register conditionally, suspend, place restrictions upon or revoke the registration of leverage transaction merchants and the associated persons of leverage transaction merchants pursuant to section 8a of the Act and any regulations adopted thereunder. In this connection, the Commission has recently proposed regulations to implement, among other things, the new system of statutory disqualifications. *See* 48 FR 50554 (November 2,1983).

[11] The Commission notes, however, that there is one minor difference in the registration procedures for the APs of LTMs as contrasted with those of other categories of AP registrant. Applicants for registration as an AP of an LTM must submit the "sponsor's certification" concurrently with the Form 8–R and fingerprint card. *See* § 3.18(c)(2) discussed *infra*.

file with the Commission the certification set forth in § 31.5(d) (1)–(4) within 30 days of the effective date of that section which is the publication date of this **Federal Register** release. Under the provisions of § 31.5(d), the sponsoring LTM would then have an additional 30-day period to submit the Form 8–R and fingerprint card for each such individual. In this regard, § 31.5(d) would supersede the requirement contained in § 3.18(c)(2) that the sponsoring LTM submit the "sponsor's certification" at the same time as the Form 8–R and fingerprint card. See further discussion of § 31.5(d) *infra.*

B. Initial Registration

A critical element of the Commission's registration system for APs is the requirement that such individuals be sponsored by the firms which will employ them. APs of LTMs will be subject to this same requirement. Thus, the sponsoring LTM must make certain certifications regarding the applicant.

Specifically, the sponsoring LTM must certify on the Form 8–R being filed as an application for AP registration that the applicant is currently associated with the sponsor (or will be so associated within thirty days of the date the applicant is registered).[12] Section 3.18(c)(1)(i). More importantly, § 3.18(c)(1)(ii) requires the sponsor to make whatever inquiries are necessary to certify that it has investigated and verified the applicant's education and employment history for the preceding five years and that such history is accurately presented in the Form 8–R. Section 3.18(c)(1)(iii) further requires the sponsor to certify that all of the publicly available information supplied by the applicant on the Form 8–R is accurate and complete to the best of its knowledge, information and belief.[13] As the Commission has earlier indicated, these "screening" requirements "do no more than make uniform what should be the ordinary and customary practice" for every responsible registrant employer.[14]

The regulations do not prescribe the procedures which must be employed by the sponsor prior to making the required certifications. The Commission contemplates, however, that sponsoring LTMs will use methods comparable to those employed by the financial community for sensitive positions and may contract with investigative agencies to perform some or all of the screening functions. This is the same standard applicable to all other sponsoring registrants, *i.e.*, FCMs, introducing brokers, CPOs and CTAs. In this regard, the Commission wishes to remind LTMs that it remains the sponsor's responsibility to assure itself of the accuracy of the representations that are made to the Commission.

The Commission is making one change in the application procedure for the APs of LTMs which differs from the Commission's current requirements for other categories of AP registrant. Specifically, the Commission has incorporated a provision into § 3.18 to require that the sponsoring LTM submit the certification required with respect to an applicant for registration as an associated person at the same time as the Form 8–R and fingerprint card are filed. Section 3.18(c)(2). The Commission believes that requiring applicants for registration as APs of LTMs to submit a fully complete registration application will enhance the Commission's ability to process such applications in a timely fashion and avoid unnecessary delays.[15] Moreover, as the Commission has previously indicated, this requirement reflects the intent of Congress in enacting section 4k(5) of the Act that registrants make a reasonable inquiry into the background of an individual before permitting that individual to become associated with it as an associated person.[16]

C. Multiple Associations

Proposed § 31.8(f) would have prohibited a leverage representative from being simultaneously registered as a leverage transaction merchant. In addition, proposed § 31.8(e) would have prohibited a leverage representative from being simultaneously associated as an associated person of an FCM or introducing broker or as a leverage representative of another LTM.

A substantial number of the commentors addressed the Commission's proposal to prohibit certain dual and multiple associations and registrations. Although one commentor expressed support for the Commission's proposal, the majority of these commentors specifically opposed that portion of the Commission's proposal which would prohibit an individual from being simultaneously associated with both a leverage transaction merchant and an FCM or introducing broker. For example, one commentor pointed out that it offers or sells dealer options to the public through its wholly-owned subsidiary which is registered with the Commission as an FCM. Many of its "leverage representatives" are registered as APs of that FCM for the express purpose of enabling them to sell dealer options to the public, which the Commission requires be sold through an FCM. Moreover, the commentor noted that in the event FCMs seek to enter the leverage industry after the lifting of the Commission's temporary moratoria, this rule would be an impediment to their participation.

The Commission has carefully considered each of these comments in light of its experience with the existing restrictions on the APs of FCMs, introducing brokers, CTAs and CPOs and has continued prohibitions on such associations in the final rules in a manner which is intended to ensure that responsibility for the conduct and sales activities of an AP of a leverage transaction merchant is clearly delineated although making clear that the Commission may entertain requests for exemption therefrom. Specifically, the Commission has determined to prohibit an AP of an LTM from being simultaneously associated as an AP of an FCM or an introducing broker or with more than one LTM. Sections 3.12(f)(2) and 3.18(f)(1) (i), (ii) and (iii). In addition, an AP of an LTM may not be simultaneously associated with a CTA or CPO. Section 3.18(f)(1) (iv) and (v). Finally, no person may be registered as an AP of a leverage transaction merchant and also registered as a floor broker. Section 3.18(f)(2).

The Commission notes that § 3.12(f), *inter alia*, currently prohibits an AP from being associated with more than one FCM.[17] When it initially adopted this restriction, the Commission explained that "the obvious difficulties of supervision in such a situation and * * * the inherent possibilities for conflicts of interest that might arise if an AP were to have more than one sponsor" outweighed any possible adverse effects upon competition which

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[12] If after the filing of a Form 8–R, the applicant either fails to become associated with the sponsor or if that relationship is terminated, the sponsor must promptly report that fact to the Commission. Section 3.31(c)(1).

[13] *See* 48 FR 35248, 35254 n.35 (August 3, 1983) for a further discussion of this requirement by the Commission.

[14] 45 FR 18356, 18357 (March 20, 1980); 45 FR 80485, 80488 (December 5, 1980); 48 FR 14933, 14937 (April 6, 1983); and 48 FR 35248, 35254 (August 3, 1983).

[15] For the same reasons, the Commission recently proposed to amend §§ 3.12(c)(2) and 3.16(c)(2), the provisions governing the registration of APs of FCMs and introducing brokers, and CPOs and CTAs, respectively, to require that the sponsor's certification be submitted at the same time as the Form 8–R and fingerprint card. 48 FR 50554, 50561 (November 2, 1983). The Commission has not made any further determination with respect to these proposed amendments.

[16] 48 FR 50554, 50560 (November 2, 1983).

[17] 17 CFR 3.12(f)(1) (1983) *as amended by* 48 FR 35248, 35293 (August 3, 1983).

might result from such a prohibition.[18] The Commission has the same concerns with respect to supervisory responsibility for the activities of the APs of LTMs. In particular, the Commission notes that this is a new regulatory program and that there are significant differences between the manner in which futures contracts and leverage contracts are offered to the public and consequently the Commission's regulatory requirements also differ significantly. For example, the summary Disclosure Document which must be furnished to a prospective leverage customer is more detailed and comprehensive than the risk disclosure statement required to be provided to a prospective futures or options customer. In addition to delineating clear supervisory responsibility, the Commission's regulatory requirements also are intended to prevent futures customers from being transferred to leverage accounts without being given the proper disclosure.

The Commission is aware that the prohibitions contained in §§ 3.12(f) and 3.18(f) may pose certain difficulties for those LTMs which also have affiliated FCMs. The Commission wishes to remind such persons that in accordance with §§ 3.12(g) and 3.18(g), any person adversely affected by the operation of those rules may petition the Commission for an exemption. In this connection, the Commission notes that the Division of Trading and Markets has previously granted exemptions from the prohibitions of § 3.12(f) where, among other circumstances, an AP wished to be associated with two affiliated FCMs and the FCMs agreed to certain conditions, including the assumption of joint and several liability for the supervision of all activities of such AP in connection with each sponsor's business as an FCM. Requests for exemptions will be considered on a case-by-case basis.

The Commission is aware that § 3.12(f) will require affiliated LTMs and FCMs which do not receive an exemption to maintain separate sales personnel and supervisors. In this connection, the Commission understands that during the initial transition period after the effective date of these rules, affected firms may find it necessary to restructure their sales personnel in accord with § 3.12(f). The Commission has taken steps to minimize any disruption which this prohibition may cause to ongoing businesses. Specifically, the Commission has amended §31.5 to permit any individual who is currently registered as an associated person of an FCM and simultaneously associated with an affiliated LTM, effectively to "transfer" his registration to the affiliated LTM. In accordance with § 31.5(d), the sponsoring LTM should include such individual in the certification required thereunder. The LTM would be required to submit, within 60 days after the effective date of that section (which is the publication date on this **Federal Register** release), a Form 8–R on behalf of such individual. Section 31.5(d)(2), however, provides that a fingerprint card need not be filed on behalf of any such individual if that individual is currently registered as an AP of an FCM which is affiliated with the sponsoring LTM. Thus, APs of an FCM which seek to become registered as APs of an affiliated LTM would not have to submit a new fingerprint card in connection with such registration.

[18] 45 FR 80485, 80489 (December 5, 1980) (footnote omitted). *See also* 48 FR 35248, 35255 (August 3, 1983).

VII. Compliance Period for Existing LTMs and APs of LTMs

Sections 31.5 (c) and (d) of the Commission's regulations set forth the registration requirements and procedures for existing LTMs and APs of LTMs respectively, to enable those persons to continue in business after the effective date of these regulations. Section 31.5(c) requires that any person who is lawfully engaged in business as an LTM in accordance with the provisions of §§ 31.1 and 31.2 on the publication date of § 31.5 in the **Federal Register** must file with the Commission, within 60 days after the effective date of § 31.5(c), the following information: (1) An application to register a leverage commodity in accordance with the provisions of § 31.6; (2) an application for registration as an LTM in accordance with § 3.17; and (3) the documentation required by § 31.5(e). Section 31.5(e) specifies the documentation necessary to establish that an applicant is in compliance with the temporary moratoria on leverage transactions and requires that such documentation be submitted at the same time as the application for registration as an LTM. See discussion of § 3.15(e) *infra*. Compliance with § 31.5(c) will enable the applicant for registration as an LTM which has also complied with the procedures set forth in § 31.5(d) to continue in business pending a final registration determination by the Commission.

Section 31.5(d) provides that any person who is lawfully engaged in business as an LTM in accordance with §§ 31.1 and 31.2 on the date of publication of this section in the **Federal Register** must, within 30 days after the effective date of § 31.5(d), file with the Commission the certification specified therein with respect to any associated persons associated with the LTM or, as may be appropriate, an affiliated FCM on the publication date of this section in the **Federal Register.** Such certification must be signed and dated by an appropriate person. The sponsoring LTM is required to certify that the individual who will be associated with the LTM as an AP was associated with the LTM or an affiliated FCM on the date of publication of this section in the **Federal Register.** The sponsor must also certify that none of those individuals have answered "Yes" to any of the questions in the Disciplinary History portion of the Form 8–R or is subject to a "statutory disqualification" as set forth in section 8a(2) of the Act. Within sixty days after the effective date of § 31.5(d), the AP and the sponsor must complete and the sponsor must file with the Commission a Form 8–R (including the "Sponsor's Certification"), the registration fee and a fingerprint card. As noted above, however, a fingerprint card need not be filed on behalf of any such individual if that individual is currently registered as an AP of an FCM which is affiliated with the sponsoring LTM. Section 31.5(d)(2).

In order to assist the Commission in the transfer of the registration of such APs from an affiliated FCM to the LTM, the Commission requests that, at the time that the filings pursuant to § 31.5(d) are made, the LTM provide the Commission with a "transfer list" which includes the names of all AP registrants which seek to have their registrations transferred from the affiliated FCM and the name of such FCM. An AP who is no longer sponsored by an affiliated FCM and whose registration is "transferred" to an LTM will thereafter be registered as an AP of that LTM as long as he remains associated with the LTM and the LTM will be fully responsible for the conduct of that AP as if the AP had been initially registered under the "sponsorship" of the LTM.

VIII. Demonstration of Compliance With the Temporary Moratoria on the Offer and Sale of Leverage Contracts

As indicated above, the Commission has determined to continue in effect for a time its regulatory moratoria on the entry of new firms into the business of offering and selling leverage contracts. The Commission is therefore adopting § 31.5(e) which establishes the criteria and procedures by which an applicant for registration as an LTM can demonstrate to the Commission that it is

in compliance with the temporary moratoria set forth in §§ 31.1 and 31.2. Section 31.5(e) requires an LTM to submit to the Commission four separate types of documentation with respect to each leverage contract and commodity for which the applicant is seeking registration.

First, an LTM must submit a certified copy of the organizational documents required to be filed in the state, territory or possession of the United States in accordance with which laws the applicant was formed and a certificate of good standing therefor as of a date not more than 30 days prior to the date of submission. If the applicant is a partnership or sole proprietorship and no organizational filing is required under state law, the applicant must submit an opinion of counsel to that effect and must also provide the Commission with other evidence sufficient to demonstrate both the date of its formation and the continuation of the leverage business of such partnership or sole proprietorship. Section 31.5(e)(2)(i).

Second, the applicant must provide a customer list as of June 1, 1978 or February 2, 1979, as may be appropriate, for each leverage contract and commodity the applicant claims to have offered. Section 31.5(e)(2)(ii). In this connection, the Commission wishes to note that such customer lists, including all names, addresses and other personal information contained therein, generally will be considered to be nonpublic records under Part 145 of the Commission's regulations (17 CFR Part 145) and, subject to applicable law, will not be published or made available to any other person. *See* Section 8 of the Act and 17 CFR 145.5 (c), (d) and (f). Applicants should also be aware that they may file a petition for confidentiality in accordance with the provisions of Commission Rule 145.9 (17 CFR 145.9) with respect to such information or any other information submitted to the Commission.

Third, for each type of leverage contract or leverage commodity for which registration is sought the applicant must provide a copy of each different contract based on such proposed leverage commodity entered into or offered on or prior to June 1, 1978 or February 2, 1979, as may be appropriate. The contract must be accompained by an affidavit from the customer whose signature appears on the contract attesting to the date of the leverage transaction or a statement as to why such an affidavit is unobtainable. Section 31.5(e)(2)(iii).

Finally, the applicant is required to submit an affidavit of an appropriate person on behalf of the applicant stating the following: (a) That the applicant is in compliance with the temporary moratoria; (b) the nature of the applicant's business, including the percentage of that business it claims was leverage business with respect to each leverage commodity and leverage contract it claims to have offered as of June 1, 1978 or February 2, 1979, as may be appropriate; (c) the annual income generated from leverage transactions for each year since the applicant claims to have commenced a leverage business with respect to each leverage contract and leverage commodity offered by such applicant; (d) that upon request the applicant will make its books and records or financial ledgers for the 2-year period commencing one-year preceding the date set forth in either §§ 31.1 or 31.2, as may be appropriate, available for inspection at the regional office of the Commission nearest the principal place of business of the applicant; and (e) that all of the information provided to the Commission under § 31.5(e) is true and accurate. Section 31.5(e)(2)(iv).

IX. Registration of Leverage Commodities

As adopted, § 31.6 provides that the Commission will only register individual leverage commodities as defined in § 31.4(g). Section 31.4(g) sets forth the distinguishing characteristics of eligible leverage commodities. Because the Commission in not lifting its moratoria at this time, § 31.4(g) only specified characteristics for those commodities which were the subjects of leverage contracts before the effective date of the Commission's moratoria.

The Commission has decided to employ in the rules as adopted the term registration in response to several comments which noted the potential for confusion in the proposal's use of the term "designation"—a term of art heretofore restricted in the Commission's regulations applicable to contract markets. These commentors suggested that by applying a term so closely associated with the regulation of futures contracts to the regulation of leverage contracts, prospective leverage customers might erroneously ascribe some of the attributes of futures markets—including exchange self-regulation and open outcry trading to leverage contracts. Moreover, the Commission believes that use of the term "designation" should be restricted to contracts which meet certain uniform regulatory criteria, such as those contained in the Commission's Guideline No. 1, 17 CFR Part 5, Appendix A.

The registration of leverage commodities is a cornerstone of the Commission's approach to ensuring the integrity of the leverage contract and hence a key feature of customer protection. Registration helps to assure that leverage customers can realize the economic value of their contracts if they take delivery on them. As long as delivery on the leverage contracts is a viable alternative, discipline may be enforced on leverage transaction merchants' bid (repurchase) prices for leverage customers; an objective of the registration of leverage commodities is to assure that the transactions costs of taking delivery on the leverage commodity are not prohibitively high. In such cases, if the leverage transaction merchants' bid-ask spreads were to widen considerably, leverage customers should be able to realize any gains (or stop further losses) by taking delivery of the commodity. Furthermore, absent the safeguards embodied in the Commission's registration of leverage commodities, leverage contracts could potentially provide for delivery of commodities whose economic value could not be realized by leverage customers taking delivery which, in the Commission's view, could constitute fraud.

In the June 1, 1983 notice of proposed rulemaking, the Commission implicitly provided several requirements for registration including, *inter alia*, the requirement that the leverage commodity must be "readily salable in normal commercial or retail channels by leverage customers taking delivery on a leverage contract." Nonetheless, several commentors expressed confusion about the standards which will guide the Commission in registering leverage commodities. Accordingly, the Commission has clarified its proposed rules by setting forth explicitly in § 31.6(a) five conditions which must be met for a commodity to be registered with the Commission. These conditions must be met initially for registration and on a continuing basis thereafter.

In addition to fulfilling the definitional requirements set forth in § 31.4(g), to be registered as a leverage commodity with the Commission a commodity must be readily salable in normal commercial or retail channels by leverage customers electing to take delivery on the leverage contracts, and the terms and conditions of the leverage contracts offered on the commodity must be consistent with the Act and the Commission's regulations. Moreover, although the Commission is not at this time proposing to apply an economic purpose test as a registration criterion for leverage contracts on

individual leverage commodities, the sale or offer of sale of leverage contracts on the proposed leverage commodity must not be contrary to the public interest.

As discussed above, all leverage commodities must be separately registered with the Commission by the leverage transaction merchant seeking to sell leverage contracts on those leverage commodities; that is, an LTM proposing to sell leverage contracts where the deliverable units are 1,000 ounces and 2,000 ounces of silver must apply separately to register each leverage commodity. Concurrent applications for registration are permitted and may cross-reference one another. Moreover, as noted previously, more than one leverage contract can be sold pursuant to each such registration. Furthermore, the registration of a leverage commodity is specific to the leverage transaction merchant to whom registration is granted; that is, the registration of, for example, 1,000 ounces of silver as a leverage commodity by one leverage transaction merchant does not extend to any other leverage transaction merchant either automatically or by reference.

X. Application for Registration of Leverage Commodities

The Commission has not substantively modified its proposals regarding the procedures for registration of leverage commodities, although the final rules are, as noted, re-arranged and re-named from the earlier proposal. In accordance with § 31.6(b), an application for registration of a leverage commodity must, among other things: (1) Describe thoroughly the distinguishing characteristics of the leverage commodity and the cash, forward and futures markets for the commodity, (2) specify the commercial or retail cash price series as described above and justify its use with respect to the particular leverage commodity, (3) evaluate completely how the distinguishing characteristics of the commodity to be registered affect its salability in normal cash market channels; in other words, evaluate how easily the delivery unit may be resold by leverage customers taking delivery, and (4) describe the inspection and commodity certification procedures typically required of the commodity to be registered.

As noted earlier, the Commission will, however, require a leverage transaction merchant to provide copies of the leverage contract(s) which will be offered on each leverage commodity, and the Commission will not register a commodity if the terms and conditions of such leverage contracts are not consistent with the Act and the Commission's regulations thereunder, or are otherwise contrary to the public interest. In examining the leverage contract terms and conditions, however, the Commission is not determining their individual merit aside from their consistency with the Act and the Commission's regulations. Accordingly, only a limited inference concerning the over-all merits of leverage contracts can be drawn from the fact of Commission registration of the leverage commodity.

The requirements regarding materials to be submitted in support of an application for registration of a leverage commodity are designed to ensure that the Commission is provided with the necessary information to determine whether a commodity meets the several standards for registration enumerated in § 31.6(a). These application requirements are similar in nature to those required for the designation of contract markets in futures. *Compare*, Commission guideline No. 1, 17 CFR Part 5, Appendix A. The Commission notes that the leverage transaction merchant bears the burden of providing adequate documentation of its compliance with the Commission's requirements for leverage commodity registration.

Upon application for registration of a leverage commodity the Commission staff will review the materials submitted by the leverage transaction merchant in accordance with § 31.6(b) and will recommend to the Commission either that the leverage commodity be registered or that registration be denied.[19] Applications for leverage commodity registration may be remitted by the Commission or by its designee, the Director of the Division of Economics and Education, if the application is incomplete. The Commission anticipates that if service fees are charged for registration of leverage commodities resubmission of a modified application which previously has been remitted will not require the payment of an additional fee.

While several commentors stated their concern that registration of leverage commodities by the Commission might be time-consuming and advocated relatively short time limits for Commission consideration of an individual registration, the Commission does not find this to be appropriate. The Commission does not have experience in registering leverage commodities nor does the industry have experience in complying with the application requirements for applying for registration. Accordingly, it is not possible to estimate accurately the time which may be required to process such applications. The Commission will process all applications for registration of leverage commodities in as timely a manner as is feasible, but it does anticipate possible delays in light of its limited resources, the large number of registration applications which may be submitted, and the industry's inexperience with Commission review procedures. Moreover, in light of the fact that eligible leverage transaction merchants may continue to engage in offering for sale and selling such contracts during this period, the possible hardships engendered by potential delays will be minimized.

Sections 31.6 (c) and (d) now specify the procedures to be followed by a leverage transaction merchant proposing to change the specifications of a leverage commodity registered with the Commission and sets forth the Commission's authority to disapprove, alter or amend such changes. A leverage transaction merchant must submit proposed changes to the commodity specifications or to the terms and conditions of the leverage contracts offered on a registered leverage commodity. Any such proposed changes must be accompanied by a detailed explanation of how the proposed changes to the commodity specifications or to the terms and conditions of the leverage contracts offered on a registered leverage commodity would affect the leverage commodity's continued ability to meet the standards set forth in § 31.6(a). The Commission would have forty-five days from receipt of the proposed change in which to notify the leverage transaction merchant of its intention to disapprove.

The Commission reserves the right to alter or amend the commodity specifications of the registered leverage commodity and the terms and conditions of the leverage contracts offered on registered leverage commodities. The authority parallels the Commission's authority with regard to futures contracts. It is anticipated that the exercise of such authority will be restricted to unforeseeable developments in the markets for leverage commodities, such as an act of a foreign government which might

[19] Although the procedures for the denial, revocation and suspension of leverage commodity registration incorporate those procedures contained in Sections 6 and 6(a) of the Act, the Commission has not incorporated into these regulations the one-year limit on the period for review of applications for contract market designation. Accordingly, this time limit does not extend to the registration of leverage commodities.

adversely affect holders of leverage contracts on that commodity.[20]

XI. Disclosure

The Commission's proposed regulations governing disclosure requirements were set forth in proposed § 31.11. As proposed, the Disclosure Document would contain, among other things, a section which lists and describes the principal specifications of the commodity deliverable on a leverage contract, the various fees charged for a leverage contract and the margin requirements, including: Initial, carrying and termination charges, and initial, minimum and maintenance margin requirements. Furthermore, as proposed, the Disclosure Document would indicate the cash price series which can be used to evaluate the price offered by the leverage transaction merchant and where such price information can be readily obtained.

In addition, the Disclosure Document would be required to contain an illustrative transaction that includes the calculation of a break-even price, which will indicate the change in price necessary, in absolute and in percentage terms, before a leverage customer can realize a profit on the leverage contract offered by that LTM.

The Commission also proposed to require that the leverage Disclosure Document include certain information which is currently required to be included in a commodity trading advisor's Disclosure Document. Such information relates to the business background of the firm and its principals, past performance information, and material criminal, civil or administrative litigation involving the firm and its principals.

As is the case for a commodity trading advisor, a leverage transaction merchant would be required to submit its Disclosure Document to the Commission 21 days prior to the date it intends to provide the document to a prospective leverage customer. The Commission would then review the document in a manner similar to the review it makes of a commodity trading advisor's Disclosure Document.

The majority of the commentors who addressed the proposed disclosure requirements supported the general concept of disclosure requirements for LTMs. Many of those commentors, however, recommended alternatives or expressed opposition to specific features of the Commission's proposal. The main areas upon which the commentors focused their comments are discussed below.

A. Business and Related Disclosures

Several commentors raised objections to those portions of the Commission's proposal which would require LTMs to make disclosures similar to those required of CTAs, such as information as to the location of an LTM's records, its business background as well as that of its principals, performance information, whether its principals will purchase leverage contracts for their own account, material litigation with respect to the LTM, its principals or "leverage representatives" and similar information. The Disclosure Document is intended to provide protection for leverage customers—particulary those who are unsophisticated in financial matters—by ensuring that they are informed about material facts concerning leverage transactions and the firms with which they deal before committing their funds. A knowledge of the background and experience of the LTM and its individual principals is essential to a meaningful evaluation of the investment opportunity offered by those persons and the financial integrity of the principals to the leverage transaction, particularly where there is no clearing organization to stand behind the contract. Therefore, the Commission has determined to adopt those disclosure requirements pertaining to the business background of the LTM and its principals, information as to the location of the LTM's records, and whether the principals of the LTM intend to trade leverage contracts for their own account. Section 31.11(a) (4) and (5).

With respect to the proposed requirement to disclose any material administrative, civil and criminal actions within the five years preceding the date of the document, two of the commentors supported the requirement provided that it apply only to proceedings against the LTM and its principals in connection with the LTM's business. The Commission believes that there is merit to narrowing the scope of this requirement, but not to the extent suggested. Section 31.11(a)(6), therefore, has been amended to provide for the disclosure of any material administrative or civil action involving activity or conduct, or related to any statute, set forth in Section 8a (2) and (3) of the Act, or any material criminal action within the five years preceding the date of the document against the LTM and any principal of the LTM. Thus, the Commission has eliminated from the final rules that portion of its proposal which would have required such disclosure with respect to the APs of an LTM. This change conforms this portion of the Commission's disclosure requirements for LTMs to those for CPOs and CTAs. The Commission notes that in this regard, Section 8a (2) and (3) of the Act set forth a system of "statutory disqualifications" which enumerate the most important bases for finding applicants or registrants unfit for registration and provide the Commission with the authority, in appropriate cases, to deny, condition, restrict or suspend the registration of a registrant. In addition, Section 4k(5) of the Act requires a registrant to notify the Commission if any person registered or who has applied for registration as an AP of the applicant is subject to a "Statutory disqualification" as set forth in Section 8a(2) of the Act.[21] the Commission believes that these statutory requiremens will adequately ensure the continued fitness of all AP registrants and that it is therefore unnecessary to include such information in the Disclosure Document. The Commission believes that these changes will provide more meaningful and relevant disclosure to prospective leverage customers.

Proposed § 31.11(a)(5) would have required that LTMs disclose the net gain or loss for all customers on leverage contracts offset or liquidated for the preceding year and the preceding three years. Those persons who commented on this portion of the Commission's proposal expressed the view that compliance with this requirement would be extremely difficult because no such records are currently retained by LTMs. One commentor, however, strongly supported proposed § 31.11(a)(5), although the commentor noted the difficulty which certain LTMs may have in reconstructing such information with respect to a period prior to the effective date of the regulations. This commentor therefore suggested that the requirement be modified to relieve LTMs of the duty to disclose such information for the period prior to the effective date of the rule.

The Commission has reconsidered this portion of the proposal and has determined not to adopt proposed § 31.11(a)(5) at this time. Although the Commission believes that it clearly has

[20] For example, a decision by a foreign government to refuse to recognize fully its previously issued currency as legal tender, to restrict trading in such currency, or to fix an exchange rate might be occasions for Commission action regarding the specification of leverage commodities which are based on that foreign currency.

[21] The Commission recently has proposed rules to implement these provisions of the Act. 48 FR 50554 (November 2, 1983).

the authority to impose such a disclosure requirement, the Commission is also aware of the difficulty certain LTMs may have in compiling such information for the period prior to the effective date of the rules. In addition, the Commission notes that the break-even price which is required to be contained in the LTM's Disclosure Document may provide more meaningful information to the leverage customer than the disclosure of past performance. This is because any past performance compilation would be based, in part, upon the trading decisions of individual leverage customers which may be independent of the particular recommendations of either the LTM or its APs. In the case of CPOs and CTAs, on the other hand, past performance relates solely to the track record of the individual registrant. Nevertheless, the Commission wishes to emphasize that it has not previously regulated leverage transactions, and therefore intends to monitor closely the appropriateness of the disclosure requirements adopted and to make further adjustments including requiring performance disclosure as necessary.

Finally, the Commission has added a new paragraph to the bold-faced statement which is required to be contained in each Disclosure Document. Section 31.11(a)(1). The Commission believes that the addition of this new paragraph will further enhance the usefulness of the Disclosure Document to the prospective customer by explaining a number of important facts. First, the Disclosure Document provides a concise explanation of the circumstances necessary for a leverage customer to realize value from the contract. In this connection, the Disclosure Document explains that in order to realize value from the contract it will be necessary for one of two things to occur: The LTM which sold the leverage contract, and which has the obligation to do so, must agree to repurchase the contract or the leverage customer must pay the LTM the full purchase price for the leverage contract, take delivery of the leverage commodity, and then resell the leverage commodity, possibly at a lower price than the price paid to purchase it from the LTM. The Disclosure Document also makes clear that there is no secondary market for leverage contracts and that the only alternative available to a leverage customer who elects not to take delivery is to resell the contract to the LTM from which it was purchased. Finally, the document informs prospective customers that the LTM is under no obligation to offer to repurchase a leverage contract at all times, although the LTM must offer to repurchase any previously sold leverage contract at any time during which it is offering to sell any leverage contracts on the same leverage commodity.[22] In this regard, the Disclosure Document also makes clear that the LTM has complete discretion in setting the price and any charges related thereto at which it will repurchase a leverage contract. As discussed in detail below, however, the ability of the leverage customer to take delivery and resell the commodity in the retail market may keep the LTM's bid-ask spread from becoming too wide.[23]

B. Filing of Initial and Revised Disclosure Documents; Other Matters

Proposed § 31.11(b) would have provided that if an LTM's Disclosure Document becomes inaccurate it must be amended within twenty-one days and would prohibit its use until corrected. Paragraph (e) of proposed § 31.11 would have required that the revised Disclosure Document be submitted to the Commission at least twenty-one days prior to its use. It was contended by certain commentors that read together these two filing requirements would effectively preclude an LTM from engaging in any transactions for at least twenty-one days after any material changes are made in the Disclosure Document.

The Commission has considered these comments carefully and is adopting rules which the Commission believes provide for the correction of deficiencies and inaccuracies in the Disclosure Document without unnecessarily interrupting the business of an LTM.

As adopted by the Commission, § 31.11(b)(1) provides that if the LTM knows or should know that the Disclosure Document is materially inaccurate or incomplete in any respect, it must correct that defect and distribute the correction to all existing leverage customers within 30 calendar days of the date upon which the LTM first knows or has reason to know of the defect. Similarly, the LTM must correct the document used to solicit each prospective leverage customer prior to opening an account for such person. The LTM may furnish the correction by way of an amended statement, a sticker on the statement or other similar means thereby obviating the need to reprint a new document. Moreover, the Commission notes that granting an LTM 30 calendar days to distribute the correction will enable LTMs to include any such correction with the mailing of the monthly account statement (See § 31.15(b)). Section 31.11(b)(2) prohibits an LTM from using the document until such correction is made.

Section 31.11(c) requires that the LTM must date each Disclosure Document and each amendment thereof as of the date it is first used. Section 31.11(d) requires that all information contained in the Disclosure Document must be current as of the date of the document.

Section 31.11(e) sets forth the requirements for the filing of an LTM's initial and revised Disclosure Documents with the Commission. Section 31.11(e)(1) provides that, subject to § 31.6(c), the LTM must file with the Commission three copies of the Document for each leverage contract that it offers or intends to offer not less than twenty-one days prior to the date the LTM first intends to deliver the Document to a prospective leverage customer.

Section 31.11(e)(2) provides that, subject to §§ 31.6(c) and 31.11(h), the LTM must file with the Commission three copies of all subsequent amendments to the Disclosure Document within 30 days of the date upon which the LTM first knows or has reason to know of the defect requiring the amendment. Section 31.11(h) requires that an LTM must transmit a notification to each leverage customer within 24 hours of making any change not otherwise permitted under the contract terms set forth in § 31.11(a)(2) by first class mail or other equivalent means of communication. Section 31.11(h) also requires an LTM to transmit a notification to each leverage customer of any change in the interest rates charged by the LTM within 24 hours of each such change. Thus, unless leverage customers were advised in the Disclosure Document that a particular term or condition of the leverage contract was subject to change, leverage customers will receive immediate notice of such change and have an opportunity to decide whether to close out the transaction.

Section 31.11(i) provides that a person soliciting or accepting an order for a leverage contract is not required to deliver a Disclosure Document to a

[22] Section 31.10 sets forth the LTM's obligations regarding repurchase. The proposal would have required a guaranteed buy-back at all times. This has been changed in the final rules to require the LTM to offer to repurchase any previously-sold leverage contract at any time during which it is offering to sell any leverage contracts on the same leverage commodity. *See* discussion of § 31.10, *infra*.

[23] In addition to the changes made elsewhere in the required bold-faced statement on the first page of the Disclosure Document, the Commission has revised the specified wording to reflect the changes it has made to the provision regarding a leverage customer's right to rescind a leverage contract. *See* § 31.11(b) and the discussion thereof, *infra*.

leverage customer if such document has been previously provided. The leverage customer, however, has the right to request a copy of the LTM's Disclosure Document at any time and, in addition, the LTM is required to furnish a new Disclosure Document to its leverage customers if the previously delivered document has become outdated or materially inaccurate.

As proposed, the Commission will require pursuant to § 31.11(a)(2) that the leverage transaction merchant describe in the Disclosure Document each leverage commodity covered by the Disclosure Document. The description must set forth the distinguishing characteristics of each leverage commodity which are listed in the definition of a leverage commodity. See § 31.4(g). Additionally, as proposed, the terms and conditions of each leverage contract covered by the disclosure statement, including the duration of the contracts, the charges prevailing at the time the disclosure statement is prepared, and descriptions of the bid and ask prices must be set forth in the Disclosure Document.

The Commission is also adopting, as proposed, § 31.11(a)(3) which requires the inclusion in the Disclosure Document of an illustrative example of a leverage transaction with the calculation of a break-even price, set forth in a format specified by the Commission. Several commentors stated that this requirement was essentially unnecessary, especially in light of the other disclosures required to be made to prospective leverage customers.[24] The Commission, however, believes that the illustrative example will aid prospective leverage customers both in better understanding the nature of their prospective investments and in determining whether such an investment is appropriate for them by setting forth clearly what charges and fees are associated with a leverage contract.

One commentor, a firm claiming to be engaged in the business of selling leverage contracts, recommended that the Commission require a leverage transaction merchant to disclose to a prospective leverage customer all fees before effecting a transaction. Accordingly, the Commission is adopting its § 31.11(j), as proposed.

XII. Confirmation Statement

As proposed, the Commission is requiring that leverage transaction merchants send a statement confirming the transaction to each leverage customer within twenty-four hours of entry into the contract. The confirmation statement must be in a form specified by the Commission and must include information to yield a break-even price, with a calculation thereof.[25] The confirmation statement must inform leverage customers, in wording specified by the Commission, of their right to rescind their first leverage transaction.

XIII. Rescission

The Commission's proposal to provide to all leverage customers the unqualified right to rescind their leverage contracts within three days of the receipt of the confirmation statement elicited extensive critical comment. Several commentors stated their concern that, in light of the high probability of significant short-term price movements typically experienced by the commodities which were proposed to be subjects of leverage contracts, an unqualified three-day right to rescind leverage contracts would provide customers costless short-term options on the price of the commodity. Some commentors, including several firms claiming to be in the business of selling leverage contracts, asserted that the Commission's proposal, if adopted, would act to discourage leverage transaction merchants from covering their obligations to customers promptly upon opening new leverage positions. One commentor stated that any concerns about informing leverage customers or prospective leverage customers of the nature of the risks they are incurring by purchasing a leverage contract are addressed adequately by the disclosures to prospective leverage customers required in § 31.11 of the regulations.

Nevertheless, in light of its past experiences with instruments traded outside of the self-regulatory environment of the exchanges, the Commission remains concerned that leverage customers be adequately protected from high pressure sales tactics. The Commission believes that prospective leverage customers who are unfamiliar with leverage contracts should be provided with a three-day period in which to rescind their first purchases of a leverage contract so that they are afforded a limited opportunity to reflect dispassionately on their actual purchases.[26] The leverage customer's right to rescind his or her first purchase of a leverage contract is intended by the Commission to safeguard prospective customers from becoming committed to an investment scheme that, until receipt of the first confirmation statement which includes the actual breakeven calculation, is not fully understood, or which upon further reflection after receipt of the confirmation, appears to be inappropriate to the individual's circumstances. As adopted, this right of rescission is available only for a customer's first purchase from each particular LTM and is unavailable to those customers who have engaged in a prior leverage transaction with that particular LTM because, having previously received a Confirmation Statement, such leverage customers are assumed to have a sufficient understanding of the transactions they are undertaking.[27]

The Commission is persuaded, however, that even an unlimited right to rescission which is applicable only to first-time leverage customers might have had the unintended effect of creating a free option on leverage commodity price changes. Moreover, the unlimited right

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[24] At least one commentor stated that the required provision of a break-even price should be replaced with required disclosure of current fees and charges. The Commission's specified format for the illustrative example makes clear that the charges and ask price of a leverage contract must be current when the Disclosure Document is prepared. The format of the break-even calculation uses these to indicate how much the commodity's price must rise before the purchase will begin to be profitable. The break-even calculation included as part of the confirmation statement, however, is required to disclose the fees and charges which the leverage customer is actually paying at that time. The format specified by the Commission for the break-even calculation in the Disclosure Document accompanies this notice as an attachment.

[25] The proposed regulations have been revised to require explicitly that the leverage transaction merchant calculate the break-even price. Minor amendments have been made to the Commission's specified form of the illustrative example of the transaction in the Disclosure Document in order to make the break-even prices clearer to leverage customers and prospective leverage customers. The Commission notes that the one-year term used in illustrating the carrying charges applicable to a leverage contract was chosen because it is readily comparable to other investment yields. The specified form of the Confirmation Statement accompanies this notice as an attachment.

[26] The rescission period of three business days is counted from the day on which the customer receives the confirmation statement to the close of business on the third day. For example, the prospective first-time leverage customer who receives a confirmation statement on Monday may rescind, at any time until the close of business Wednesday, all of the contracts purchased on the first day the customer purchased a contract.

In this regard the Commission notes that in the event of an interruption in the operations of a particular LTM so that the LTM is not able to receive telephone or telegram rescissions, the rescission period should be extended so that each customer has had three full business days in which to rescind.

[27] For purposes of identifying a leverage customer's right to rescind, the Commission considers all leverage contracts purchased by a leverage customer on the same day as the purchase of the first contract to be included in the first purchase and therefore subject to rescission. However, the customer may not use the right of rescission to attempt to fine-tune a position; if rescission is elected, all contracts which are eligible for rescission must be rescinded.

to rescind inadvertently might have exposed those leverage customers to greater risk by discouraging leverage transaction merchants from fully and promptly covering their obligations. The Commission, therefore, is adopting in § 31.23 a qualified right of rescission which protects the first-time customer from fees and commissions but which does not protect such leverage customers against losses caused by the actual market decline of prices.

Actual losses are calculated by subtracting the ask price of the leverage commodity at the time of the customer's rescission from the ask price at which the leverage commodity was purchased and which appears on this confirmation. The leverage transaction merchant, however, may not assess the prospective leverage customer any account-related charges, such as initiation, termination or carrying charges on rescinded contracts. The leverage transaction merchant must refund all monies received, except for the amount of the price decline, within 24 hours of notice of rescission.

Pursuant to § 31.23, as adopted, the leverage customer may rescind such contracts by telegram or by telephone. If the rescission is effected by telephone, the customer must immediately affirm the rescission with the leverage transaction merchant by telegram, certified letter or an at least equivalent means designed to create a written record in the customer's possession to evidence his act of rescission.[28] Communications regarding rescission between the customer and AP shall be deemed as notification to the LTM.

The Commission believes that the rescission provision, as adopted, will serve to protect unsophisticated investors from high-pressure sales tactics while not exposing LTMs to undue financial risks arising from market circumstances beyond the leverage transaction merchant's control.

XIV. Recordkeeping and Reporting to Customers

The provisions for recordkeeping and reporting to customers, which were contained in proposed §§ 31.14 and 31.15, parallel those for FCMs contained in §§ 1.31–1.37 of the Commission's regulations, with appropriate modifications in terminology.

The Commission notes that the commentors which addressed proposed § 31.14 generally supported the concept of recordkeeping requirements for LTMs. Certain commentors, however, did offer specific suggestions regarding certain aspects of the recordkeeping requirements. For example, one commentor suggested that § 31.14(b) should be revised to provide that an LTM must maintain only those required records which relate to its business as an LTM. The Commission's proposal would have required an LTM to maintain such records for all transactions entered into by it, including leverage contracts, cash commodity purchases, commodity futures and commodity options.

The Commission generally has determined to adopt § 31.14(b)(1) as proposed. The Commission, however, has specifically included loan agreements among the records required to be maintained by an LTM pursuant to § 31.14(b)(1). The Commission believes that all the information required to be maintained under § 31.14(b) is relevant to a person's business as an LTM and that that section only makes mandatory what the Commission believes to be good business practice. In this connection and in response to the concerns of another commentor, the Commission has deferred the effective date of these rules for a sufficient period of time as stated in this **Federal Register** release to enable an LTM to rework its current reports and systems to comply with the Commission's requirements.

Proposed § 31.14(c)(1) would have required an LTM to prepare and keep a financial ledger which would show separately for each leverage customer's account all charges against and credits to such account, including all credits and charges resulting from gains and losses on closed leverage contracts, and all funds deposited, withdrawn or transferred from the customer's account. The Commission has slightly modified this provision in order to clarify the information required to be maintained by the LTM. Under § 31.14(c)(1), as adopted, the financial ledger must show at a minimum for each leverage customer's account, all credits for purchases and repurchases by the leverage transaction merchant of leverage contracts (including the corresponding transaction identification number) and all funds transferred, deposited, or withdrawn from the leverage customer's account.

Proposed § 31.14(c)(2) would have required each LTM to maintain a record of transactions which would show separately for each leverage customer's account certain specified information. Although the Commission has determined to adopt a requirement that LTMs maintain such a record, the Commission has modified the language in § 31.14(c)(2) in order to provide a more meaningful and useful record. As adopted, § 31.14(c)(2) requires each LTM to maintain a record of transactions which will show separately for each customer's account in chronological sequence all leverage contracts entered into with such customer. The record must also show for each transaction the date of the transaction, the commodity involved, a transaction identification number, the maturity date, the number of contracts, whether the transaction represents an initial purchase, a closing transaction or a delivery and, if a closing transaction, the total gain or loss realized.

Proposed § 31.14(c)(3) would have required each LTM to maintain a daily record or journal showing separately for each customer by type of leverage commodity and contract "the total charges (initial, carrying and termination, as appropriate) for each transaction involving a leverage contract, and the amount of leverage customer funds deposited to margin the leverage contract." In this regard, one commentor expressed opposition to any requirement that an LTM show the carrying charges imposed on a customer's account on a daily basis.

The Commission has reconsidered the necessity of that portion of the proposed rule and has determined to delete the above-cited language from the final rule. The Commission believes that this step will alleviate any unnecessary recordkeeping burden on LTMs without diminishing customer protection, particularly in view of the fact that such information is already required to be maintained in the LTM's financial ledger (§ 31.14(c)(1)) and transaction record (§ 31.14(c)(2)) and is communicated to the customer in the break-even calculation. Section 31.14(c)(3) also has been amended to require that the daily record of journal must show separately for each leverage commodity, complete details of all leverage transactions executed on that day, including the person for whom such transaction was made, the leverage contract involved, the number of leverage contracts, the transaction identification number, whether the transaction was an initial purchase, liquidating transaction or delivery, and the total value of the initial purchase or liquidating transaction.

[28] The Commission notes that rescission is effected by the telephone communication alone. The subsequent written affirmation of the rescission is intended by the Commission solely as a protection to the customer by providing the customer with written evidence of the rescission. Thus, the time of rescission is calculated from the time of the telephone communication, and the LTM may not ignore a telephone rescission in the event the follow-up written affirmation does not reach the LTM.

The Commission has also made a minor change to § 31.14(c)(6) to require that where reproductions on microfilm for records required by § 31.14(c) (1) and (2) are substituted for hard copy, the person required to keep such records must be ready at all times to provide, and immediately provide at such time and place as required by the Commission, at the expense of such person, reproduced copies which show the records as specified in § 31.14(c) (1) and (2). The Commission, any designated self-regulatory organization and the Department of Justice are authorized to request such records pursuant to § 31.14(c)(6). The Commission notes that this requirement is similar to the general recordkeeping requirement for FCMs and introducing brokers set forth in § 1.31. 17 CFR 1.31.

The Commission also has made certain changes to § 31.14(d) which the Commission believes will simplify compliance and eliminate any unnecessary recordkeeping requirements. As adopted, § 31.14(d) requires each LTM to prepare, as of the close of business each day, a listing of all open leverage contracts carried for leverage customers. Such listing shall be by leverage commodity and contract and shall include certain specified information set forth in § 31.14(d) (1)–(6). In this connection, the requirement to maintain certain of the information set forth in proposed § 31.14(d) (6) through (8) has been omitted from the final rule as such information is already required to be maintained pursuant to § 31.14(c)(1).

The Commission has adopted § 31.15, which relates to the purchase and sale statement and the monthly statement which must be furnished by an LTM to each leverage customer, in essentially the form proposed, with certain minor, technical word changes. The Commission has also added to proposed § 31.15(b) a requirement that an LTM's monthly statement to a leverage customer contain the following bold-faced legend in at least ten-point type: IF YOU BELIEVE YOUR MONTHLY STATEMENT IS INACCURATE YOU SHOULD PROMPTLY CONTACT (name of LTM) AT (telephone number). Each LTM must list on each monthly statement furnished to a leverage customer the name and telephone number of the LTM so that leverage customer can contact the LTM about anything in the monthly statement which the leverage customer believes to be incorrect or which the leverage customer does not understand. The Commission believes that this provision only makes mandatory what the Commission believes to be good business practice. The Commission further believes that this provision will enable leverage customers and LTMs to rectify quickly any minor misunderstandings or errors.

XV. Financial Requirements for Leverage Transaction Merchants

A. Principal Revisions to Proposed Rules

The Commission's proposed financial requirements for LTMs were of four types: (1) Minimum adjusted net capital and related reporting requirements (including a new financial reporting form, Form 2–FR); (2) financial early warning requirements; (3) restrictions on permissible cover for leverage contracts; and (4) segregation of leverage customer funds. The Commission proposed a minimum adjusted net capital requirement for LTMs of $4,000,000 plus 10 percent of the market value of the physical commodities subject to uncovered leverage contracts entered into by the LTM. The early warning level of adjusted net capital for LTMs was proposed to be 150 percent of the minimum amount, as is the case for FCMs, which would have required an LTM to maintain at least $6,000,000 of adjusted net capital to remain above the early warning level and to avoid the concomitant monthly reporting requirements.

The proposed rules did not require an LTM to cover any of its obligations on leverage contracts. The proposed rules, however, did describe permitted cover. As such they would have permitted as cover only unencumbered inventory and futures contracts involving the same commodity subject to the leverage contract. No more than 50 percent of an LTM's total obligation on leverage contracts could be covered by futures contracts. The Commission further proposed that an LTM be required at all times to segregate 25 percent of the market value of commodities underlying outstanding leverage contracts entered into by that LTM. That proposal would have required an LTM either to obtain a 25 percent down payment from its customer, or to put its own funds into segregation to meet the 25 percent requirement. The Commission further proposed that an LTM cease doing business as an LTM if it became undersegregated.

The Commission has carefully considered the comments upon the financial requirements for LTMs and has also undertaken its own review of its proposals. As a result, and for the reasons more fully articulated herein, the Commission has determined to make the following revisions to the proposed financial requirements for LTMs:

1. The minimum adjusted net capital requirement for LTMs will be $2,500,000, plus 20 percent of the market value of the physical commodities subject to uncovered leverage contracts, instead of $4,000,000, plus 10 percent of such market value;
2. The financial early warning level of adjusted net capital for LTMs will be be 120 percent, instead of 150 percent, of the minimum amount; the combination of this change and the change referred to in item #1 above reduces the minimum dollar amount of the financial early warning requirement in half, from $6,000,000 to $3,000,000;
3. Instead of merely restricting forms of cover, the cover requirement has been restated in a positive way. An LTM will now be required to cover 90 percent of its obligations on leverage contracts. Twenty-five percent of these obligations must be covered by physical commodities. In addition to what was originally proposed to be permitted as cover, in-the-money exchange-traded commodity options and encumbered warehouse receipts may be used, provided that, with respect to warehouse receipts, the balance of the principal and accrued interest on any loan against such receipts does not exceed 70 percent of the current market value of the underlying commodity. In addition, ownership of, or futures contracts on, gold or silver bullion will be permitted as cover in the case of a leverage contract involving bulk gold coins or bulk silver coins, respectively, and vice versa; and
4. The proposed 25 percent segregation requirement has not been adopted, nor has the proposal that an LTM cease doing business as an LTM if it becomes undersegregated. An LTM will have to cease doing business as an LTM, however, if its cover of leverage contracts falls below 90 percent of its obligations under such contracts or if the mix of cover is improper. Moreover, an LTM must notify the Commission if it becomes undersegregated.[29]

The Commission wishes to emphasize that the Commission will monitor closely the appropriateness of these financial, cover and segregation requirements for LTMs and make adjustments as necessary.

B. Minimum Adjusted Net Capital Requirement

The minimum adjusted net capital requirement for LTMs is $2,500,000 plus

[29] A number of commentors suggested that the proposed 25 percent segregation rule was a disguised margin requirement and that the Commission had no statutory authority to set minimum margins on leverage contracts. Although the Commission has chosen not to adopt a minimum segregation requirement at this time, the Commission disagrees with this assertion. Under section 19 of the Act, the Commission has plenary authority to regulate leverage transactions, including the authority to adopt regulations "designed to ensure the financial solvency" of such transactions. Such authority, therefore, includes the authority to set minimum down payments for leverage contracts.

20 percent of the market value of the physical commodities subject to uncovered leverage contracts, rather than the proposed $4,000,000 plus 10 percent of such market value. The market value of the physical commodities subject to uncovered leverage contracts must be computed by using the widely accepted and disseminated commercial or retail cash price series submitted with the LTM's application for registration or each particular leverage commodity in accordance with § 31.6 or such other commercial or retail cash price series approved by the Commission. Section 31.9(a).

One commentor specifically endorsed the Commission's proposed minimum financial requirement for LTMs, and two commodity exchanges which commented on the proposal stated that the requirement should be higher. The majority of commentors who addressed the proposed minimum financial requirement for LTMs, however, expressed opposition to the proposal. These commentors suggested several alternatives as a minimum financial requirement, most of which favored a lower minimum dollar amount of required adjusted net capital than the proposed $4,000,000 with a greater emphasis on the amount of an LTM's obligations under leverage contracts.[30] Also; several commentors suggested that an LTM be required to cover all or almost all of such obligations.

In adopting minimum financial requirements for LTMs, the Commission has endeavored to strike a balance between the comments received favoring more limited capital requirements and its congressional mandate to attempt to ensure the financial solvency of leverage transactions, which are transactions between principals. The minimum dollar amount of required net capital has effectively been reduced by half, the required amount of cover has been increased substantially from zero to 90 percent, and the amount of adjusted net capital which must be maintained in addition to the minimum dollar amount because of uncovered leverage contracts has been increased from 10 percent to 20 percent of the market value of the physical commodities subject to such contracts to conform it to other existing requirements.[31]

Although the Commission is lowering the required minimum dollar amount of adjusted net capital for LTMs from its previous proposal and adding a cover requirement which reflects the LTM's performance exposure, the Commission remains convinced that the financial requirements for an LTM must be substantially higher than those for an FCM.[32] The leverage market is essentially a principals' market, and the purchaser of a leverage contract is solely dependent on the LTM for performance on the contract. Because leverage contracts are not traded on boards of trade designated as contract markets by the Commission, there is no clearing organization to take the other side of every trade, no FCM guarantee of variation margin to the clearing organization and no clearing organization guaranty fund and assessment power; nor is there any established secondary market for leverage contracts.

Because the LTM takes the other side of every leverage contract entered into by a leverage customer and because the LTM is the sole guarantor of performance on the leverage contract, an LTM may properly be viewed as comparable to the clearing organization of a contract market. Each contract market clearing organization maintains a guaranty fund which is intended to protect the clearing organization from being unable to meet its obligations in the event that a clearing member defaults on its obligations to the clearing organization. These funds, to which each clearing member contributes generally, total in the aggregate well in excess of $2,500,000.[33] Certain contract market clearing organizations also have the power to assess their clearing members for funds in addition to their general guaranty fund contribution. The typical clearing organization rule permits an assessment of up to $10,000,000 per member per 10-day cycle if the guaranty fund is insufficient to satisfy the obligations of a defaulting member. In addition to the required deposits which clearing members of contract markets must make to the clearing organizations, such firms also have capital requirements in excess of Commission and contract market minimums for non-clearing FCMs.[34] In view of the foregoing, the Commission believes that a $2,500,000 minimum adjusted net capital requirement for an LTM is appropriate.

Moreover, at the present time, there is no self-regulatory organization registered with the Commission that has responsibility for supervising leverage transactions or the financial condition of LTMs. The Commission emphasizes that if an LTM were to join the existing registered futures association, the National Futures Association, or any other such association which may be established, the LTM's minimum financial requirement or its minimum cover requirement would not necessarily be lowered. The Commission further notes, however, that §§ 31.9(a)(2) and 31.8(d) provide that an LTM which is a member of a designated self-regulatory organization ("DSRO") can comply with the Commission's minimum financial and cover requirements, respectively, if it complies with the DSRO's requirements in those areas and the DSRO's requirements have been approved by the Commission. The Commission has included references to a DSRO in §§ 31.7 (financial early warning system) and 31.13 (financial reporting) to provide for the possibility of an LTM becoming a member of a DSRO.

C. Financial Early Warning System

The financial early warning level of adjusted net capital will be 120 percent

[30] Two commentors proposed that LTMs be subject to a net worth rather than a net capital requirement. Net worth is a measure of the shareholders' interest in an entity without regard to the liquidity of the entity's assets. Net capital, on the other hand, is a measure of the financial liquidity of the entity's assets' *i.e.*, the ability of the entity to convert assets to cash in order to meet currently maturing obligations. Because the Commission's concern is that an LTM be able to meet its currently maturing obligations, the Commission has concluded that a net capital requirement is most appropriate for LTMs.

[31] The 20 percent requirement has been adopted as it is consistent with the safety factor charge which an FCM must apply to its net capital when valuing uncovered inventory. A number of commentors suggested this essentially conforming change.

[32] Congress has also recognized this. Indeed, in proposing the amendments to section 19 of the Act directing the Commission to promulgate regulations governing leverage transactions, which amendments were adopted by Congress essentially as proposed, Congressman Glickman stated: "I think the CFTC has to set regulatory standards and high net capital requirements to keep bad operators out of business." Excerpt from Unofficial Transcript of Mark-Up Session, Subcommitee on Conservation, Credit and Rural Development, House Committee on Agriculture, at 59, April 1, 1982, with the permission of Congressman Dan Glickman.

[33] The guaranty funds of seven of the ten contract market clearing organizations exceed $2,500,000, and those guaranty funds range from approximately $4,300,000 to in excess of $80,000,000. The three guaranty funds which are less than $2,500,000 are the guaranty funds for three of the four smallest contract markets in terms of volume of contracts traded. In all, the guaranty funds for the contract markets amount to more than $170,000,000.

[34] The Commission also notes that it will not have as much information about the financial condition of LTMs as contract market clearing organizations have about their clearing members. Such information is primarily developed from the pay and collect data that is generated by the clearing organizations on a daily basis as a result of price changes in open positions. The review of pay and collect information provides a good indication of potential problems in a firm, which can arise at those firms which are required to make large or repeated payments to the clearing organization due to adverse market movements.

of the minimum amount required, rather than the 150 percent level proposed. A separate rule, § 31.7, sets forth the early warning system for LTMs, which is patterned after, and incorporates by reference certain provisions of, the early warning system for FCMs which is contained in § 1.12. Section 31.7 also requires an LTM to give notice to the Commission if the LTM becomes undersegregated. (In the Commission's proposal, the early warning system for LTMs was contained in paragraph (a)(14) of § 31.9.)

The Commission also wishes to point out that it has revised § 1.12(f) so that when a clearing organization or a futures commission merchant determines that, because of the LTM's failure to meet a call for margin or to make other required deposits, any position which it is carrying for an LTM must be liquidated immediately or transferred immediately, or that the trading of any account of an LTM shall be for purposes of liquidation only, the clearing organization or futures commission merchant must give telegraphic notice of such a determination to the principal office of the Commission in Washington, D.C. within 24 hours. This is consistent with the treatment of positions and accounts of FCMs under § 1.12(f). Under the Commission's proposed regulations for certain leverage transactions the LTM itself would have been responsible for giving the telegraphic notice referred to in this paragraph. The latter proposal is not being adopted.

D. Cover of Leverage Contracts

As noted above, several commentors suggested that an LTM be required to cover all or almost all of its obligations under leverage contracts. The Commission is requiring an LTM to cover 90 percent of its total obligations on leverage contracts. Moreover it is further requiring that a minimum of 25 percent of an LTM's total obligations on leverage contracts be covered by physical commodities.

Certain commentors further suggested that, in addition to the types of cover which would have been permitted under the Commission's proposed rules, *i.e.*, unencumbered inventory and futures contracts involving the same commodity as the leverage contracts, an LTM also should be permitted to use as cover commercial forward contracts, "like-kind" commodities, encumbered inventory and Commission-regulated commodity options. The Commission has determined to permit the limited use of encumbered warehouse receipts which are also collateral for loans provided that the balance of any principal and accured interest does not exceed 70 percent of the current market value of the commodities underlying the receipts. In addition, ownership of, or a futures contract on, gold bullion may be considered as cover in the case of a leverage contract involving bulk gold coins, and vice versa (silver bullion and bulk silver coins would be treated in the same manner). Further, exchange-traded commodity options which are "in the money" (that is, the value of the actual commodity or futures contract which is the subject of such an option is more than the value of the underlying commodity based on the strike price of the option) also may be used as cover for leverage contracts involving identical commodities. Otherwise, the types of permissible cover would be the same as those proposed.

As noted, the Commission has determined to permit the use of encumbered warehouse receipts as cover under certain conditions. The Commission notes that a requirement that all warehouse receipts used as cover be unencumbered would result in few, if any, LTMs having the financial ability to cover more than 25 percent of their contract obligations by physical inventory, the minimum allowed under these regulations. As discussed below, the Commission believes that physical inventory represents ideal cover for leverage contracts and, therefore, has concluded that the use of such cover should be encouraged. By permitting the use of encumbered warehouse receipts to the extent described above, LTMs will have the opportunity to cover a greater percentage of their contract obligations with physical inventory. Of course, permitting the use of encumbered warehouse receipts as cover in consistent with the use of futures contracts which are purchased on margin. If the value of the receipts goes up there is no added exposure; if it goes down the value of the customer's interest in the leverage contract also diminishes. If the customer elects delivery, the customer must pay the balance due, so the LTM should not be unduly exposed by virtue of this change in what is deemed to be permissible cover, which is primarily intended to assure performance in any event.

LTMs which use such warehouse receipts as collateral for loans must maintain strict records of the details of such loans in accordance with the provisions of § 31.8(d). These records are subject to audit by the Commission. Also, as discussed more fully below, segregated funds may not be used to purchase encumbered warehouse receipts. Only unencumbered warehouse receipts are proper investments of segregated funds. Cover provides customer protection with respect to ongoing performance, segregation provides protection in liquidation. Any security interest in segregated funds would destroy their character as segregated funds.

The commentors who argued for permitting commercial forward contracts to be used as cover for leverage contracts stated that this should be allowed, provided that standards were imposed which would give reasonable assurance that the party obligated to deliver on the forward contract would fulfill its obligation. The Commission does not believe that general standards can be imposed which are sufficient to provide such assurance or that either the Commission or any self-regulatory organization would have sufficient time and audit staff to review adequately compliance with such standards by any party which is not subject to the Commission's regulatory authority.

With respect to the suggestions that cover also include the use of "like-kind" commodities, most of those suggestions referred to the use of gold bullion to cover a leverage contract in bulk gold coins, or vice versa. There were also certain commentors who suggested that any commodity which tends to track the price movements of the commodity subject to the leverage contract be permitted as cover. The Commission believes that since the metallic content of bulk gold coins and bulk silver coins is virtually identical to that of gold bullion and silver bullion, respectively, the fluctuations in value of the bullion will be substantially related to the fluctuations in value of the bulk coins. Therefore, bullion may be used as cover for leverage contracts on bulk coins, and vice versa. Section 31.8(a)(2)(ii). The Commission does not believe, however, that any showing has been made that the necessary price relationships exist so as to permit any of the other commodities which may be subject to leverage contracts (copper, platinum, Japanese yen, Deutsche mark, Swiss franc and British pound) to be covered by anything other than ownership of, or futures contracts on, the same commodity.

Certain commentors also objected to the 50 percent limit on the use of futures contracts as cover contained in the proposed rules and stated that an LTM should be able to use any acceptable form of cover in any proportion it sees fit. The Commission does not believe that the cover provisions should be liberalized to that extent. However, in

light of the comments received and the fact that the regulations the Commission is adopting will require an LTM to cover 90 percent of its obligations, the Commission has determined to require that 25 percent of an LTM's obligations be covered by physical commodities. The Commission believes that the 25 percent physical cover requirement is a necessary regulatory requirement to ensure the economic viability of leverage contracts, and that some degree of flexibility for an LTM with respect to covering the remainder of its obligations to customers is appropriate. Thus, the remaining 65 percent of obligations which must be covered may be covered by futures contracts or certain exchange-traded commodity options. Also, the 10 percent of obligations which may be left uncovered (with the LTM increasing its minimum capital requirement by an amount equal to 20 percent of the market value of the physical commodities subject to such uncovered leverage contracts) may instead be covered by any form of permissible cover. Therefore, a total of 75 percent of an LTM's obligations on leverage contracts could be covered by futures contracts or exchange-traded commodity options.

The Commission has established a floor on the amount of cover that must consist of physical commodities because of several concerns. The Commission believes it has developed regulations pursuant to which the delivery on a leverage contract will be an economically viable alternative for customers, since in order to be registered the leverage contract must permit the delivery of a commodity in an amount and form which can be readily resold in normal commercial or retail channels. Hence, in light of this potential for delivery, the "ideal" cover for an LTM would include a significant portion in physical commodities.[35]

Further, futures contracts may not be appropriate cover for leverage contracts in all market situations. For example, a rapidly rising or turbulent market, which may provide a leverage customer with special motivation to attempt to resell his leverage contract to the LTM from whom it was purchased or to request delivery of the commodity from the LTM, may result in limit moves in the futures markets. The ensuing financial demands on an LTM covered only with futures contracts could thus come at a time when the LTM was facing heavy terminations of customer positions. This may provide an incentive for an LTM to widen its bid-ask spread and not afford its leverage customers the ability to realize the full rise in price of the cash commodity if such a price rise is not fully reflected in the price of futures contracts used as cover. Accordingly, the requirement that a minimum amount of cover consist of physical commodities is intended to encourage LTMs to cover some significant portion of their open commitments with the physical commodity and, as a result, better to ensure the financial solvency of leverage transactions and the financial integrity of LTMs in extraordinary markets. The Commission is establishing the cover requirement because this more nearly comports with how the known universe of LTMs currently assures performance. The requirement of cover in the actual is also directed at preventing the mere repackaging of futures as off-exchange contracts, to providing the actual commodity readily upon demand to leverage customers and to retaining the installment purchase character of leverage contracts.

Certain commentors also raised questions as to permissible locations where inventory could be held and counted as cover. The Commission has therefore clarified the cover regulation, and conformed it with the provision regarding use of leverage customer funds to purchase cover, to make it clear that inventory used as cover must be held in approved contract market depositories or in commercial banks located in the United States. An LTM may not maintain inventory on its own premises and have that inventory considered as cover. The Commission is aware of several firms which have operated on an off-exchange basis in the cash market and which have claimed that their obligations to their customers were covered, only to discover when the "moment of truth" arrived and delivery was demanded by customers, that the purported cover did not exist. Since an LTM's cover of obligations to leverage customers is essential to ensure the financial solvency of leverage transactions, which are between principals, and because the ability of auditors to determine if cover requirements are being met is equally essential, physical cover must be maintained in approved contract market depositories or commercial banks in the United States.

The Commission has adopted a separate rule, § 31.8, regarding cover of leverage contracts, which had been included in the proposed rules in § 31.9(a)(11).[36] Section 31.8 also provides that if a firm is not in compliance with the 90 percent cover requirement, or with the requirement that 25 percent of an LTM's obligations to customers be covered with physicals, it must cease doing business as an LTM. A schedule of coverage requirements and cover provided is included in Form 2-FR, the financial reporting form for LTMs. Further, an LTM must make a daily record of its cover requirements and the amount of actual coverage provided, similar to its daily segregation record.

E. Segregation of Leverage Customer Funds

The Commission proposed to require that an LTM at all times segregate 25 percent of the market value of commodities subject to open leverage contracts entered into by the LTM. Certain commentors objected to that requirement, for a variety of reasons. The Commission generally agrees with the commentor (a firm which stated that it has engaged in a leverage business) which stated that there was no need for an LTM to offer financing in excess of 75 percent of a leverage contract's value. That commentor further stated that margin for a leverage contract should be higher than for a futures contract and also noted that a leverage customer's down payment reduces the unpaid amount of the leverage contract's value upon which carrying charges are calculated. Nonetheless, although the final rule provides that all customer funds received by LTMs must be segregated, the Commission has determined not to adopt the 25 percent segregation proposal.[37]

The Commission has also relaxed the segregation requirements from those that were proposed in two other ways.

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[35] The potential for delivery should also result in the LTM maintaining a bid-ask spread which is not too wide. There should be no incentive for a wide bid-ask spread if the leverage customer can take delivery and make a profit in the retail market.

[36] The provisions of proposed § 31.9(a)(11) which are not contained in § 31.8 are now included in § 31.9(a)(12) and will apply only to the question of whether certain assets which are not being used to cover leverage contracts are to be considered covered themselves for purposes of determining the appropriate safety factor charge for such assets when an LTM computes its adjusted net capital.

[37] At the same time, the Commission recognizes that the cover requirements will create a natural incentive for an LTM to obtain a significant percentage of the market value of the commodities subject to leverage contracts from its leverage customers. For instance, if an LTM has open contracts with leverage customers worth $10,000,000, and the LTM maintains the minimum amount of physical cover required by means of unencumbered warehouse receipts and covers the remainder of its obligations with futures at a 2 percent futures margin level, the LTM's cover could cost as much as $2,650,000 (which is 26.5 percent of $10,000,000) to maintain. However, if the LTM were to use encumbered warehouse receipts to the extent permitted under the rules contained herein, its cost of cover could be only $900,000, or 9 percent of $10,000,000.

First, an LTM will be able to invest customer funds in municipal securities, as can an FCM. Second, an LTM will not be required to cease doing business as an LTM if it becomes undersegregated, although it will be required to notify the Commission to that effect.

It is also notable that although the Commission has revised the permitted cover to include warehouse receipts which are collateral for loans, the Commission has not altered the requirement that only unencumbered warehouse receipts are proper investments of segregated funds. This is because in a bankruptcy or other liquidation proceeding, segregation is the principal protection of customer funds. The creation of competing security interests in such funds could diminish significantly the recovery of customer funds and thereby diminish the protections accorded by segregation. Such a result could ultimately undermine the concept of segregation itself.

An LTM which uses leverage customer funds to margin futures contracts or to purchase commodity options used as cover for the LTM's obligations on leverage contracts must use a commodity account containing futures or option contracts which do not represent cover. Such LTM must also obtain and retain in its files for the period provided in § 1.31 of this chapter an acknowledgment from the FCM wherein the leverage customer funds have been deposited that: (1) The FCM has been informed that the commodity account is being treated by the LTM as belonging to leverage customers and is being held in accordance with the provisions of § 31.12, (2) the customers on whose behalf the account is maintained by the LTM shall not be liable for any margin calls or other required deposits related to such account, and (3) upon liquidation of the open contracts in the account, subject to Part 190 of the Commission's regulations, the FCM's claim in the balance will be subordinate to that of leverage customers. The FCM has no claim except for the margin or the premium related to futures or option contracts in such an account, and therefore the FCM cannot make a claim against that account to satisfy any debts owed to it by the LTM related to an account which contains contracts which do not represent cover of obligations to leverage customers.

The Commission further wishes to note that the purpose of the segregation and the cover roles is to protect the interest of the leverage customer. The Commission will closely monitor the use by LTMs of leverage customer funds to margin futures contracts or to purchase commodity options used as cover for leverage contracts. The Commission also will consider whether further leverage customer protections are needed, such as a requirement that futures or options used as cover be held in separate accounts by commodity (*i.e.*, whether copper futures or options used as cover would have to be held in an account separate from gold futures or options used as cover) with no right of offset between them so that problems which occur in the market for a particular commodity will not affect the cover of a different commodity.

F. Other Financial Requirements

During the Commission's review of the comments on the financial requirements for LTMs and its own review of those proposals, the Commission has discovered several ways in which it believes the financial rules applicable to LTMs can be clarified and simplified, and accommodate certain comments received. A discussion of these matters follows.

Price Series—When the Commission issued the proposed leverage rules, § 31.9(a)(1) was reserved for a provision relating to the price series to be used by an LTM to compute the market value of the physical commodities subject to each uncovered leverage contract entered into by the LTM for purposes of determining the LTM's minimum adjusted net capital requirement. Twenty percent of such market value must be added to an LTM's minimum dollar requirement of $2,500,000. For example, if such market value were $500,000, the LTM's adjusted net capital requirement would be $2,600,000 ($2,500,000+(.20×$500,000)).

The Commission has adopted § 31.9(a)(1), which basically requires each LTM to compute the market value of physical commodities subject to uncovered leverage contracts by using the widely accepted and disseminated commercial or retail cash price series submitted with the LTM's application for registration of a particular leverage commodity in accordance with § 31.6, and cannot include any mark-ups or discounts of the LTM. For example, an LTM may have uncovered leverage contracts involving gold bullion, and the price series submitted by the LTM in accordance with § 31.6 might indicate a price for gold bullion of $400 per ounce. The LTM may at the time be offering to enter into a new gold bullion leverage contract at a price of $410 per ounce, and offering $390 per ounce to repurchase an existing gold bullion leverage contract, a $20 bid-ask spread. When computing its minimum adjusted net capital requirement, the LTM would have to add to $2,500,000 the number of ounces of gold bullion subject to leverage contracts which are uncovered multiplied by $400. The Commission believes that an LTM must use a consistent reference point to the cash or spot market which is widely disseminated on a timely basis and verifiable independent of the LTM to establish the market value of commodities subject to leverage contracts should such a valuation be necessary to determine the LTM's minimum net capital requirement.[38]

Customer/Noncustomer/Proprietary Account Distinction—The Commission has determined not to make a distinction between customers and "non-customers", as the latter term is used for purposes of Commission Rule 1.17, with respect to leverage contracts and the financial rules applicable to LTMs. Thus, the definitions contained in proposed § 31.9(a)(4) (ii) and (iv) have not been adopted, and the general definition of leverage customer contained in § 31.4(d) will apply throughout Part 31. That definition states that a leverage customer means any person who, directly or indirectly, enters into, purchases, or otherwise acquires for value any interest in a leverage contract from an LTM.[39] Thus, any person who purchases a leverage contract from an LTM, even if the purchaser is an associated person of the LTM, is to be treated the same way for purposes of an LTM's computation of its adjusted net capital. For example, the differential grace period which an FCM has with respect to undermargined customer and noncustomer accounts before it may take a charge against net capital (three days versus two days) does not apply to an LTM, for which the three day grace period will apply as to all accounts. *Compare* Commission Rule 1.17(c)(5) (viii) and (ix) with Rule 31.9(a)(10).

The Commission has adopted, in § 31.9(a)(5)(ii), a definition of proprietary account for purposes of § 31.9 which is

[38] Of course, this discussion is only relevant to an LTM which leaves obligations to leverage customers uncovered. Since the Commission's cover rule would permit only 10 percent of such obligations to be uncovered, and since an LTM could cover that portion of its obligations with futures contracts, exchange-traded commodity options or physical inventory rather than having to increase its adjusted net capital by 20 percent of the market value of the commodities subject to uncovered leverage contracts, LTMs may have a natural incentive to cover all of their obligations to customers.

[39] This definition is similar to the definition of an option customer in the context of dealer options. *See* Commission Rule § 32.1(b)(3).

similar to the definition of proprietary account contained in § 1.17(b)(3), so that an LTM will be subject to the same safety factor charges as an FCM with respect to the firm's own trading, or the trading of general partners, when computing adjusted net capital. There is, however, no general proprietary account definition with respect to leverage contracts as there is for futures contracts and exchange-traded options (*see* Commission Rule 1.3(y)). Therefore, an LTM must segregate all funds received from its associated persons or principals for the purpose of purchasing leverage contracts, as it must segregate those funds received from any other customer (§ 31.12), and the LTM must cover 90 percent of its obligations on leverage contracts purchased by associated persons of the LTM (§ 31.8). An LTM must generally treat every customer in an equivalent manner, and the Commission will monitor LTMs to determine if associated persons or principals who purchase leverage contracts are given more favorable terms than other customers, and if that is the case, whether additional regulations or enforcement actions are necessary. In any event, under Part 190, the Commission's bankruptcy rules, claims of insiders such as principals or associated persons would be subordinate to customer claims.

Safety Factor Charges—The Commission has clarified certain provisions relating to safety factor charges ("haircuts") which an LTM must take against its net capital when computing its adjusted net capital. Section 31.9(a) (9) and (10). The Commission does not intend that the haircuts which would otherwise apply to inventory be taken by an LTM when the inventory in question represents cover for leverage contracts. The inventory haircuts are set forth in Commission Rule 1.17(c)(5)(ii) (B) and (C), but when the Commission proposed the leverage regulations, the reference to Rule 1.17(c)(5)(ii)(C) was not set forth in proposed § 31.9(a)(9). As a result, the rule could have been read to require haircuts to be taken by an LTM for certain inventory being used as cover for leverage contracts. This inadvertent omission has been corrected.

The Commission similarly does not intend that the haircuts applicable to an LTM's futures or exchange-traded commodity option trading be taken if such trading represents cover for leverage contracts. The regulations as proposed did not provide that exchange-traded commodity options could be considered as cover for leverage contracts, so there was no reference in proposed § 31.9(a)(9) to the haircut, for a firm's exchange-traded commodity option trading. That haircut, which is set forth in Commission Rule 1.17(c)(5)(xii), is now specifically referred to in § 31.9(a)(9).

The Commission has also clarified the provision relating to the haircut to be taken for an undermargined leverage customer account. Section 31.9(a)(10). When the Commission proposed § 31.9(a)(9), it stated that, except as noted otherwise, the haircuts set forth in Commission Rule 1.17(c)(5) for FCMs would also apply to LTMs, and this would include the undermargined account haircuts contained in Rule 1.17(c)(5) (viii) and (ix). The Commission determined to clarify that the haircut in Rule 1.17(c)(5)(viii) for undermargined commodity futures and commodity option customer accounts will apply to undermargined leverage customer accounts (that is, there will be a three-day grace period before the charge must be taken if a margin call is issued). Appropriate changes in terminology have been made to make this result clear.[40] Further, since there is no distinction between customer and noncustomer accounts with respect to leverage contracts, as discussed above, and since there will be no omnibus leverage accounts, the haircut in Rule 1.17(c)(5)(ix) is irrelevant to LTMs for purposes of computing adjusted net capital.

Computation of Adjusted Net Capital—In order for an LTM to compute its actual adjusted net capital requirement, the LTM will have to follow the provision set forth in § 31.9, and particularly, paragraphs (a)(6) through (a)(8), and paragraph (a)(11). Those paragraphs incorporate most of the provisions of Commission Rule 1.17 and relate to such items as current assets, liabilities, the debt-equity requirement withdrawal of equity capital and subordination agreements.[41] A more complete description of the application of § 1.17 may be found in the Commission's release announcing the proposed rules for introducing brokers. 48 FR 14933, 14943–47 (April 6, 1983).

Financial Reporting—The Commission has adopted a new financial reporting form for LTMs, the Form 2–FR.[42] The form as adopted is identical in most respects to the form as proposed, but certain changes have been necessitated due to the rule changes discussed above. The minimum adjusted net capital requirement and the early warning level of adjusted net capital which appear on the form have been altered to reflect the rules as adopted. Since the Commission has adopted specific levels of cover to be maintained, a schedule of coverage requirements and coverage provided is included. References to noncustomer accounts have been deleted, since that concept will not apply to leverage contracts. The segregation schedule as adopted is more like the schedule for FCMs contained in Form 1–FR than was the proposed segregation schedule for LTMs, since the proposed 25% segregation rule for LTMs was not adopted and the segregation requirements for an LTM will be similar to those of an FCM (although an LTM has greater flexibility in the use of segregated funds than does an FCM).

When the Commission issued the proposed leverage rules, it stated that it intended also to make appropriate, technical amendments to its rules concerning Commission records and information, 17 CFR Part 145, and its rules pertaining to open Commission meetings, 17 CFR Part 147. The Commission has added § 145.5(d)(1)(i)(F) and § 147.3(b)(4)(i)(A)(*6*) to its regulations under the Freedom of Information Act and Government in the Sunshine Act, respectively. Those new paragraphs provide for nonpublic treatment of Form 2–FR to the extent presently provided for the Form 1–FR. If an LTM follows the separate binding procedure set forth in § 31.13(m), the Commission will generally treat as nonpublic the following provisions of Form 2–FR: The Statement of Income (Loss), the Statement of Changes in Financial Position, the Statement of Changes in Ownership Equity, the Statement of Changes in Liabilities Subordinated to the Claims of General Creditors Pursuant to a Satisfactory Subordination Agreement and the accountant's report on material inadequacies filed under § 1.16(c)(5) of this chapter. Accordingly, the generally public portions of Form 2–FR are the Statement of Financial Condition, Statement of the Computation of the Minimum Capital Requirements, Schedule of Coverage Requirements and Coverage Provided.

[40] An LTM's obligations with respect to margin calls is set forth in § 31.18.

[41] For those LTMs which wish to use subordinated debt as part of their financial structure, many commodity and security exchanges have form agreements which may be useful as a model for an LTM, with appropriate changes in references to rules and capital levels.

[42] Anyone interested in obtaining a copy of Form 2–FR may contact Mr. Patent at the address or telephone number listed in this release.

and the Schedule of Segregation Requirements and Funds in Segregation. LTMs are also reminded of their obligation to furnish, upon request, the generally public portions of its most recent quarterly unaudited or annual audited Form 2–FR to all leverage customers with open leverage contracts and to prospective leverage customers who are being solicited to enter leverage contracts with the LTM. Section 31.11(1).

Section 31.13(e) states generally that financial reports required to be filed by LTMs will be considered filed when received by the regional office of the Commission with jurisdiction over the state wherein the principal place of business of the LTM is located, in accordance with Commission Rule § 140.2. The Commission has added a proviso to that paragraph which states that firms under the jurisdiction of the Western Regional Office must file their financial reports with the Southwestern Regional Office. Accordingly, an LTM located in California must file its Form 2–FR with the Commission's Kansas City office, not the Los Angeles office. This is consistent with the treatment of FCMs and is necessary because the Commission has no audit and financial review personnel stationed in the Los Angeles office.

Definition Of Leverage Customer Funds—For purposes of simplification and conformity, the Commission has determined to adopt a definition of "leverage customer funds." Section 1.3(pp). By adopting and using this phrase throughout § 31.12, the rule relating to segregation of leverage customer funds, the Commission need not continually repeat the phrase "money, securities or property" in § 31.12. Also, the use of this term and its definition parallels the treatment of customer funds with respect to futures and exchange-traded options in Commission Rule §§ 1.3(gg) and 1.20 through 1.30. The definition of leverage customer funds means all money, securities and property received by a leverage transaction merchant from, for, or on behalf of leverage customers to margin, guarantee or secure leverage contracts (or the extension of credit in lieu thereof), and all money accruing to such customers as the result of such contracts. Profit or loss accruing to a leverage customer is the difference between the leverage transaction merchant's current bid price for the leverage contract and the ask price of the leverage contract when entered into.[43]

Delegation of Authority—The Commission has delegated the authority to perform all functions reserved to the Commission under § 31.13 to the Director of the Division of Trading and Markets or his designee. Section 31.13(n)(1). This delegation will allow the Director or his designee to approve or disapprove financial rules of a designated self-regulatory organization for member LTMs (§ 31.13(b)(2)), requests for change in fiscal year (§ 31.13(j)), and requests for extensions of time to file financial reports (§ 31.13 (k) and (l)). The Director of the Division of Trading and Markets may submit to the Commission for its consideration any matter delegated to him pursuant to § 31.13(n)(1). The delegation contained in § 31.13(n)(1) is similar to the Commission's delegation with respect to the financial rules applicable to FCMs and introducing brokers. Commission Rule § 140.91.

Effective Date of Minimum Financial and Related Reporting Requirements—The Commission recognizes that those firms which can demonstrate compliance with the temporary moratoria set forth in Commission Rule §§ 31.1 or 31.2 may need some additional time beyond the general 60-day effective date to achieve and demonstrate compliance with the minimum financial requirements. Accordingly, the Commission has determined to permit any firm which can demonstrate it is properly in business under the temporary moratoria set forth in Commission Rule §§ 31.1 or 31.2 to have until April 30, 1984 (which is more than 100 days from the date of adoption of these rules) to achieve compliance with the minimum financial requirements set forth in § 31.9.[44] Demonstration of such compliance would then have to be made by submitting a Form 2–FR certified by an independent public accountant as of April 30, 1984 no later than 45 days thereafter, which is June 14, 1984 (150 days from the date of adoption of these rules). A firm also has the option of submitting an unaudited Form 2–FR by June 14, 1984 as of a date not more than 45 days prior thereto, if it is accompanied by a Form 2–FR certified by an independent public accountant as of a date not more than one year prior thereto (such as December 31, 1983), and if both reports demonstrate compliance with § 31.9. Section 31.13(a). In this connection, the Commission wishes to note that the cover and segregation requirements, §§ 31.8 and 31.12, respectively, will become effective on the general effective date of this release.

XVI. Monthly Reporting Requirement

Section 31.16 establishes the form and content of reporting requirements for leverage transaction merchants. This rule is similar to the proposed rule of June 1, 1983. The Commission has modified the rule to include the required reporting of the number of rescissions during the month. Under this rule, leverage transaction merchants who sell leverage contracts are required to submit monthly reports to the Commission. These reports are to be prepared and submitted on two new CFTC forms which will be available from the Commission's headquarters office in Washington, D.C. Examples of these forms accompany this notice. In addition, the Commission has amended Rules 145.5 and 147.3 to recognize the confidential nature of the information reported on Form 188.

Several commentors objected to, variously, required reports of deliveries, commercial usage and the by-commodity breakdown of information by leverage commodities. The Commission however needs such information to monitor developments in the industry and the practices of individual leverage firms. Despite a comment to the contrary, the Commission does not believe that compiling such information will be a costly burden to leverage transaction merchants because the required information should be available readily for the firm's own purposes.

XVII. Notice of and Reasonable Opportunity To Meet Margin Calls

The Commission also sought comments regarding the best means of ensuring that leverage customers be given both adequate notice of margin deficiencies and a reasonable opportunity to meet margin calls before a leverage transaction merchant can exercise its rights under a leverage contract to liquidate a leverage customer's leverage contract position.[45]

The commentors generally opposed any proposal that would circumscribe a leverage transaction merchant's actions regarding margin calls. One commentor suggested that the Commission should not mandate the timing and method of margin calls, but rather mandate what remedy should be available to a

[43] An LTM operating with a bid-ask spread will normally be offering to repurchase a leverage contract at a lower price than it is offering to enter into a new leverage contract, that is, the bid price will be lower than the ask price. Therefore, a leverage customer entering into a leverage contract with such an LTM will accrue a loss on the leverage contract immediately upon entry into the contract.

[44] The financial early warning system for LTMs, which is set forth in § 31.7, will become effective at the same time.

[45] 48 FR 28668, 28671 (June 23, 1983).

leverage customer against a leverage transaction merchant who fails to give adequate notice of a margin deficiency or a reasonable time to meet a margin call. Several commentors noted that appropriate margin calls and forced liquidations are essential to the financial well-being of the leverage transaction merchant and that forced liquidations protect undermargined customers from additional losses and adequately margined customers from the threat to the leverage transaction merchant's survival posed by undermargined and deficit accounts. The commentors also pointed out that no similar provision is imposed upon registered futures commission merchants or provided futures customers. The commentors pointed out the time involved in transmitting margin calls to a large number of customers and the difficulty in contacting leverage customers by telephone and mail. One commentor, who believes that customer vigilance is the best means to achieve the goals of this proposal, proposed alternatively that the Commission require a good faith effort by the leverage transaction merchant to contact a leverage customer, with records kept of attempts to contact a leverage customer and possibly a telegram to be sent where attempts at telephone contact are unsuccessful, but that a leverage transaction merchant should not be required to wait more than 24 hours before liquidating a leverage customer's position.

The Commission has carefully considered all of the comments received on this subject. Nevertheless, the Commission remains concerned that a leverage customer be given notice of a margin deficiency and a reasonable opportunity to meet a margin call. This concern is heightened by the leverage transaction merchant unilaterally setting the price of the leverage contract that will trigger the margin call, by the leverage transaction merchant's bid and ask prices not being widely disseminated, and by the termination charges payable to the leverage transaction merchant by the leverage customer upon liquidation of a leverage contract.

Accordingly, the Commission has determined to adopt § 31.18. Section 31.18(a) provides that no leverage transaction merchant shall liquidate a leverage contract because of a margin deficiency without effecting personal contact with the leverage customer. However, as one commentor suggested, a leverage transaction merchant may send a telegram to the leverage customer if the leverage transaction merchant is unable to effect personal contact.

Section § 31.18(b) requires the leverage transaction merchant to allow a leverage customer a reasonable time after contact is effected in which to respond to a margin call and establishes 24 hours, excluding weekend and holidays, as a reasonable time. However, in the event the equity in a leverage customer's leverage account equity falls below 50% of the aggregate minimum margin with respect to all leverage contracts in the leverage customer's account, the leverage transaction merchant may liquidate sufficient contracts to restore minimum margin without prior notice, provided that the leverage customer must be notified of such liquidation within 24 hours thereof and permitted to re-establish any contracts so liquidated for a period of five business days at the then prevailing bid price without any commissions, fees, or other markups or charges whatsoever.[46]

The Commission believes that this provision will allow the leverage customer the opportunity to meet a margin call while providing adequate safeguards to protect the leverage transaction merchant from incurring undue losses resulting from deficit accounts. The Commission is not establishing 24 hours as the minimum time a leverage customer must be allowed to respond to a margin call; however, a leverage transaction merchant will have the burden of establishing the reasonableness of any period less than 24 hours. At the same time, the provision allows the leverage transaction merchant in certain situations to liquidate a leverage customer's leverage contracts, thereby protecting both the leverage transaction merchant and the leverage customer.

Finally, § 31.18(c) requires the leverage transaction merchant to keep a record of all margin calls, including all contact with leverage customers and attempts to contact leverage customers, in accordance with the provisions of § 31.14 of the Commission's regulations. One commentor suggested that a leverage transaction merchant keep records of attempts to contract leverage customers regarding margin calls.

XVIII. Timestamping and Daily Price Records

The Commission specifically requested comments concerning whether a leverage transaction merchant should be required to timestamp or otherwise record the time of execution (to the nearest minute) of all customer orders involving leverage transactions, and be required to maintain a daily record of the bid prices and ask prices of the leverage contracts marketed by the leverage dealer and the times those prices were in effect.[47]

The commentors who addressed themselves to this issue generally supported this timestamping and recordkeeping proposal. Several commentors found these requirements an aid to customer protection. One of those commentors stated that these requirements should neither present any technological or structural problems for leverage transaction merchants nor have an adverse impact upon their ability to conduct their business. Another commentor, claiming to be in the leverage business and representing that it currently timestamps or otherwise records the time of each leverage transaction and maintains daily a continuous record of its bid and ask prices, did not object to the imposition of such recordkeeping requirements, although it does not believe them particularly necessary.

The Commission has determined that this timestamping and recordkeeping proposal will provide an important measure of customer protection and will aid in the construction of an audit trail. Accordingly, the Commission has determined to adopt § 31.17, which parallels in part § 1.35 of the Commission's regulations

XIX. Petitions for Exemption

As noted in the Commission's proposal, Congress considered implementation of these rules to be a significant addition to the existing regulatory structure under the Act. In this respect, the Commission will continue to monitor the effect of these rules and will consider such revisions to the system being adopted herein as may be appropriate. In the meantime, however, the Commission is aware that in certain instances these rules may require an existing LTM to alter or amend its current business practices. Therefore, in order to provide a mechanism to alleviate any unduly adverse or unforseen impact of these rules, the Commission has adopted § 31.24 which provides a general exemption procedure applicable to these rules.

Under § 31.24, any person adversely affected by any requirement of Part 31 may file a petition with the Secretary of

[46] The Disclosure Document must specify what is minimum margin and also must specify the order in which contracts will be liquidated if unilateral liquidation becomes permissible.

[47] 48 FR 28671 (June 23, 1983).

the Commission setting forth the reasons why that person believes he should be exempt from a requirement. The Commission may, in its discretion, grant such an exemption if that person demonstrates to the Commission's satisfaction that: (1) Under the exemption, that person's business will be conducted in a manner that may reasonably be expected to ensure the financial solvency of the contracts to be offered and sold and to prevent manipulation and fraud, (2) the manner in which the business will be conducted will present no substantial risk to the public, and (3) the exemption is not otherwise contrary to the public interest or to the purposes of the provision from which exemption is sought. The Commission will grant or deny the petition on the basis of the papers filed. In addition, the petition may be granted subject to such terms and conditions as the Commission may find appropriate. It should be noted that the burden of establishing that the exemption is in the public interest rests with the petitioner. Section 31.24.

An example of when an LTM may determine to petition for an exemption concerns the cash price series to be used in connection with the calculation of an LTM's minimum adjusted net capital requirement. As stated above, the Commission has adopted § 31.9(a)(1), which basically requires each LTM to compute the market value of physical commodities subject to uncovered leverage contracts by using the widely accepted and disseminated commercial or retail cash price series submitted with the LTM's application for registration of a particular leverage commodity in accordance with § 31.6, and cannot include any mark-ups or discounts of the LTM. If an LTM believes that it would be more appropriate to compute such market value by using a widely accepted and disseminated commercial or retail cash price series other than the one submitted under § 31.6, the LTM could petition the Commission under § 31.24. The Commission notes, however, that it would be unlikely to approve a cash price series which is more advantageous to the LTM than the price series submitted under § 31.6.

XX. Additional Provisions

A. Requirement Concerning Repurchase of Leverage Contracts

In addition to the provision in the proposed definition of leverage contract discussed above, the Commission proposed in Section 31.10 specifically to require an LTM, at all times, to offer to repurchase leverage contracts sold to its customers. In this regard, the Commission specifically requested comments on appropriate guidelines or quantitative measures to be used by LTMs in establishing price quotations to satisfy this repurchase requirement. The Commission also sought comments suggesting other alternative measures designed to assure that LTMs fulfill their obligations under leverage contracts to their customers, such as a specific cover requirement.

While one commentor supported the repurchase requirement, a number of commentors were generally critical of the provision as being impractical and contrary to industry practice. In addition the commentors, while suggesting some alternatives (including cover requirements) to the rule, were generally unable to suggest specific guidelines or other measures to be incorporated in the rule concerning the establishment of prices at which repurchases would be made.

In light of these comments and upon review of the proposal, the Commission has determined to delete the repurchase requirement as proposed and adopt, as an alternative, a less stringent requirement that an LTM may not offer to enter into or enter into leverage contracts in a commodity at any time that the LTM is not offering to repurchase from any of its customers leverage contracts involving that commodity. The Commission believes that this provision, like the original proposal, will provide some degree of assurance that LTMs will fulfill their obligations to their customers.

B. Anti-fraud Rule

The Commission sought comment concerning whether it should amend its anti-fraud rule applicable to leverage transactions, § 31.03, to incorporate specifically the language of the anti-fraud proscriptions of Section 4*o* of the Act. Upon further review and in light of the comments received, the Commission has determined that the proscriptions now contained in § 31.03 are fully as broad as those set forth in Section 4*o* of the Act and that any amendment to the rule is therefore unnecessary. The Commission is, however, redesignating § 31.03 as § 31.3.

C. Review of Promotional Materials

The Commission expressed interest in receiving comments concerning what role it should assume in reviewing promotional materials employed in the offer and sale of leverage transactions. Several commentors supported Commission review of promotional materials while others felt it would constitute an unconstitutional restraint of commercial speech and would be generally burdensome to both LTMs and the Commission.

The Commission has concluded that prior review of promotional materials is unnecessary at this time. As one commentor suggested, the Commission believes at this time that subsequent review of such materials in the course of a compliance audit or other Commission investigation may be adequate. It should be noted that promotional materials, as defined in § 31.4(c), are generally required by § 31.14 to be kept by LTM's and made available for inspection, and that it is expected that the Commission or any appropriate self-regulatory organization will conduct sales practice audits for this and other matters from time to time on a surprise basis.

D. Miscellaneous Provisions

Proposed § 31.17, now § 31.19, which has been adopted with the addition of a new paragraph (b), generally makes unlawful certain specified representations by persons engaged in the offer and sale of leverage contracts. Proposed § 31.18, now § 31.20, concerning prohibitions of guarantees against loss, and proposed § 31.19, now § 31.21, concerning leverage transactions entered into prior to the effective date of these regulations, have been adopted essentially as proposed.

Pursuant to proposed § 31.20, which has been adopted as § 31.22, a futures commission merchant will generally be prohibited from engaging in leverage contracts. Several commentors questioned the necessity for this proscription, one of whom suggested that this would prohibit a firm from marketing both leverage and futures contracts, and that this result would be harmful to competition. Such a result may readily be avoided, however, were such a company, as an FCM, to incorporate or otherwise create a separate affiliated business entity or subsidiary to engage in the leverage business as an LTM. In any event, as noted above in the discussion of the prohibitions of certain multiple associations by APs of LTMs, the Commission notes that this is a new regulatory program and there are significant differences between the manner in which futures contracts and leverage contracts are offered to the public which has resulted in differing regulatory requirements being imposed by the Commission. As also noted above, inasmuch as this is the first time the Commission has adopted a regulatory scheme applicable to leverage contracts, the Commission believes that it is necessary to proceed slowly to permit a cautious development

of these regulations without posing unreasonable risks to the public. Accordingly, the Commission believes at this time that the benefits accruing to the public from such a cautious approach outweigh any possible adverse effects upon competition or otherwise which might result from the operation of § 31.22.

The Commission has also adopted two minor technical and conforming amendments to Part 190 of its regulations which contains rules governing the liquidation of certain commodity firms, including LTMs. First, the Commission has added paragraph (nn) to § 190.01 which states that a "leverage contract" shall have the same meaning as that set forth in § 31.4(w). Second, the Commission has amended paragraph (g) of § 190.01 to provide that the term "commodity contract" shall have the same meaning, subject to § 190.01 (nn), as that set forth in Section 761(6) of the Bankruptcy Code.

At its meeting on January 16, 1984, the Commission voted, for purposes of consistency, to conform the language in the regulations to refer to the purchase of commodities pursuant to a leverage contract. The Commission continues to believe that consistency in the terminology employed in the regulations is important. However, upon further reflection, the Commission has determined that the regulations should uniformly reflect the purchase of leverage contracts by leverage customers. The Commission believes that this is consistent with its definition of a leverage contract in § 31.4(w) as a contract for the long-term (ten years or longer) purchase by a leverage customer of a leverage commodity and with the fundamental nature of a leverage transaction.

XXI. Related Matters

A. Regulatory Flexibility Act

When the Commission proposed these rules for certain leverage transactions, the Chairman, on behalf of the Commission, certified pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, that the adoption of the rules as proposed would not appear to affect a substantial number of small firms. The Commission based this determination upon information available to it which indicated that only a very small number of persons or firms were engaged in leverage businesses involving gold and silver bullion or bulk coin, copper or platinum in accordance with the Commission's moratoria rules. While comments were specifically solicited from small firms which might be adversely affected by the rules, nothing presented to the Commission in the comments received has caused the Commission to change this determination. As a result, and even with the expanded application of these rules also to encompass leverage transactions involving certain foreign currencies, the Commission continues to believe that these rules will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

The Commission has submitted pertinent portions of these rules to the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

C. Section 15 Considerations

Several persons who commented on the Commission's June 1, 1983 proposed rules maintained that rules were anticompetitive in various respects. In particular, it was suggested that the financial requirements for LTMs, including the related segregation and cover provisions, would constitute a barrier to smaller firms wishing to enter the leverage business; the prohibition upon FCMs and their employees from selling leverage contracts could be harmful to competition that might develop between FCMs and LTMs; and the continuation of the moratoria even for a short period would exclude potential competitors from entering the leverage business. In proposing and adopting these interim rules, however, the Commission has taken into account its responsibilities under Section 15 of the Act, 7 U.S.C. 19 (1982) and has determined that these rules, in the form now adopted, meet the requirements of that Section.

Section 15 does not require the Commission to subordinate the policies and purposes of the Commodity Exchange Act to those of the antitrust laws. Rather, Section 15 requires only that the Commission take into consideration the public interest to be protected by the antitrust laws and endeavor to take the least anticompetitive means of achieving the objectives, policies and purposes of the Act. Moreover, Section 15 does not require the Commission to adopt the least anticompetitive course of action where the objectives, policies and purposes of the Commodity Exchange Act would be better served in some other way.[48]

While the Commission is mindful that the financial rules (which have been substantially modified from what was proposed) as well as the separation of the businesses of FCMs and LTMs (which also has been modified) and the continuation of the moratoria may impose some limitations upon the ability of certain persons to enter into or continue in the leverage business and thus may result in some lessening of competition, the Commission in its judgment finds that these interim rules are necessary to effectuate an essential purpose and policy of the Act. In this regard, the Commission is required by the Act to provide essential customer protections which would attempt to ensure the financial solvency of leverage transactions and would attempt to prevent manipulation or fraud in connection with the offer and sale of such transactions. *See* Section 19(b) of the Act. As a result, these interim rules have been designed to provide such customer protections as are deemed essential. While these rules may have some anticompetitive effects, the Commission, in weighing its responsibilities under the Act, has nonetheless determined that the objectives, policies and purposes of the Act can be met, in its judgment, only by the adoption of interim rules such as these.

D. Effective Date

Section 4(c) of the Administrative Procedure Act (5 U.S.C. 553(d)) specifies generally that rules promulgated by an agency may not be made effective less than 30 days after publication except "for good cause." The Commission finds that good cause exist to make §§ 31.5(c) and 31.5(d) contained herein effective upon the date of publication because the adoption of those rules is necessary to allow persons who were not formerly registered with the Commission to now apply for registration. Moreover, persons subject to §§ 31.5(c) and 31.5(d) will not be prejudiced by immediate effectiveness of those rules since the rules grant such persons a sufficient period of time to enable compliance. In addition, compliance with those rules will enable such persons to continue to engage in business pending a final registration determination by the Commission.

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[48] *See, e.g., British American Commodity Options Corp. v. Bagley*, Comm. Fut. L. Rep. (CCH) ¶20,245 at 21,334 (S.D.N.Y. December 21, 1976), *aff'd in part and rev'd in part on other grounds*, 552 F.2d 482 (2d Cir.), *cert. denied*, 434 U.S. 938 (1977); *Rosenthal v. Bagley*, 450 F. Supp. 1120, 1124–1125 (N.D. Ill. 1978); *Commodity Futures Trading Commission v. American Board of Trade, Inc.*, 473 F. Supp. 1177, 1182 (S.D.N.Y. 1979).

E. List of Subjects

17 CFR Part 1

Definitions, Minimum financial requirements.

17 CFR Part 3

Registration requirements, Leverage transaction merchants, Associated persons of leverage transaction merchants, Authority delegations.

17 CFR Part 4

Commodity trading Advisors, Exemption from registration.

17 CFR Part 31

Definitions, Registration of leverage commodities, Registration of leverage transaction merchants and leverage representatives, Minimum financial requirements, Repurchase of leverage contracts, Disclosure and segregation requirements, Financial reports, Recordkeeping and reporting requirements, Unlawful representations, Prohibition of guarantees against loss, Prohibited trading, Fraud, Petitions for exemption.

17 CFR Part 145

Records, Freedom of Information Act.

17 CFR Part 147

Records, Government in the Sunshine Act.

17 CFR Part 190

Definitions.

In consideration of the foregoing, and pursuant to the authority contained in the Sections 8a(5) and 19 of the Commodity Exchange Act, as amended, 7 U.S.C. 12a(5) and 23 (1982), and in 5 U.S.C. 552 and 552b, the Commission hereby amends Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

1. Section 1.3 is amended by revising paragraphs (aa) (introductory text), (aa)(4) and (ff) and by adding paragraphs (aa)(5), (oo), (pp) and (qq) to read as follows:

§ 1.3 Definitions.

* * * * *

(aa) *Associated person.* This term means any natural person who is associated in any of the following capacities with:

* * * * *

(4) A commodity trading advisor 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 a client's or prospective client's discretionary account, or (ii) the supervision of any person or persons so engaged; and

(5) A leverage transaction merchant 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 or acceptance of leverage customers' orders (other than in a clerical capacity) for leverage transactions as defined in § 31.4(x) of this chapter, or (ii) the supervision of any person or persons so engaged.

* * * * *

(ff) *Designated self-regulatory organization.* This term means a self-regulatory organization of which a futures commission merchant, an introducing broker or a leverage transaction merchant is a member, or if a futures commission merchant or an introducing broker is a member of more than one self-regulatory organization and such futures commission merchant or introducing broker is the subject of an approved plan under § 1.52, then a self-regulatory organization delegated the responsibility by such a plan for monitoring and auditing such futures commission merchant or introducing broker for compliance with the minimum financial and related reporting requirements of the self-regulatory organizations of which the futures commission merchant or introducing broker is a member, and for receiving the financial reports necessitated by such minimum financial and related reporting requirements from such futures commission merchant or introducing broker.

* * * * *

(oo) "Leverage transaction merchant" means and includes any individual, association, partnership, corporation, trust or other person that is engaged in the business of offering to enter into, entering into or confirming the execution of leverage contracts, or soliciting or accepting orders for leverage contracts, and who accepts leverage customer funds (or extends credit in lieu thereof) in connection therewith.

(pp) "Leverage customer funds" means all money, securities and property received, directly or indirectly by a leverage transaction merchant from, for, or on behalf of leverage customers to margin, guarantee or secure leverage contracts and all money, securities and property accruing to such customers as the result of such contracts, or the customers' leverage equity. Profit or loss accruing to a leverage customer is the difference between the leverage transaction merchant's current bid price for the leverage contract and the ask price of the leverage contract when entered into.

(qq) "Leverage contract" shall have the same meaning as that set forth in § 31.4(w) of this chapter.

2. Section 1.12 is amended by revising paragraph (f) to read as follows:

§ 1.12 Maintenance of minimum financial requirements by futures commission merchants, introducing brokers and leverage transaction merchants.

* * * * *

(f)(1) Whenever a clearing organization determines that any position it carries for one of its clearing members which is registered as a futures commission merchant or as a leverage transaction merchant must be liquidated immediately, transferred immediately or that the trading of any account of such futures commission merchant or such leverage transaction merchant shall be only for the purposes of liquidation, because that clearing member has failed to meet a call for margin or to make other required deposits, the clearing organization must give telegraphic notice of such a determination to the principal office of the Commission at Washington, D.C. within 24 hours.

(2) Whenever a registered futures commission merchant determines that any position it carries for another registered futures commission merchant or for a registered leverage transaction merchant must be liquidated immediately, transferred immediately or that the trading of any account of such futures commission merchant or leverage transaction merchant shall be only for purposes of liquidation, because the other futures commission merchant or the leverage transaction merchant has failed to meet a call for margin or to make other required deposits, the carrying futures commission merchant must give telegraphic notice of such a determination to the principal office of the Commission at Washington, D.C., within 24 hours.

* * * * *

PART 3—REGISTRATION

3. Section 3.1 is amended by revising paragraphs (b) and (c) to read as follows:

§ 3.1 Definitions.

* * * * *

(b) *Current.* As used in §§ 3.10–3.17, a current Form 8–R or Form 94 is any such Form which was filed by or on behalf of a registrant or principal on or before July

1, 1982, if, subsequent to the filing of that Form, the registrant or principal has been continuously registered or continuously affiliated with a registrant as a principal.

(c) *Sponsor.* Sponsor means the futures commission merchant, introducing broker, commodity trading advisor, commodity pool operator, or leverage transaction merchant which makes the certification required by §§ 3.12, 3.16, or 3.18 for the registration of an associated person of such sponsor.

4. Section 3.2 is amended by revising paragraph (d) to read as follows:

§ 3.2 Registration processing by the National Futures Association; notification and duration of registration.

* * * * *

(d) The registration of each futures commission merchant, leverage transaction merchant and floor broker shall expire on the thirty-first day of March following the date on which registration was granted.

5. Section 3.3 is amended by revising paragraph (a)(3), by redesignating paragraph (a)(5) as paragraph (a)(6), by adding a new paragraph (a)(5), and by revising paragraph (a)(6) as redesignated to read as follows:

§ 3.3 Registration fees; form of remittance.

(a) * * *

(3) *Associated persons.* Each Form 8–R submitted in connection with the registration of an associated person of a futures commission merchant, commodity trading advisor, commodity pool operator or leverage transaction merchant must be accompanied by a fee of $35.

* * * * *

(5) *Leverage transaction merchants.* Each application for registration, or for renewal thereof, as a leverage transaction merchant must be accompanied by a fee of $275.

(6) *Branch offices.* A fee of $6 must be provided for each branch office of a registrant operating within the United States, as specified in any Form 7–R or any Schedule thereto or in any Form 3–R filed with the Commission to report the addition of a branch office. The fee specified by this paragraph (a)(6) must accompany each Form 7–R filed as an application for initial registration or for renewal of registration and each Form 3–R filed to report the addition of a branch office.

* * * * *

6. Section 3.4 is revised to read as follows:

§ 3.4 Registration in one capacity not included in registration in any other capacity.

Except as may be otherwise provided in the Act or in any rule, regulation, or order of the Commission, each futures commission merchant, floor broker, associated person, commodity trading advisor, commodity pool operator, introducing broker, and leverage transaction merchant must register as such under the Act. Registration in one capacity under the Act shall not include registration in any other capacity: *Provided further,* That except as may be provided in any rule, regulation or order of the Commission, registration as an associated person in one capacity shall not automatically include registration as an associated person in any other capacity.

7. Section 3.10 is amended by removing paragraph (c), by redesignating paragraph (d) as paragraph (c), and by revising paragraph (a)(2) to read as follows:

§ 3.10 Registration of futures commission merchants.

(a) * * *

(2) Each Form 7–R filed in accordance with the requirements of paragraph (a)(1) of this section must be accompanied by a Form 8–R, completed in accordance with the instructions thereto and executed by each natural person who is a principal of the applicant, and must be accompanied by the fingerprints of that principal on a fingerprint card provided by the Commission for that purpose. The provisions of this paragraph (a)(2) do not apply to any principal who: (i) Has a current Form 8–R or Form 94 on file with the Commission; or (ii) has submitted or caused to be submitted a Form 8–R and a fingerprint card in accordance with the requirements of this part.

* * * * *

8. Section 3.11 is amended by revising paragraph (b) to read as follows:

§ 3.11 Registration of floor brokers.

* * * * *

(b) *Initial registration.* Application for initial registration as a floor broker must be on form 8–R, completed and filed with the Commission in accordance with the instructions thereto. Each applicant for initial registration as a floor broker must file his fingerprints with the Form 8–R on a fingerprint card provided by the Commission for that purpose except that a fingerprint card need not be filed by any applicant who: (1) Has a current Form 8–R or Form 94 on file with the Commission; or (2) has filed a fingerprint card in accordance with the requirements of this part.

* * * * *

9. Section 3.12 is amended by revising paragraph (f)(2) to read as follows:

§ 3.12 Registration of associated persons of futures commission merchants and introducing brokers.

* * * * *

(f) *Certain dual and multiple associations prohibited.* No person may be simultaneously associated as an associated person with—

(1) * * *

(2)(i) A futures commission merchant and an introducing broker, (ii) a futures commission merchant and a leverage transaction merchant, or (iii) an introducing broker a leverage transaction merchant;

* * * * *

10. Section 3.13 is amended by removing paragraph (c) and by revising paragraph (a)(2) to read as follows:

§ 3.13 Registration of commodity trading advisors.

(a) * * *

(2) Each Form 7–R filed in accordance with the requirements of paragraph (a)(1) of this section must be accompanied by a Form 8–R, completed in accordance with the instructions thereto and executed by each natural person who is a principal of the applicant, and must be accompanied by the fingerprints of that principal on a fingerprint card provided by the Commission for that purpose. The provisions of this paragraph (a)(2) do not apply to any principal who: (i) Has a current Form 8–R or Form 94 on file with the Commission; or (ii) has submitted or cause to be submitted a Form 8–R and a fingerprint card in accordance with the requirements of this part.

* * * * *

11. Section 3.14 is amended by removing paragraph (c) and by revising paragraph (a)(2) to read as follows:

§ 3.14 Registration of commodity pool operators.

(a) * * *

(2) Each Form 7–R filed in accordance with the requirements of paragraph (a)(1) of this section must be accompanied by a Form 8–R, completed in accordance with the instructions thereto and executed by each natural person who is a principal of the applicant, and must be accompanied by the fingerprints of that principal on a fingerprint card provided by the Commission for that purpose. The provisions of this paragraph (a)(2) do not apply to any principal who: (i) Has a

current Form 8–R or Form 94 on file with the Commission; or (ii) has submitted or caused to be submitted a Form 8–R and a fingerprint card in accordance with the requirements of this part.

* * * * *

12. Section 3.15 is amended by removing paragraph (c) and by revising paragraph (a)(2) to read as follows:

§ 3.15 Registration of introducing brokers.

(a) * * *

(2) Each Form 7–R filed in accordance with the requirements of paragraph (a)(1) of this section must be accompanied by a Form 8–R, completed in accordance with the instructions thereto and executed by each natural person who is a principal of the applicant, and must be accompanied by the fingerprints of that principal on a fingerprint card provided by the National Futures Association for that purpose. The provisions of this paragraph (a)(2) do not apply to any principal who: (1) Has a current Form 8–R or Form 94 on file with the Commission; or (ii) has submitted or caused to be submitted a Form 8–R and a fingerprint card in accordance with the requirements of this part.

* * * * *

13. Section 3.16 is amended by revising paragraph (e)(1) to read as follows:

§ 3.16 Registration of associated persons of commodity trading advisors and commodity pool operators.

* * * * *

(e) *Reporting of dual and multiple association.* (1) No person may be simultaneously associated with:

(i) A commodity trading advisor and with a futures commission merchant or an introducing broker in violation of § 3.12(f);

(ii) A commodity pool operator and a futures commission merchant or an introducing broker in violation of § 3.12(f);

(iii) A sponsoring commodity trading advisor or commodity pool operator and any other sponsor other than in accordance with the provisions of paragraph (e)(2) of this section;

(iv) A commodity trading advisor and a leverage transaction merchant; or

(v) A commodity pool operator and a leverage transaction merchant.

Provided, however, That the provisions of paragraphs (e)(1) (i)–(iii) of this section shall not apply to any person who is exempt from registration as an associated person of a commodity trading advisor or as an associated person of a commodity pool operator pursuant to the provisions of paragraphs (a)(2) through (a)(6) of this section if that person is not otherwise required to register as an associated person of a commodity trading advisor or as an associated person of a commodity pool operator.

* * * * *

14. Section 3.17 is added to 17 CFR Part 3 to read as follows:

§ 3.17 Registration of leverage transaction merchants.

(a) *Initial registration.* (1) Application for initial registration as a leverage transaction merchant must be on Form 7–R, completed and filed with the Commission in accordance with the instructions thereto and the provisions of § 31.13 of this chapter.

(2) Each Form 7–R filed in accordance with the requirements of paragraph (a)(1) of this section must be accompanied by a Form 8–R, completed in accordance with the instructions thereto and executed by each natural person who is a principal of the applicant, and must be accompanied by the fingerprints of that principal on a fingerprint card provided by the Commission for that purpose. The provisions of this paragraph (a)(2) do not apply to any principal who: (i) Has a current Form 8–R or Form 94 on file with the Commission; or (ii) has submitted or caused to be submitted a Form 8–R and a fingerprint card in accordance with the requirements of this part.

(b) *Renewal of registration.* Application for renewal of registration as a leverage transaction merchant must be on Form 7–R, completed and filed with the Commission in accordance with the instructions thereto.

15. Section 3.18 is added to 17 CFR Part 3 to read as follows:

§ 3.18 Registration of associated persons of leverage transaction merchants.

(a) *Registration required.* It shall be unlawful for any person to be associated with a leverage transaction merchant as an associated person unless that person shall have registered under the Act as an associated person of that sponsoring leverage transaction merchant in accordance with the procedures in paragraph (c) or (d) of this section.

(b) *Duration of registration.* A person registered in accordance with paragraph (c) or (d) of this section and whose registration has neither been suspended nor revoked will continue to be so registered until the cessation of the association of the registrant with, or the revocation, suspension, lapse, or withdrawal of the registration of, the associated person's sponsor.

(c) *Application for registration.* Except as otherwise provided in paragraphs (d) and (f) of this section, application for registration as an associated person of a leverage transaction merchant must be on Form 8–R, completed and filed in accordance with the instructions thereto.

(1) No person will be registered as an associated person in accordance with this paragraph (c) unless an officer, if the sponsor is a corporation, a general partner, if a partnership, or the sole proprietor, if a sole proprietorship, of such sponsor has signed and dated a certification in writing, stating that:

(i) It is the intention of the sponsor to hire or otherwise employ the applicant as an associated person and that it will do so within thirty days after the receipt of the notification provided in accordance with paragraph (c)(4) of this section and that the applicant will not be permitted to engage in any activity requiring registration as an associated person until the applicant is registered as such in accordance with this section;

(ii) The sponsor has verified the information supplied by the applicant in response to the questions on Form 8–R which relate to the applicant's education and employment history during the preceding five years;

(iii) To the best of the sponsor's knowledge, information, and belief, all of the publicly available information supplied by the applicant on Form 8–R is accurate and complete: *Provided,* That it is unlawful for the sponsor to make the certification required by this paragraph (c)(1)(iii) if the sponsor knew or should have known that any of that information is not accurate and complete; and

(iv) The sponsor has taken, and will take, such measures as are necessary to prevent the unwarranted dissemination of any of the information contained in that Form 8–R, or in the records and documents obtained in support of the certifications required by this section.

(2) The certification required by paragraph (c)(1) of this section must be submitted concurrently with the Form 8–R.

(3) Each Form 8–R filed in accordance with the requirements of paragraph (c) of this section must be accompanied by the fingerprints of the applicant on a fingerprint card provided for that purpose by the Commission.

(4) When the Commission determines that an applicant for registration as an associated person is not unfit for such registration, it will provide notification in writing to the sponsor which has made the certifications required by paragraph (c)(1) of this section that the applicant's registration as an associated person is granted contingent upon the sponsor hiring or otherwise employing the applicant as such within thirty days.

(d) *Special registration procedures for certain persons.* (1) Except as provided in paragraph (f) of this section, any person whose registration as an associated person in another capacity is still in effect, whose registration as an associated person in the same capacity or in another capacity has terminated within the preceding sixty days, and who becomes associated with a sponsoring leverage transaction merchant which makes the certification provided by paragraph (d)(1)(i) of this section will be registered as, and in the capacity of, an associated person of such sponsor upon the mailing by that sponsor to the Commission of written certifications stating:

(i) That such person has been hired or is otherwise employed by that sponsor;

(ii) That such person's registration as an associated person in any capacity is not suspended or revoked;

(iii) That such person is eligible to be registered in accordance with this paragraph (d);

(iv) Whether there is a pending proceeding under Sections 6(b) or 8a of the Act of § 3.20 or former § 1.10e, to deny, suspend, revoke, condition or restrict such person's registration in any capacity or if within the preceding twelve months the Commission has permitted the withdrawal of an application for registration in any capacity after instituting the procedures provided in § 3.20 and, if so, that the sponsor has been given a copy of the complaint or letter issued by the Commission in connection therewith; and

(v) That the sponsor has received a copy of the complaint or letter issued by the Commission if the applicant for registration has certified, in accordance with paragraph (d)(1)(iv) of this section, that there is a proceeding pending against him as described in that paragraph or that the Commission has permitted the withdrawal of an application for registration as described in that paragraph.

(2) The certifications permitted by paragraphs (d)(1)(i) and (d)(1)(v) of this section must be signed and dated by an officer, if the sponsor is a corporation, a general partner, if a partnership or the sole proprietor, if a sole proprietorship. The certifications permitted by paragraphs (d)(1) (ii)–(iv) of this section must be signed and dated by the Applicant for registration as an associated person.

(3) Within sixty days of mailing the certifications permitted by paragraph (d)(1) of this section, the associated person and the sponsor must complete and the sponsor must file with the Commission a Form 8–R in accordance with the instructions thereto. The Form 8–R must contain the certifications required by paragraphs (c)(1)(ii) through (c)(1)(iv) of this section and must be accompanied by the fingerprint card provided by the Commission for that purpose.

(e) *Retention of records.* The sponsor must retain in accordance with § 1.31 of this chapter such records as are necessary to support the certifications required by this section.

(f) *Certain dual and multiple associations prohibited.* (1) No person may be simultaneously associated as an associated person with—

(i) More than one leverage transaction merchant;

(ii) A leverage transaction merchant and a futures commission merchant;

(iii) A leverage transaction merchant and an introducing broker;

(iv) A leverage transaction merchant and a commodity trading advisor; or

(v) A leverage transaction merchant and a commodity pool operator.

(2) No person may be registered as an associated person of a leverage transaction merchant and registered as a floor broker.

(g) *Petitions for exemption.* (1) Any person adversely affected by the operation of this § 3.18 may file a petition with the Secretary of the Commission, which petition must set forth with particularity the reasons why that person believes that an applicant should be exempted from the requirements of this section and why such an exemption would not be contrary to the public interest and the purposes of the provision from which exemption is sought. The petition will be granted or denied by the Commission on the basis of the papers filed. The Commission may grant such a petition if it finds that the exemption is not contrary to the public interest and the purposes of the provision from which exemption is sought. The petition may be granted subject to such terms and conditions as the Commission may find appropriate.

(2)(i) Until such time as the Commission orders otherwise, the Commission hereby delegates to the Director of the Division of Trading and Markets or the Director's designee the authority to grant or deny petitions filed pursuant to this paragraph (g).

(ii) The Director of the Division of Trading and Markets may submit to the Commission for its consideration any matter which has been delegated to the Director pursuant to paragraph (g)(2)(i) of this section.

16. Section 3.20 is amended by revising paragraphs (a)(1)(ii), (a)(1)(iii), (a)(1)(v), (b)(2), (d)(1), (d)(2), and (e), to read as follows:

§ 3.20 Delegation of authority to deny registration.

(a) * * *

(1) * * *

(ii) Within ten years preceding the filing of the application has been convicted of a misdemeanor which: (A) Involves any transaction or advice concerning any commodity, contract for future delivery of a commodity, commodity option, leverage transaction, or security; (B) arises out of the conduct of the business of a futures commission merchant, associated person, floor broker, commodity trading advisor, commodity pool operator, leverage transaction merchant, securities broker, securities dealer, municipal securities dealer, transfer agent, clearing agency, securities information processor, investment adviser, investment company, or employee or affiliated person of any of the foregoing; or (C) involves embezzlement, defalcation, fraudulent conversion, misappropriation of funds, securities or other property, forgery, counterfeiting, false pretenses, gambling, or similar crimes reflecting upon the ability of the applicant, if registered, faithfully to discharge the fiduciary duties imposed by the Act; or

(iii) At the time of the application, is permanently or temporarily enjoined by order, judgment or decree of any court of competent jurisdiction, or is prohibited by agreement or settlement with the Commission or the Securities and Exchange Commission, or any State agency or governmental body: (A) From acting as a commodity trading advisor, commodity pool operator, futures commission merchant, floor broker, leverage transaction merchant, securities broker or dealer, municipal securities dealer, transfer agent, clearing agency, securities information processor, investment adviser, investment company, or as an associated or affiliated person or employee of any of the foregoing; or (B) from engaging in or continuing any conduct or practice in connection with any such activity or involving any transaction or advice concerning commodities, contracts for future delivery of commodities, commodity options, leverage transactions, or securities; or

* * * * *

(v) Is subject to an outstanding order of the Commission denying trading privileges on any contract market to such person, or suspending or revoking the registration of such person as a commodity trading advisor, commodity

pool operator, futures commission merchant, floor broker, leverage transaction merchant, or associated person, or suspending or expelling such person from membership on any contract market or futures association registered under the Act, or refusing such person registration in any capacity;

* * * * *

(b) * * *

(2) The allegations set forth in the notice, if true, constitute a basis upon which the applicant may be found unfit for registration pursuant to Section 8a or, if the applicant is applying for registration as a leverage transaction merchant or associated person thereof, Section 19 of the Commodity Exchange Act, and upon which the applicant's registration may be denied;

* * * * *

(d) * * *

(1) In the case of an applicant for an initial registration, pursuant to authority hereby delegated by the Commission, the Executive Director may determine the applicant's fitness for registration and may issue an order, pursuant to Section 8a or, if the applicant is applying for registration as a leverage transaction merchant or associated person thereof, Section 19 of the Commodity Exchange Act, granting or refusing registration to the applicant based upon the application, the notice with proof of service, and an appropriate showing that a hearing has not been requested.

(2) In the case of an applicant for renewal of a registration previously granted, the Executive Director may transmit to the Chief Administrative Law Judge a true copy of the application, the notice with proof of service, and an appropriate showing that a hearing has not been requested, and, based thereon, the Chief Administrative Law Judge, pursuant to authority hereby delegated by the Commission, may determine the applicant's fitness for registration and may issue an order, pursuant to Section 8a or, if the applicant is applying for registration as a leverage transaction merchant or associated person thereof, Section 19 of the Commodity Exchange Act, granting or refusing registration to the applicant.

(e) Notwithstanding any other provision contained in this section, the Executive Director is hereby delegated authority pursuant to Section 8a or, if the applicant is applying for registration as a leverage transaction merchant or associated person thereof, Section 19 of the Commodity Exchange Act, to enter an order refusing to register any person if the prior registration of such person has been suspended (and the period of such suspension shall not have expired) or has been revoked.

* * * * *

17. Section 3.21 is amended by revising paragraphs (a) and (b)(3) to read as follows:

§ 3.21 Exemption from fingerprinting requirement in certain cases.

(a) Any person who is required by this part to submit a fingerprint card may file, or cause to be filed, in lieu of such card: (1) A legible, accurate and complete photocopy of a fingerprint card which has been submitted to the Federal Bureau of Investigation for identification and appropriate processing and of each report, record, and notation made available by the Federal Bureau of Investigation with respect to that fingerprint card if such identification and processing has been completed satisfactorily by the Federal Bureau of Investigation not more than ninety days prior to the filing with the Commission of the National Futures Association of the photocopy; or (2) a statement that such person's application for initial registration in any capacity was granted within the preceding ninety days; *Provided,* That the provisions of paragraph (a)(2) shall not be applicable to any person who, by Commission rule, regulation, or order, was not required to file a fingerprint card in connection with such application for initial registration.

(b) * * *

(3) *With respect to the fingerprints of a principal:* An officer, if the futures commission merchant, commodity trading advisor, commodity pool operator, introducing broker, or leverage transaction merchant with which the principal will be affiliated is a corporation, a general partner, if a partnership, or the sole proprietor, if a sole proprietorship.

18. Section 3.30 is revised to read as follows:

§ 3.30 Current address for purpose of delivery of communications from the Commission.

The address of each registrant, applicant for registration and principal, as submitted on the application for registration (Form 7–R or Form 8–R) or as submitted on the biographical supplement (Form 8–R) shall be deemed to be the address for delivery to the registrant, applicant or principal of any communications from the Commission, including any summons, complaint, reparation claim, order, subpoena, special call, request for information, notice, and other written documents or corresponsence, unless the registrant, applicant or principal specifies another address for this purpose: *Provided,* That the Commission may address any correspondence relating to a biographical supplement submitted for or on behalf of a principal to the futures commission merchant, commodity trading advisor, commodity pool operator, introducing broker, or leverage transaction merchant with which the principal is affiliated and may address any correspondence relating to the registration of an associated person to the futures commission merchant, commodity trading advisor, commodity pool operator, introducing broker, or leverage transaction merchant with which the associated person or the applicant for registration is or will be associated as an associated person. Each registrant, while registered, and each principal, while affiliated with a registrant, must keep current the address on the application for registration, biographical supplement, or other address filed with the Commission or with the National Futures Association for the purpose of receiving communications from the Commission. An order of default or other appropriate relief may be entered in any proceeding, including a reparation proceeding commenced while the registrant is registered or within two years thereafter, for failure to file a required response to any communication sent to the latest such address filed with the Commission or with the National Futures Association.

19. Section 3.31 is amended by revising paragaraphs (a), (b), (c)(1), and (c)(2)(i) to read as follows:

§ 3.31 Deficiencies, inaccuracies, and changes, to be reported.

(a) Each applicant or registrant as a futures commission merchant, commodity trading advisor, commodity pool operator, introducing broker, or leverage transaction merchant must, in accordance with the instructions thereto, promptly correct any deficiency or inaccuracy in Form 7–R or Schedules A, B or C of Form 7–R which no longer renders accurate and current the information contained therein. Each such correction must be made on Form 3–R and must be prepared and filed in accordance with the instructions thereto.

(b) Each applicant or registrant as a floor broker or associated person and each principal of a futures commission merchant, commodity trading advisor, commodity pool operator, introducing broker, or leverage transaction merchant must, in accordance with the instructions thereto, promptly correct any deficiency or inaccuracy in the Form 8–R or supplemental statement

thereto which no longer renders accurate and current the information contained in the Form 8–R or supplemental statement. Each such correction must be made on Form 3–R and must be prepared and filed in accordance with the instructions thereto.

(c)(1) After the filing of a Form 8–R, a Certificate of Special Registration (Form 8–S), or a Form 3–R by or on behalf of any person for the purpose of permitting that person to be an associated person of a futures commission merchant, commodity trading advisor, commodity pool operator, introducing broker, or leverage transaction merchant, that futures commission merchant commodity trading advisor, commodity pool operator, introducing broker, or leverage transaction merchant must, within twenty days after the occurrence of either of the following, file a notice thereof with the Commission or in the case of an introducing broker, with the National Futures Association, indicating: (i) The failure of that person to become associated with the futures commission merchant, commodity trading advisor, commodity pool operator, introducing broker, or leverage transaction merchant, and the reasons therefor; or (ii) the termination of the association of the associated person with the futures commission merchant, commodity trading advisor, commodity pool operator, introducing broker, or leverage transaction merchant, and the reasons therefor.

(2)(i) Each person registered as, or applying for registration as, a futures commission merchant, commodity trading advisor, commodity pool operator, or leverage transaction merchant must, within twenty days after the termination of the affiliation of a principal with the registrant or applicant, file a notice thereof with the Commission.

* * * * *

20. Section 3.32 is amended by revising paragraph (a) to read as follows:

§ 3.32 Changes requiring new registration.

A new registration is required in the event of a change:

(a) In the name of the registrant if the registrant is a futures commission merchant, commodity trading advisor, commodity pool operator, introducing broker, or leverage transaction merchant.

* * * * *

21. Section 3.33 is amended by redesignating paragraph (b)(7)(v) as paragraph (b)(7)(vi), by redesignating paragraph (vi) as paragraph (vii), by adding a new paragraph (b)(7)(v), and by revising paragraphs (b)(7)(vi) and (c) to read as follows:

§ 3.33 Withdrawal from registration.

* * * * *

(b) * * *

(7) * * * * *

(v) In the case of a leverage transaction merchant: (A) Either that all leverage customer agreements, if any, and all leverage contracts have been terminated, and that all leverage customer cash balances, securities or other property, if any, have been returned, or (B) alternatively, that pursuant to Commission approval, the leverage contract obligations of the leverage transaction merchant have been assumed by another leverage transaction merchant and all leverage customer cash balances, securities or other property, if any, have been transferred to such leverage transaction merchant on behalf of leverage customers or returned, and that there are no obligations to leverage customers outstanding;

(vi) The nature and extent of any pending customer, option customer, leverage customer, or commodity pool participant claims against the registrant, and, to the best of the registrant's knowledge and belief, the nature and extent of any anticipated or threatened customer, option customer, leverage customer, or commodity pool participant claims against the registrant; and

* * * * *

(c)(1) Where a futures commission merchant or an introducing broker which is not operating pursuant to a guarantee agreement is requestintg withdrawal from registration in that capacity and the basis for withdrawal under paragraph (a)(1) of this section is that it has ceased engaging in activities requiring registration, the request for withdrawal must be accompanied by a form 1–FR which contains the information specified in § 1.10(d)(1) of this chapter as of a date not more than 30 days prior to the date of the withdrawal request: *Provided, however,* That if such registrant is also registered with the Securities and Exchange Commission as a securities broker or dealer, it may file a copy of its Financial and Operational Combined Uniform Single Report under the Securities Exchange Act of 1934, Part II or Part IIA (in accordance with § 1.10(h) of this chapter), in lieu of form 1–FR: *And, provided further,* That if such introducing broker is also a country elevator, it may file a copy of a financial report prepared by a grain commission firm (in accordance with § 1.10(i) of this Chapter), in lieu of form 1–FR. Any financial report submitted pursuant to this paragraph (c)(1) must contain the information specified in § 1.10(d)(1) of this chapter as of a date not more than 30 days prior to the date of the withdrawal request.

(2) Where a leverage transaction merchant is requesting withdrawal from registration in that capacity and the basis for withdrawal under paragraph (a)(1) of this section is that it has ceased engaging in activities requiring registration, the request for withdrawal must be accompanied by a form 2–FR which contains the information specified in § 31.13(f) of this chapter as of a date not more than 30 days prior to the date of the withdrawal request.

* * * * *

22. Section 3.34 is added to 17 CFR Part 3 to read as follows:

§ 3.34 Addition of principals.

Within twenty days after any natural person becomes a principal of an applicant or registrant subsequent to the filing of a Form 7–R in accordance with the requirements set forth in §§ 3.10 (a) or (b), 3.13 (a) or (b), 3.14 (a) or (b), 3.15 (a) or (b), or 3.17 (a) or (b) of this chapter, the applicant or registrant must file a Form 8–R with the Commission. The Form 8–R must be completed by such principal in accordance with the instructions thereto and must be accompanied by the fingerprints of that principal on a fingerprint card provided by the Commission, or the National Futures Association if the applicant or registrant is an introducing broker, for that purpose. This filing need not be made for any such principal who: (1) Has a current Form 8–R or Form 94 on file with the Commission; or (2) has otherwise submitted or caused to be submitted a Form 8–R and a fingerprint card in accordance with the requirements of this part: *Provided,* That the applicant or registrant must notify the Commission, or the National Futures Association if the applicant or registrant is an introducing broker, within twenty days of the name of such added principal on Form 3–R.

PART 4—COMMODITY POOL OPERATORS AND COMMODITY TRADING ADVISORS

23. Section 4.14 is amended by adding paragraph (a)(7) to read as follows:

§ 4.14 Exemption from registration as a commodity trading advisor.

(a) * * *

(7) It is registered under the Act as a leverage transaction merchant and the

person's trading advice is solely in connection with its business as a leverage transaction merchant.

PART 31—LEVERAGE TRANSACTIONS

24. Part 31 is amended by redesignating § 31.03 as § 31.3 and by adding §§ 31.4–31.24 to read as follows:

Sec.
31.4 Definitions.
31.5 Unlawful conduct.
31.6 Registration of leverage commodities.
31.7 Maintenance of minimum financial, cover and segregation requirements by leverage transaction merchants.
31.8 Cover of leverage contracts.
31.9 Minimum financial requirements.
31.10 Repurchase of leverage contracts by leverage transaction merchants.
31.11 Disclosure.
31.12 Segregation.
31.13 Financial reports of leverage transaction merchants.
31.14 Recordkeeping.
31.15 Reporting to leverage customers.
31.16 Monthly reporting requirements.
31.17 Records of leverage transactions.
31.18 Margin calls.
31.19 Unlawful representations.
31.20 Prohibition of guarantees against loss.
31.21 Leverage contracts entered into prior to effective date of these regulations; subsequent transactions.
31.22 Prohibited trading in leverage contracts.
31.23 Limited right to rescind first leverage contract.
31.24 Petitions for exemption.

Authority: Sec. 103(a), Pub. L. 93–463, 88 Stat. 1392 (7 U.S.C. 12a(5) (1982)); sec. 19, Pub. L. 95–405, 96 Stat. 876–877 *as amended by* sec. 234, Pub. L. 97–444, 96 Stat. 2322 (1983) (7 U.S.C. 23 (1982)).

§ 31.4 Definitions.

For the purposes of this part:

(a) [Reserved];

(b) [Reserved];

(c) "Promotional material" includes: (1) Any text of a standard oral presentation, or any communication for publication in any newspaper, magazine or similar medium or for broadcast over television, radio, or other electronic medium which is disseminated or directed to a leverage customer or prospective leverage customer; (2) any standardized form of report, letter, circular, memorandum, or publication which is disseminated or directed to a leverage customer or prospective leverage customer; or (3) any other written literature or advice disseminated or directed to a leverage customer or prospective leverage customer for the purpose of soliciting the entry into a leverage contract;

(d) "Leverage customer" means any person who, directly or indirectly, enters into, purchases, or otherwise acquires for value any interest in a leverage contract from a leverage transaction merchant;

(e) [Reserved];

(f) "Commercial leverage account" means an account of a commercial enterprise, such as a producer, processor, dealer or end user of a leverage commodity which is the subject of a leverage contract, or the products or by-products thereof;

(g) "Leverage commodity" means a commodity which is the subject of a leverage contract offered for sale or sold by a particular leverage transaction merchant, the value of which is reflected in a widely accepted and disseminated commercial or retail cash price series for cash market transactions, which price series reasonably reflects the price for the leverage commodity which the customer can expect to receive in normal commercial or retail market channels, including, if applicable, specified premiums or discounts; each leverage commodity is defined by reference to the following distinguishing characteristics:

(1) For gold and silver bullion and gold and silver bulk coins:

(i) The nominal size, composition and tolerable ranges of the delivery pack or the actual size, composition and tolerable range of the component of the delivery pack;

(ii) Minimum guaranteed quality, deliverable countries of origin, deliverable markings or imprints, and deliverable refiners or mints;

(iii) The method of pricing; and

(iv) The delivery specifications or alternatives including type and location of delivery facilities, packaging, transportation, registration and associated costs.

(2) For platinum, electrolytic copper cathodes, electrolytic copper in wire bars, cakes, slabs, billets, ingots or ingot bars, for lake copper in the same forms, for fire-refined copper in the same forms, and for fire-refined high conductivity copper in ingots or ingot bars, the same distinguishing characteristics as set forth in § 31.4(g)(1) apply.

(3) For Deutsche marks, Japanese yen, Swiss francs, and British pounds:

(i) The amount and country of origin;

(ii) The delivery specifications or alternatives including:

(A) The manner of delivery and delivery point if hand-to-hand currency;

(B) The manner of delivery, delivery point, bank and branch on which drawn, and type of draft if bank draft; or

(C) The required payment instructions if a deposit to a leverage customer's foreign demand account.

(h) "Ask price of a leverage contract" means the price at which a leverage transaction merchant sells or is willing to sell a leverage contract to a leverage customer;

(i) "Bid price of a leverage contract" means the price at which a leverage transaction merchant repurchases or is willing to repurchase a leverage contract from a leverage customer;

(j) "Bid-ask spread of a leverage contract" means the difference between a leverage transaction merchant's ask price and bid price;

(k) "Initial charges for a leverage contract" includes all fees and commissions payable to a leverage transaction merchant which are incurred when a leverage contract is initially entered into by a leverage customer;

(l) "Carrying charges for a leverage contract" includes all service and interest charges paid periodically by a leverage customer to a leverage transaction merchant, or accrued by a leverage transaction merchant, while a leverage contract remains open;

(m) "Termination charges for a leverage contract" includes all fees and commissions payable to a leverage transaction merchant which are associated with the liquidation, repurchase or settlement by delivery on a leverage contract;

(n) "Liquidation of a leverage contract" means the unilateral termination of a leverage contract by a leverage transaction merchant due to a leverage customer's failure to meet one or more margin calls or to make other required deposits on a timely basis or as otherwise permitted under § 31.18;

(o) "Repurchase of a leverage contract" means the voluntary termination of a leverage contract by mutual agreement between the leverage customer and the leverage transaction merchant, which agreement is effected by entering into a transaction which is the opposite of the initial transaction;

(p) "Delivery on a leverage contract" means the taking of delivery by a leverage customer of the commodity subject to a leverage contract;

(q) "Initial leverage margin" means the amount of funds, excluding initial charges, which a leverage customer is required to deposit with a leverage transaction merchant when entering into a leverage contract;

(r) "Minimum or maintenance leverage margin" means the minimum amount of funds which a leverage transaction merchant requires a leverage customer to maintain on deposit for each open leverage contract in the leverage customer's account and the level to which the funds in a

leverage customer's account must be restored after a margin call to the leverage customer has been effected by the leverage transaction merchant;

(s) [Reserved];

(t) "Leverage account equity" means the amount equal to the value of all open leverage contracts in the leverage customer's account, based on the leverage transaction merchant's current bid prices for such contracts, less the amount owed to the leverage transaction merchant by the leverage customer pursuant to such contracts;

(u) [Reserved];

(v) [Reserved];

(w) "Leverage contract" means a contract, standardized as to terms and conditions, for the long-term (ten years or longer) purchase by a leverage customer of a leverage commodity which provides for:

(1) Participation by the leverage transaction merchant as a principal in each leverage transaction;

(2) Initial and maintenance margin payments by the leverage customer;

(3) Periodic payment by the leverage customer or accrual by the leverage transaction merchant of a carrying charge or fee on the unpaid balance;

(4) Delivery of a commodity in an amount and form which can be readily resold in normal commercial or retail channels;

(5) Delivery of the leverage commodity after satisfaction of the balance due on the contract by the leverage customer; and

(6) Determination of the contract purchase and repurchase prices by the leverage transaction merchant; and

(x) "Leverage transaction" means the sale of any leverage contract, the repurchase of any leverage contract, the delivery of the leverage commodity, or the liquidation of any such leverage contract by the leverage transaction merchant.

§ 31.5 Unlawful conduct.

(a) On and after the effective date of this section, it shall be unlawful for any person:

(1) To offer to enter into, enter into or confirm the execution of a leverage contract to or with a leverage customer, or to solicit or accept a leverage customer's order for a leverage contract, or to accept any leverage customer funds from a leverage customer to enter into or maintain a leverage contract, unless the leverage commodity which is the subject of the leverage contract has been registered with the Commission in accordance with § 31.6;

(2) Except as provided in paragraph (a)(3) of this section, to offer to enter into, enter into or confirm the execution of a leverage contract to or with a leverage customer, or to solicit or accept a leverage customer's order for a leverage contract, or to accept any leverage customer funds from a leverage customer to enter into or maintain a leverage contract, unless that person is registered with the Commission in accordance with § 3.17 of this chapter and that registration has not expired, been suspended (and the period of suspension has not expired) or been revoked; or

(3) Except as provided in paragraph (a)(2) of this section, if such person is a natural person, to offer to enter into, enter into or confirm the execution of a leverage contract to or with a leverage customer, or to solicit or accept a leverage customer's order (other than in a clerical capacity) for a leverage contract, or to supervise any person or persons so engaged, unless that person is registered with the Commission in accordance with § 3.18 of this chapter and that registration has not expired, been suspended (and the period of suspension has not expired) or been revoked.

(b) On and after the effective date of this section, it shall be unlawful for any leverage transaction merchant to permit any natural person to become or remain associated with it as a partner, officer or employee (or in any similar status or position involving similar functions) in any capacity which involves the offering to enter into, the entry into, or the confirmation of the execution of a leverage contract with a leverage customer, or the solicitation or acceptance of a leverage customer's order (other than in a clerical capacity) for a leverage contract, or the supervision of any person or persons so engaged, if the leverage transaction merchant knew or should have known that the person was not registered with the Commission in accordance with § 3.18 of this chapter or that the person's registration had expired, been suspended (and the period of suspension had not expired) or been revoked.

(c) *Compliance period for existing leverage transaction merchants.* Notwithstanding the provisions of paragraph (a) of this section, any person who is lawfully engaged in business as a leverage transaction merchant in accordance with the provisions of §§ 31.1 and 31.2 on the date of the publication of this section in the **Federal Register** and who, within sixty (60) days after such effective date: (i) Files an application to register a leverage commodity in accordance with the provisions of § 31.6; (ii) files an application for registration as a leverage transaction merchant in accordance with the provisions of § 3.17 of this chapter; and (iii) files concurrently with its application for registration as a leverage transaction merchant the documentation required by paragraph (e) of this section, may continue to engage in business as a leverage transaction merchant pending a final determination by the Commission. Such person must also comply with the requirements of paragraph (d) of this section.

(d) *Compliance period for associated persons of leverage transaction merchants.* Notwithstanding the provisions of paragraph (a) of this section, any person who is lawfully engaged in business as a leverage transaction merchant in accordance with §§ 31.1 and 31.2 on the date of publication of this section in the **Federal Register** must, within thirty (30) days after such effective date, file with the Commission a certification signed and dated by an officer, if the sponsor is a corporation, a general partner, if a partnership, or the sole proprietor, if a sole proprietorship, of such sponsor, stating:

(1) The name of each individual who will be associated with the leverage transaction merchant as an associated person and a statement to the effect that each such individual was associated with the leverage transaction merchant or an affiliated futures commission merchant on the date of publication of this section in the **Federal Register**;

(2) That the leverage transaction merchant has submitted or will cause to be submitted within sixty (60) days after the effective date of this section, a Form 8–R and a fingerprint card for each individual listed in accordance with paragraph (d)(1) of this section: *Provided,* That a fingerprint card need not be filed on behalf of any such individual if that individual is currently registered as an associated person of a futures commission merchant affiliated with the leverage transaction merchant;

(3) That none of those individuals has answered "Yes" to any of the questions in the Disciplinary History portion of the Form 8–R; and

(4) That none of those individuals is subject to a statutory disqualification, as set forth in Section 8a(2) of the Act.

The certification described in this section shall be filed with the Commission at 2033 K Street, NW., Washington, D.C. 20581, Attention: Director, Division of Trading and Markets.

(e) *Demonstration of compliance with the temporary moratoria on leverage transactions.*

(1) Each applicant for registration with the Commission as a leverage transaction merchant shall submit to the Commission, in accordance with paragraph (e)(3) of this section, the documentation specified in paragraph (e)(2) of this section in order to demonstrate either:

(i) That on June 1, 1978 such applicant was engaged in the business of offering to enter into, entering into or confirming the execution of, any leverage transaction in the United States for the delivery of silver bullion, gold bullion, bulk silver coins or bulk gold coins; or

(ii) That on February 2, 1979 such applicant was engaged in the business of offering to enter into, entering into or confirming the execution of, any leverage transaction in the United States for the delivery of platinum, copper, Deutsche marks, Japanese yen, Swiss francs, or British pounds.

(2) The following documentation must be submitted with respect to each leverage contract and commodity for which the applicant is seeking approval:

(i) A certified copy of the organizational documents required to be filed in the state, territory or possession of the United States in accordance with which laws the applicant was formed and a certificate of good standing therefor as of a date not more than 30 days prior to the date of the submission or, in the case of a partnership or sole proprietorship for which no organizational filing is required under state law, an opinion of counsel to such effect, and other evidence sufficient to demonstrate the date of formation and continuation of the leverage business of such partnership or sole proprietorship;

(ii) The customer list of the applicant as of the date specified in §§ 31.1 or 31.2, as may be appropriate, for each leverage contract and leverage commodity the applicant claims to have offered;

(iii) A copy of at least one contract entered into or offered to be entered into with a leverage customer on or prior to the dates specified in §§ 31.1 or 31.2, as may be appropriate, for each leverage commodity for which registration is sought, which contract must be accompanied by an affidavit from the customer whose signature appears thereon attesting to the date of the leverage transaction or a statement as to why such affidavit is unobtainable; and

(iv) An affidavit of an appropriate person on behalf of the applicant, which shall be the chairman or chief executive officer or similar person in the case of a corporation, a general partner in the case of a partnership, or the sole proprietor in the case of a sole proprietorship, stating:

(A) That the applicant is in compliance with the temporary moratoria set forth in §§ 31.1 or 31.2 of the Commission's regulations;

(B) The nature of the applicant's business, including the percentage of its business it claims was leverage business with respect to each leverage contract and leverage commodity it claims to have offered as of June 1, 1978 or February 2, 1979, as may be appropriate;

(C) The annual income generated from leverage transactions for each year since the applicant claims to have commenced a leverage business with respect to each leverage contract and leverage commodity offered by such applicant;

(D) That upon request the applicant will make its books and records or financial ledgers for the 2-year period commencing one year preceding the date set forth in §§ 31.1 or 31.2, as may be appropriate, availabe to inspection by representatives of the Commission at the regional office of the Commission nearest the principal place of business of the applicant; and

(E) That all of the information provided to the Commission under this section is true and accurate.

(3) For purposes of this paragraph (e), three copies of the information required to be filed with the Commission shall be filed with the Secretary of the Commission at 2033 K Street, NW., Washington, D.C. 20581. Attention: Director of the Division of Trading and Markets.

(f) *Denial, suspension, or revocation of registration of a leverage commodity.* The failure or refusal of any leverage transaction merchant to comply with any of the provisions of the Act or any of the Commission's rules, regulations, or orders thereunder shall be cause for refusing to register a leverage commodity, for suspending registration of a leverage commodity for a period not to exceed six months, and for revoking registration of such leverage commodity with respect to that leverage transaction merchant. Any such denial, suspension, or revocation proceedings shall be conducted in accordance with the procedures set forth in Sections 6 and 6(a) of the Act.

(g) *Denial, suspension, or revocation of registration of leverage transaction merchants or persons associated therewith.* The Commission may refuse to register or may register conditionally any person seeking registration under §§ 3.17 or 3.18 of this chapter, and may suspend, place restrictions upon, or revoke the registration of any person under these sections, if it is found that the applicant or registrant is unfit to become or to remain registered because of the existence of any of the bases upon which the Commission is authorized to refuse, condition, suspend, restrict, or revoke registration under Section 6(b) or 8a of the Act, or, in the case of a leverage transaction merchant, for failure to meet the minimum financial requirements under § 31.9 or to make the other required demonstrations for registration: *Provided,* That pending final determination of an applicant's fitness for registration, registration shall not be granted.

§ 31.6 Registration of leverage commodities.

(a) *Registration of leverage commodities.* Each leverage commodity upon which a leverage contract is offered for sale or sold by a particular leverage transaction merchant must be separately registered with the Commission. Registration will be granted only when the following conditions are, and continue to be, met:

(1) The person requesting registration of a leverage commodity is a registered leverage transaction merchant or is permitted to continue in business pending registration in accordance with § 31.5(c);

(2) The commodity to be registered is a leverage commodity as defined in § 31.4(g);

(3) There exists a widely accepted and broadly disseminated commercial or retail cash price series for the commodity;

(4) The commodity is readily salable in normal commercial or retail channels by leverage customers taking delivery on a leverage contract; and

(5) The terms and conditions of the leverage contracts based on the leverage commodity are consistent with the Act and the regulations thereunder, and are not contrary to the public interest.

(b) *Application for registration.* Applications to register leverage commodities should be filed with the Commission at its Washington, D.C., headquarters. Attn: Secretariat. Three copies of each such submission should be filed. The Commission may return any application which does not comply with the form and content requirements of this section. Each applicant must:

(1) Provide evidence that the person applying for registration of the leverage commodity is registered, or is permitted to continue in business pending registration in accordance with § 31.5(c), or has applied to the Commission for registration as a leverage transaction merchant;

(2) Provide an explanation of the distinguishing characteristics of the leverage commodity for which

registration is sought, including a complete description of the cash market for the leverage commodity, and for the cash, forward, and futures markets for the generic commodity;

(3) Specify a commercial or retail cash price series including prevailing premiums or discounts governing cash market transactions in the quantities specified by the leverage contract and justify the use of such price series with respect to the particular leverage commodity for which registration is sought;

(4) Provide evidence and a complete evaluation of how the distinguishing characteristics of the leverage commodity would be expected to affect the commodity's salability, at an economic price, in normal cash market channels for leverage customers electing to take delivery;

(5) Include a description of the commodity inspection and/or certification procedures typically required for commercial or retail sales of the specified commodity. Such description must be accompanied by information regarding the availability of any normally required certification or inspection service at the delivery points; and

(6) Include copies of all leverage contracts which are to be offered by the leverage transaction merchant on the leverage commodity.

(c) *Continuing registration of leverage commodities.* A registered leverage transaction merchant must submit to the Commission for its review, at least forty-five (45) days before their effective date, any proposed changes in the specifications of the leverage commodity and the terms and conditions of the leverage contract from those submitted as part of the registration application unless such contract specifically provides that such terms and conditions are subject to change. Three copies of each such submission must be furnished to the Commission at its Washington, D.C., headquarters. Attn: Secretariat. The Commission may return any submission which does not comply with the form and content requirements of this section. Each such submission must, in the following order:

(1) Explain how any such changes might affect the ability of leverage customers to realize the leverage commodity's economic value and how such amendments might affect the salability of the leverage commodity by leverage customers taking delivery on a leverage contract;

(2) Explain the effect of such changes upon the continued appropriateness of the commercial or retail cash price series submitted pursuant to paragraph (b)(3) of this section or, as an alternative, submit a new price series and a justification of its use; and

(3) Indicate whether, if such changes are applied to existing leverage commodities, there will be a change in the economic value of such commodities and, if so, quantify the extent of such changes.

(d) *Authority to disapprove amendments.* The Commission may disapprove, alter, or amend changes to the distinguishing characteristics of the registered leverage commodity, or to the terms and conditions of the leverage contracts offered thereon, after appropriate notice and opportunity for hearing, when the Commission determines that such a change is in violation of any of the provisions of the Act or any of the regulations thereunder, or that it is necessary or appropriate to ensure the financial solvency of leverage transactions or prevent manipulation or fraud. Upon notification by the Commission of its determination to disapprove, alter or amend such changes, the proposed changes will not become effective pending a final determination by the Commission to disapprove, alter, or amend such changes.

(e) *Authority to alter or amend specifications of the registered leverage commodity or the terms and conditions of leverage contract.* The Commission may alter or amend specific distinguishing characteristics of the registered leverage commodity or the terms and conditions of leverage contracts after appropriate notice and opportunity for hearing when the Commission determines that, in light of intervening events, such alterations or amendments would be necessary or appropriate to ensure the financial solvency of leverage transactions or prevent manipulation or fraud.

(f)(1) The Commission hereby delegates to the Director of the Division of Economics and Education until such time as the Commission orders otherwise, all functions reserved to the Commission in paragraphs (b) and (c) of this section.

(2) The Director of the Division of Economics and Education may submit any matter which has been delegated to the Director under paragraph (f)(1) of this section to the Commission for its consideration.

§ 31.7 Maintenance of minimum financial, cover and segregation requirements by leverage transaction merchants.

(a) Each person registered as a leverage transaction merchant or who files an application for registration as a leverage transaction merchant, who knows or should have known that its adjusted net capital at any time is less than the minimum required by § 31.9, or that its cover at any time is less than the minimum required by § 31.8, or that the amount of leverage customer funds in segregation is less than is required by § 31.12 or by the capital, cover or segregation rules of any designated self-regulatory organization to which such person is subject, if any, must:

(1) Give telegraphic notice as set forth in § 1.12(g) of this chapter that such applicant's or registrant's adjusted net capital is less than is required by § 31.9, or its cover is less than is required by § 31.8, or the amount of leverage customer funds in segregation is less than is required by § 31.12 or by such other capital, cover or segregation rule, identifying the applicable capital, cover or segregation rule. This notice must be given within 24 hours after such applicant or registrant knows or should have known that its adjusted net capital or its cover or the amount of leverage customer funds in segregation is less than is required by any of the aforesaid rules to which such applicant or registrant is subject; and

(2) Within 24 hours after giving such notice file a statement of financial condition, a statement of the computation of the minimum capital requirements pursuant to § 31.9 (computed in accordance with the applicable capital rule), a schedule of coverage requirements and coverage provided, and a schedule of segregation requirements and funds on deposit in segregation, all as of the date such applicant's or registrant's adjusted net capital or its cover or the amount of leverage customer funds in segregation became less than the minimum required.

(b) Each person registered as a leverage transaction merchant, or who files an application for registration as a leverage transaction merchant, who knows or should have known that its adjusted net capital at any time is less than 120 percent of the amount required by § 31.9 must file written notice to that effect as set forth in § 1.12(g) of this chapter within five business days of such event. Such applicant or registrant must also file a Form 2–FR or such other financial statement designated by the Commission and/or the designated self-regulatory organization, if any, as of the close of business for the month during which such event takes place and as of the close of business for each month thereafter until three successive months have elapsed during which the applicant's or registrant's adjusted net capital is at all times equal to or in

excess of the minimums set forth in this paragraph (b). Each financial report required by this paragraph (b) must be filed within 30 calendar days after the end of the month for which such report is being made.

(c) The requirements of §§ 1.112(c), 1.12(d), 1.12(e) and 1.12(g) of this chapter shall apply to registered leverage transaction merchants and to persons who have applied for registration as leverage transaction merchants, as if in those paragraphs the term "leverage transaction merchant" were substituted for the term "futures commission merchant."

§ 31.8 Cover of leverage contracts.

(a)(1) Each leverage transaction merchant must at all times maintain cover of at least 90 percent of the amount of physical commodities subject to open leverage contracts entered into with leverage customers, and at least 25 percent of the amount of physical commodities subject to open leverage contracts entered into with leverage customers must be covered by the types of permissible cover set forth in paragraphs (a)(2) (i) and (ii) of this section.

(2) Permissible cover for a leverage contract is limited to:

(i) Warehouse receipts for the leverage commodity subject to the leverage contract held in commercial banks located in the United States or in approved contract market depositories: *Provided,* That the balance of the principal and accrued interest on any loan against such warehouse receipts does not exceed 70 percent of the current market value of the commodity represented by each receipt.

(ii) Warehouse receipts for gold bullion in the case of leverage contracts for bulk gold coins, bulk gold coins in the case of leverage contracts for gold bullion, silver bullion in the case of leverage contracts on bulk silver coins and bulk silver coins in the case of leverage contracts on silver bullion, which are held in commercial banks located in the United States or in approved contract market depositories; *Provided,* That the balance of the principal and accrued interest on any loans against such warehouse receipts does not exceed 70 percent of the current market value of the commodity for which it represents cover.

(iii) (A) Purchases for future delivery on or subject to the rules of a contract market of the same generic commodity subject to the leverage contract, or of the same alternative commodities provided for in paragraph (a)(2)(ii) of this section; or (B) purchases of call commodity options for the same generic commodity subject to the leverage contract, or of the same alternative commodities provided for in paragraph (a)(2)(ii) of this section, on or subject to the rules of a contract market in accordance with the provisions of Part 33 of this chapter: *Provided,* That the market value of the actual commodity or futures contract which is the subject of such option is more than the value of the underlying commodity based on the strike price of the option.

(b) Such leverage transaction merchant must be in compliance with paragraph (a) of this section at all times and must be able to demonstrate such compliance to the satisfaction of the Commission and/or the designated self-regulatory organization. A leverage transaction merchant who is not in compliance with paragraph (a) of this section or is unable to demonstrate such compliance must immediately cease engaging in the business of offering to enter into, entering into, or confirming the execution of, any leverage contract until such time as the leverage transaction merchant is able to demonstrate such compliance. Nothing in this paragraph (b) shall be construed as preventing the Commission from taking action against a leverage transaction merchant for non-compliance with any of the provisions of this section.

(c) The amount of cover which is actually maintained by a leverage transaction merchant, and the amount of cover which must be maintained by a leverage transaction merchant in order to comply with the requirements of this section, shall be computed as of the close of each business day by the leverage transaction merchant. A written record of this computation shall be made and kept, together with all supporting data, in accordance with the provisions of § 1.31 of this chapter. This daily computation shall be made by noon on the next business day and shall be computed in a format identical to the Schedule of Coverage Requirements and Coverage Provided contained in Form 2–FR. In computing the amount of cover actually maintained, the leverage transaction merchant shall include only those warehouse receipts which are unencumbered or against which the balance of the principal and accrued interest on cash loans for which such receipts serve as collateral does not exceed 70 percent of the current market value of the commodities underlying such receipts.

(d) A leverage transaction merchant who uses as collateral for cash loans warehouse receipts held as cover for leverage contracts shall maintain a separate record for such loans which contains the following information:

(1) The date on which the loan was made;

(2) The name of the commercial bank or futures commission merchant making such loan;

(3) The purpose for which the loan was made;

(4) The amount of the loan;

(5) The interest rate on the loan;

(6) The loan's maturity date;

(7) The date of any partial or complete liquidation of the loan; and

(8) A description of the warehouse receipt collateralizing such loan including the receipt number, the issuer's name, and the total quantity of the commodity covered by the warehouse receipt. Such loans shall be evidenced in a written agreement executed by the leverage transaction merchant and the lender. The leverage transaction merchant shall retain such agreement and any related notes in accordance with the requirements of § 31.14 of this part.

(e) The requirements of paragraphs (a) through (d) of this section shall not be applicable if the leverage transaction merchant is a member of a designated self-regulatory organization and conforms to minimum cover standards and related reporting requirements set by such designated self-regulatory organization in its bylaws, rules, regulations or resolutions approved by the Commission pursuant to Section 19 of the Act and these regulations.

§ 31.9 Minimum financial requirements.

(a) Each leverage transaction merchant must at all times maintain adjusted net capital equal to or in excess of $2,500,000 plus 20 percent of the market value of the amount of physical commodities subject to leverage contracts entered into by the leverage transaction merchant which are uncovered.

(1) For purposes of determining compliance with the provisions of paragraph (a) of this section, each leverage transaction merchant must compute the market value of the physical commodities subject to leverage contracts which it has entered into by using the widely accepted and broadly disseminated commercial or retail cash price series submitted with the leverage transaction merchant's application for registration of the leverage commodity in accordance with § 31.6, and cannot include any mark-ups or discounts of the leverage transaction merchant.

(2) The requirements of paragraph (a) of this section shall not be applicable if

the applicant or registrant is a member of a designated self-regulatory organization and conforms to minimum financial standards and related reporting requirements set by such designated self-regulatory organization in its bylaws, rules, regulations or resolutions approved by the Commission pursuant to Section 19 of the Act and these regulations.

(3) No person applying for registration as a leverage transaction merchant shall be so registered unless such person affirmatively demonstrates to the satisfaction of the Commission that it complies with the financial requirements of this section. Each leverage transaction merchant must be in compliance with this section at all times and must be able to demonstrate such compliance to the satisfaction of the Commission and/or the designated self-regulatory organization.

(4) A leverage transaction merchant who is not in compliance with this section or is unable to demonstrate such compliance as required by paragraph (a)(3) of this section must immediately cease engaging in the business of offering to enter into, entering into, or confirming the execution of, any leverage contract until such time as the leverage transaction merchant is able to demonstrate such compliance. Nothing is this paragraph shall be construed as preventing the Commission from taking action against a leverage transaction merchant for non-compliance with any of the provisions of this section. Any leverage transaction merchant required immediately to cease doing business under this paragraph shall remain liable on all leverage contracts previously entered into until all rights of and obligations owing to the customers thereunder have been fulfilled.

(b) For the purposes of this section:

(1) Where the applicant or registrant has an asset or liability which is defined in Securities Exchange Act rule 15c3–1 (§ 240.15c3–1 of this title), the inclusion or exclusion of all or part of such asset or liability for the computation of adjusted net capital shall be in accordance with § 240.15c3–1 of this title, unless specifically stated otherwise in this § 31.9;

(2) The term "Proprietary account" means a commodity futures, option or leverage account carried on the books of the applicant or registrant for the applicant or registrant itself, or for general partners of the applicant or registrant;

(3) The term "Business day" means any day other than a Saturday, Sunday or legal holiday;

(4) The term "net capital" has the same meaning as in § 1.17 of this chapter: *Provided, however,* That the term "leverage transaction merchant" shall be substituted for the term "futures commission merchant" in § 1.17 of this chapter. In determining net capital, the provisions set forth in § 1.17(c)(1) of this chapter shall apply;

(5) The term "current assets" has the same meaning as in § 1.17(c)(2) of this chapter: *Provided,* That the provisions of § 1.17(c)(2)(i) of this chapter shall apply to leverage contract accounts as well as commodity futures and option accounts;

(6) The provisions set forth in § 1.17(c)(3) of this chapter shall apply;

(7) The term "liabilities" has the same meaning as in § 1.17(c)(4) of this chapter;

(8) In computing adjusted net capital, the safety factors set forth in § 1.17(c)(5) of this chapter shall apply: *Provided, however,* That the safety factors set forth in § 1.17(c)(5)(ii) (B) and (C) of this chapter shall not apply to inventory, to the extent such inventory represents cover for leverage contracts entered into by a leverage transaction merchant; *And, provided further,* That the safety factors set forth in § 1.17(c)(5) (x) and (xii) of this chapter shall not apply to any futures contracts or commodity options traded on contract markets held in proprietary accounts which represent cover for leverage contracts entered into by a leverage transaction merchant;

(9) The safety factors set forth in § 1.17(c)(5)(viii) for undermargined commodity futures and commodity option customer accounts shall apply in a like manner to undermargined leverage customer accounts, and the term "leverage transaction merchant" shall be substituted for the terms "applicable boards of trade" or "clearing organization"; and

(10) The provisions set forth in § 1.17 (d), (e), (f), (h) and (j) of this chapter shall apply.

(c) No person shall be registered as a leverage transaction merchant unless, commencing on the date the person applies for such registration, the person prepares, and keeps current, ledgers or other similar records which show or summarize, with appropriate references to supporting documents, each transaction affecting his asset, liability, income, expense and capital accounts, and in which (except as otherwise permitted in writing by the Commission) all his asset, liability and capital accounts are classified into either the account classification subdivisions specified on Form 2–FR or categories that are in accord with generally accepted accounting principles. Each person so registered shall prepare and keep current such records.

(d) Each registered leverage transaction merchant, and each person who has applied for registration as a leverage transaction merchant, must make and keep as a record in accordance with § 31.13 formal computations of its adjusted net capital and of its minimum financial requirements pursuant to this section as of the close of business each month. Such computations must be completed and made available for inspection by any representative of the Commission, the designated self-regulatory organization, if any, or the United States Department of Justice within 30 days after the date for which the computations are made, commencing the first month-end after the date the application for registration is filed.

§ 31.10 Repurchase of leverage contracts by leverage transaction merchants.

No leverage transaction merchant shall offer to enter into or enter into a leverage contract involving a leverage commodity with any leverage customer at any time when such leverage transaction merchant is not offering to repurchase from any of its leverage customers any leverage contract involving the same leverage commodity previously entered into by the leverage transaction merchant with a leverage customer.

§ 31.11 Disclosure.

(a) Except as provided in paragraph (i) of this section, prior to the opening of a leverage customer account, a leverage transaction merchant soliciting an order for any leverage contract shall furnish to the prospective leverage customer a dated Disclosure Document and receive from such prospective leverage customer a signed and dated copy of the risk disclosure statement contained in such document which acknowledges that the customer received and understood the Disclosure Document. The Disclosure Document shall contain then current information with respect to the leverage contract being offered by the person soliciting the order therefor, and shall contain:

(1) The following bold-faced risk disclosure statement in at least ten-point type on the first page of the Disclosure Document:

BECAUSE OF THE UNPREDICTABLE NATURE OF THE PRICES OF PRECIOUS AND OTHER METALS AND FOREIGN CURRENCIES, THE PURCHASE OF LEVERAGE CONTRACTS INVOLVES A HIGH DEGREE OF RISK AND IS NOT SUITABLE FOR MANY MEMBERS OF THE PUBLIC. THE LEVERAGE CUSTOMER SHOULD BE AWARE THAT THE VALUE OF THE LEVERAGE CONTRACT MUST

EXCEED THE BREAK-EVEN PRICE BEFORE IT IS POSSIBLE TO REALIZE A PROFIT ON THE CONTRACT. AN ILLUSTRATIVE BREAK-EVEN CALCULATION IS ATTACHED TO THIS DOCUMENT. YOU ARE ENTITLED TO RECEIVE A CALCULATION OF THE BREAK-EVEN PRICE FOR YOUR PARTICULAR TRANSACTION WITH YOUR CONFIRMATION.

YOU SHOULD ALSO UNDERSTAND THAT THE CHARGES FOR SIMILAR LEVERAGE CONTRACTS MAY VARY AMONG LEVERAGE FIRMS, AND THAT SUCH FIRMS HAVE COMPLETE DISCRETION IN SETTING THEIR CHARGES AND THE PRICE OF THE LEVERAGE CONTRACTS THEY OFFER. PRIOR TO ENTERING INTO ANY LEVERAGE CONTRACT A PROSPECTIVE LEVERAGE CUSTOMER SHOULD COMPARE THE CHARGES AND PRICES OF SUCH FIRMS WITH EACH OTHER AND WITH THE COMMISSIONS FOR AND PRICES OF FUTURES CONTRACTS TRADED ON DESIGNATED EXCHANGES.

YOU SHOULD ALSO BE AWARE THAT YOU ARE SUBJECT TO MARGIN CALLS. THE LEVERAGE FIRM RESERVES THE RIGHT TO LIQUIDATE YOUR POSITION IF YOU DO NOT RESPOND TO A MARGIN CALL WITHIN THE TIME SPECIFIED IN YOUR LEVERAGE AGREEMENT. IN ANY EVENT, IF THE EQUITY IN YOUR CONTRACT AT ANY TIME FALLS BELOW 50% OF THE MINIMUM MARGIN, YOUR CONTRACT MAY BE LIQUIDATED WITHOUT PRIOR NOTICE. YOU MUST, HOWEVER, BE NOTIFIED OF LIQUIDATION WITHIN NO MORE THAN 24 HOURS THEREAFTER AND PERMITTED TO RE-ESTABLISH YOUR CONTRACT FOR A PERIOD OF 5 BUSINESS DAYS AT THE THEN PREVAILING BID PRICE WITHOUT COMMISSIONS, FEES OR OTHER MARK-UPS OR CHARGES UNDER RULES SET BY THE COMMODITY FUTURES TRADING COMMISSION, AS MORE COMPLETELY DESCRIBED IN THIS DISCLOSURE DOCUMENT. IN CASE OF LIQUIDATION, ALL OF YOUR FUNDS MAY BE USED TO SETTLE THE DEFICIT IN THE ACCOUNT, AND YOU MAY BE LIABLE FOR ADDITIONAL FUNDS TO SETTLE THE FULL LOSSES IN THE ACCOUNT.

IF YOU ARE A FIRST-TIME LEVERAGE CUSTOMER, YOU MAY RESCIND YOUR FIRST LEVERAGE CONTRACT PURCHASE SUBJECT ONLY TO ACTUAL PRICE LOSSES BUT OTHERWISE WITHOUT PENALTY FOR THREE BUSINESS DAYS FOLLOWING AND INCLUDING THE DAY OF RECEIPT OF THE CONFIRMATION.

YOU SHOULD BE AWARE THAT IN ORDER TO REALIZE ANY VALUE FROM THE CONTRACT, THE LEVERAGE TRANSACTION MERCHANT WHICH SOLD YOU THE LEVERAGE CONTRACT MUST REPURCHASE IT, OR YOU MUST PAY THE LEVERAGE TRANSACTION MERCHANT THE FULL PURCHASE PRICE FOR THE LEVERAGE CONTRACT, TAKE DELIVERY OF THE LEVERAGE COMMODITY, AND THEN RESELL THE LEVERAGE COMMODITY, POSSIBLY AT A LOWER PRICE THAN THE PRICE PAID TO PURCHASE THE LEVERAGE COMMODITY FROM THE LEVERAGE TRANSACTION MERCHANT. THERE IS NO MARKET FOR THE LEVERAGE CONTRACT ITSELF OTHER THAN TO RESELL IT TO THE LEVERAGE TRANSACTION MERCHANT FROM WHICH IT WAS PURCHASED. A LEVERAGE TRANSACTION MERCHANT IS UNDER NO OBLIGATION TO OFFER TO REPURCHASE A LEVERAGE CONTRACT AT ALL TIMES, ALTHOUGH THE LEVERAGE TRANSACTION MERCHANT MUST OFFER TO REPURCHASE ANY PREVIOUSLY-SOLD LEVERAGE CONTRACT AT ANY TIME DURING WHICH IT IS OFFERING TO SELL ANY LEVERAGE CONTRACTS ON THE SAME LEVERAGE COMMODITY. AS NOTED ABOVE, HOWEVER, A LEVERAGE TRANSACTION MERCHANT HAS COMPLETE DISCRETION IN SETTING THE PRICE AND ANY CHARGES RELATED THERETO.

THE COMMODITY FUTURES TRADING COMMISSION HAS NOT PASSED UPON THE MERIT OF THESE LEVERAGE CONTRACTS AS AN INVESTMENT VEHICLE NOR UPON THE ACCURACY OR ADEQUACY OF THIS DISCLOSURE DOCUMENT. ANY REPRESENTATION TO THE CONTRARY IS A VIOLATION OF THE COMMODITY EXCHANGE ACT AND THE REGULATIONS THEREUNDER.

(2) Immediately following the statement required by paragraph (a)(1) of this section, a section, captioned "Provisions of Leverage Contract" in at least ten point type, containing the terms and conditions of the leverage contract being offered. This information must be provided in the order specified in paragraphs (a)(2) (i) through (xi) of this section, with a clear demarcation or separation between each item according to the paragraph of the section to which it corresponds, and include:

(i) The duration or expiration date of the leverage contract;

(ii) The distinguishing characteristics of the contract and of the leverage commodity, including in particular, those characteristics of the leverage commodity enumerated in § 31.4(g)(1)(i)–(iii), (2) and (3) (i) and (ii);

(iii) A description of the following charges for each leverage contract:

(A) Initial charges;

(B) Carrying charges;

(C) Termination charges;

(iv) A description of the bid and ask prices of each leverage contract;

(v) An explanation of the margins applicable to each leverage contract, including, as required, initial leverage margins, minimum leverage margins and maintenance margins;

(vi) A description of the leverage customer's responsibilities with respect to margin calls, including the timing of such calls and, if applicable, the circumstances under which, time after which, and the order in which the leverage transaction merchant may, consistent with § 31.18 of this part liquidate a customer's position in the leverage contract;

(vii) A description of the manner in which a leverage customer may seek to have a leverage contract repurchased by the leverage transaction merchant, including an explanation of the procedure to be followed by the leverage transaction merchant to effect such repurchase and the manner in which the repurchase price is determined;

(viii) A statement to the effect that other persons may be unwilling to buy the leverage commodity that is deliverable on the leverage contract or, in the case of metal or coins, may be unwilling to buy such metal or coins without first requiring an inspection or assay, at the expense of the leverage customer;

(ix) A clear explanation of any *force majeure* clauses pertaining to each leverage contract;

(x) A description of any material risks not included in the statements required by paragraph (a)(1) of this section; and

(xi) An identification of the commercial or retail cash price series filed in accordance with § 31.6, along with clearly specified premiums and discounts, if applicable, which the leverage customer can use to evaluate an offered or purchased leverage contract and a widely available source from which such price quotes may be obtained on a timely basis.

(3) An illustrative example of a leverage transaction which includes a calculation of the break-even price in the format specified by the Commission.

(4)(i) The name, address of the main business office, main business telephone number and form of organization of the leverage transaction merchant. If the address of the main business office is a post office box number, the leverage transaction merchant must state where its books and records will be kept;

(ii) The name of each principal of the leverage transaction merchant;

(iii) The business background, for the five years preceding the date of the statement, of:

(A) The leverage transaction merchant; and

(B) Each principal of the leverage transaction merchant.

The leverage transaction merchant must include in the description of the business background of each such person the name and main business of that person's employers, business associations or business ventures and the nature of the person's duties performed for the employers or in

connection with the associations or ventures.

(5)(i) A Statement whether any principal of the leverage transaction merchant has purchased or intends to purchase leverage contracts for his own account and if so, whether leverage customers will be permitted to inspect the records of that person's trades; and

(ii) If principals of the leverage transaction merchant will not purchase or do not intend to purchase leverage contracts for their own account, the leverage transaction merchant must so state with respect to each principal.

(6)(i) Any material administrative or civil action involving any activity or conduct, or related to any statute, set forth in Sections 8a(2) or 8a(3) of the Act, or any material criminal action brought within the five years preceding the date of the document against the leverage transaction merchant or any principal of the leverage transaction merchant; and

(ii) If there has been no such action against any of the foregoing persons, the leverage transaction merchant must make a statement to that effect with respect to each such person.

(b)(1) If the leverage transaction merchant knows or should know that the Disclosure Document is materially inaccurate or incomplete in any respect, it must correct that defect and must distribute the correction to:

(i) All existing leverage customers within 30 calendar days after the date upon which the leverage transaction merchant first knows or has reason to know of the defect; and

(ii) Each prospective leverage customer prior to opening an account for such person.

The leverage transaction merchant may furnish the correction by means of an amended document, a sticker on the document, a notice in a monthly statement or by other similar means.

(2) The leverage transaction merchant may not use the document until such correction is made.

(c) The leverage transaction merchant must date each document and amendment thereto as of the date it is first used.

(d) Subject to the provisions of paragraph (b) of this section, all information contained in the document must be current as of the date of the document.

(e)(1) Subject to § 31.6(c), the leverage transaction merchant must file with the Commission three copies of the document for each leverage contract that it offers or that it intends to offer not less than 21 calendar days prior to the date the leverage transaction merchant first intends to furnish the document to a prospective leverage customer. The leverage transaction merchant must specify with the filing the date it first intends to deliver the document to a prospective leverage customer;

(2) Subject to § 31.6(c) and paragraph (h) of this section, the leverage transaction merchant must file with the Commission there copies of all subsequent amendments to the documents for each leverage contract that it offers or that it intends to offer within 30 calendar days after the date upon which the leverage transaction merchant first knows or has reason to know of the defect requiring the amendment.

(f) This section does not relieve a leverage transaction merchant from any obligation under the Act or the regulations thereunder, including the obligation to disclose all material information to existing or prospective leverage customers even if the information is not specifically required by this section.

(g) If any contract term set forth in accordance with paragraph (a)(2) of this section provides that such term is subject to change, the leverage transaction merchant must ensure that this fact, the conditions under which the change may take place, and the foreseeable consequences of the change are clearly stated in the Disclosure Document, in describing that contract term.

(h) A leverage transaction merchant must transmit a notification to each leverage customer within 24 hours of making any change not otherwise permitted under the contract terms set forth in accordance with paragraph (a)(2) of this section: *Provided, however,* that notification of any change in the interest rates charged by the leverage transaction merchant must also be transmitted to each leverage customer within twenty-four hours of each change. Such notification must be transmitted by first class mail or other, at least equivalent, means of communication.

(i) A person soliciting or accepting an order for a leverage contract is not required to deliver a Disclosure Document leverage to a leverage customer, as required by paragraph (a) of this section, if a disclosure document meeting all of the requirements of this section previously has been delivered by the person to the leverage customer: *Provided, however,* That such a Disclosure Document must be delivered:

(1) Upon the request of a leverage customer, or

(2) If the previously delivered Disclosure Document has become outdated or has become inaccurate in any material respect.

(j) Prior to the entry into a leverage contract, the person soliciting the order therefor shall inform the leverage customer or the prospective leverage customer, to the extent these amounts are known or can reasonably be approximated, of all charges for the initiation, carrying and termination of a leverage contract and the leverage transaction merchant's bid-ask spread on the leverage contract as set forth in paragraph (a)(2)(iii) and (a)(2)(iv), respectively, of this section and the margins applicable to such contracts as set forth in paragraph (a)(2)(v) and (a)(2)(vi) of this section.

(k)(1) Within 24 hours after the entry into a leverage contract, each leverage transaction merchant shall furnish to each first-time leverage customer, by first-class mail or other, at least equivalent, means of communication, a written confirmation statement in a format specified by the Commission containing: (1) The following bold-faced statement in at least ten point type:

IF YOU ARE A FIRST-TIME LEVERAGE CUSTOMER, YOU MAY RESCIND YOUR FIRST LEVERAGE CONTRACT PURCHASE, SUBJECT ONLY TO ACTUAL PRICE LOSSES BUT OTHERWISE WITHOUT PENALTY FOR THREE BUSINESS DAYS FOLLOWING AND INCLUDING RECEIPT OF THIS CONFIRMATION. ACTUAL LOSSES ARE CALCULATED BY SUBTRACTING THE ASK PRICE OF THE LEVERAGE CONTRACT AT THE TIME OF THE CUSTOMER'S RESCISSION FROM THE ASK PRICE AT WHICH THE LEVERAGE CONTRACT WAS PURCHASED AND WHICH APPEARS ON THIS CONFIRMATION. TO RESCIND THIS CONTRACT SEND A TELEGRAM TO (NAME AND ADDRESS OF LTM) OR YOU MAY TELEPHONE (NAME OF LTM) AT (TELEPHONE NUMBER). IF YOU RESCIND BY TELEPHONE, YOU MUST ALSO SEND IMMEDIATE WRITTEN AFFIRMATION BY TELEGRAM, CERTIFIED LETTER OR BY AT LEAST EQUIVALENT MEANS TO THE ADDRESS PROVIDED ABOVE.

(2) The following information:

(i) The date the leverage contract was entered into;

(ii) The transaction identification number;

(iii) The name of the leverage commodity;

(iv) The expiration date of the leverage contract;

(v) The price at which the leverage commodity was purchased;

(vi) The number of contracts covered by the confirmation statement;

(vii) The total cost of the leverage contracts covered in the confirmation statement, which equals the leverage

transaction merchant's ask price in dollars per contract multiplied by the number of contracts;

(viii) The initial charges, in dollars per contract, incurred by the leverage customer at the time the contract is entered into;

(ix) The carrying charges, in dollars per contract, cumulated for one year, based on the charges prevailing at the time the contract is entered into;

(x) The termination charges, in dollars per contract, incurred if the leverage contract is repurchased or liquidated by the leverage transaction merchant or settled by delivery, based on the charges prevailing at the time the contract is entered into;

(xi) The bid-ask spread prevailing at the close of business on the day the contract is entered into;

(xii) Based upon all of the foregoing, a calculation of the break-even price of the leverage contract and percentage price change to break even.

(xiii) The initial leverage margin, in dollars per contract, based on the rates or levels prevailing at the time the contract is entered into;

(xiv) The minimum leverage margin, in dollars per contract, based on the rates or levels prevailing at the time the contract is entered into;

(xv) The maintenance leverage margin, in dollars per contract, based on the rates or levels prevailing at the time the contract is entered into;

(xvi) The commercial or retail cash price series filed in accordance with § 31.6 available to the leverage customer to evaluate the leverage contract (including any applicable premiums or discounts), and where quotes of this series can be obtained on a timely basis, and

(1) Each leverage transaction merchant shall furnish, upon request, by first-class mail or other generally accepted means of communication, to all leverage customers with open leverage contracts and to prospective leverage customers who are being solicited to enter leverage contracts with it, a true copy of portions of the quarterly unaudited or annual audited financial statement most recently filed with the Commission pursuant to § 31.13, except that the portions of those statements which will generally be accorded non-public treatment by the Commission need not be so furnished.

§ 31.12 Segregation.

(a) Any person that accepts leverage customer funds from a leverage customer to enter into or maintain a leverage contract shall treat and deal with such leverage customer funds as belonging to that leverage customer. Such leverage customer funds: (1) Shall be separately accounted for and segregated as belonging to the leverage customer, (2) shall be kept in the United States, (3) shall not be commingled with the funds of any other person, and (4) shall not be used to secure or extend the credit of any leverage customer or person other than the one for whom the leverage customer funds are held: *Provided, however,* That the leverage customer funds treated as belonging to a leverage customer may for convenience be commingled with other leverage customer funds and deposited in the same account or accounts with a futures commission merchant or with a bank or trust company located in the United States under conditions set forth in paragraph (b) of this section. Any leverage customer funds when so deposited with a futures commission merchant, bank or trust company, shall be deposited under an account name which clearly indicates that the account contains leverage customer funds that are segregated as required by this section. Each person so depositing any leverage customer funds shall obtain and retain in its files for the period provided in § 1.31 of this chapter an acknowledgment from the futures commission merchant, bank or trust company wherein the leverage customer funds have been deposited that the futures commission merchant, bank or trust company has been informed that the leverage customer funds deposited with it are being treated by the depositing person as belonging to leverage customers and are being held in accordance with the provisions of this section. The futures commission merchant, bank or trust company shall allow inspection of such segregated accounts, including all documents pertaining thereto, at any reasonable time by any representative of the Commission or designated self-regulatory organization, if any. Notwithstanding the foregoing, a leverage transaction merchant may exclude from its segregation requirements commissions and other charges lawfully accruing in connection with leverage contracts provided such charges have actually been made to leverage customers' accounts and are shown on the customers' statements.

(b) No leverage customer funds deposited in accordance with paragraph (a) of this section shall be held, disposed of, used or treated as belonging to the depositing person or any person other than the leverage customers from whom the leverage customer funds were received: *Provided, however,* That leverage customer funds may be used to purchase obligations of the United States, general obligations of any state or of any political subdivision thereof, obligations fully guaranteed as to principal and interest by the United States, or unencumbered warehouse receipts for inventory held in approved contract market depositories or in commercial banks located in the United States which represent cover for leverage contracts purchased by such leverage customers, or may be deposited in a commodity account with a futures commission merchant to margin futures contracts or to purchase commodity options traded on or subject to the rules of a contract market which are permissible cover as described in § 31.8(a)(2) for leverage contracts purchased by such leverage customers. Any use of leverage customer funds as described in this paragraph (b) shall be made through an account or accounts used for the deposit of leverage customer funds, and proceeds from any sale, liquidation or other disposition of obligations or warehouse receipts obtained by such use shall be redeposited in these accounts. Each person that uses leverage customer funds to purchase obligations or warehouse receipts of the type described in this paragraph (b) shall separately account for and segregate the obligations or warehouse receipts as belonging to leverage customers. The obligations or warehouse receipts shall be deposited with a futures commission merchant, bank or trust company in the United States and shall be deposited under an account name which clearly indicates that it contains obligations or warehouse receipts treated as belonging to leverage customers, segregated as required by this section. Each person so depositing any obligations or warehouse receipts shall obtain and retain in its files for the period provided in § 1.31 of this chapter an acknowledgment from the futures commission merchant, bank or trust company wherein the obligations or warehouse receipts have been deposited that the futures commission merchant, bank or trust company has been informed that the obligations or warehouse receipts are being treated by the depositing person as belonging to leverage customers and are being held in accordance with the provisions of this section. The futures commission merchant, bank or trust company shall allow inspection of such obligations or warehouse receipts at any reasonable time by any representative of the Commission or designated self-regulatory organization, if any. Each person that uses leverage customer funds to margin futures contracts or to purchase commodity options traded on

or subject to the rules of a contract market which represent permissible cover for leverage contracts purchased by such leverage customers shall use a commodity account separate from any other commodity account containing futures contracts which do not represent cover. The leverage customer funds deposited in a commodity account with a futures commission merchant to margin futures contracts or to purchase commodity options traded on or subject to the rules of a contract market which represent permissible cover for leverage contracts purchased by such leverage customers shall be deposited under an account name which clearly indicates that it contains obligations treated as belonging to leverage customers, segregated as required by this section. Each person so depositing any leverage customer funds shall obtain and retain in its files for the period provided in § 1.31 of this chapter an acknowledgment from the futures commission merchant wherein the leverage customer funds have been deposited that: (1) The futures commission merchant has been informed that the commodity account is being treated by the depositing person as belonging to the leverage customers and is being held in accordance with the provisions of this section, (2) the customers on whose behalf the account is maintained by the leverage transaction merchant shall not be liable for any margin calls or other required deposits related to such account, and (3) upon liquidation of the open contracts in the account the futures commission merchant's claim in the account balance will be subordinate to that of leverage customers.

(c) Each person that uses leverage customer funds to purchase obligations or unencumbered warehouse receipts as permitted by paragraph (b) of this section shall keep a written record which includes the following:

(1) The date on which the purchase was made;

(2) The name of the person through which the purchase was made;

(3) The amount of funds so used;

(4) A description of such obligations or warehouse receipts, including the receipt number and the issuer's name;

(5) The identity of the futures commission merchant, bank or trust company wherein the obligations or warehouse receipts are segregated;

(6) The date on which the obligation, warehouse receipt, or portion thereof, is liquidated or otherwise disposed of;

(7) The amount of money, if any, received upon such liquidation or disposition; and

(8) The name of the person to or through which the obligation or warehouse receipt was disposed.

(d) Persons that use leverage customer funds to purchase obligations or unencumbered warehouse receipts described in paragraph (b) of this section shall include such obligations or unencumbered warehouse receipts in segregated accounts at values which do not exceed the lesser of current market value or a value calculated on the basis of a commercial or retail cash price series used to compute the market value of the physical commodities subject to leverage contracts in accordance with § 31.9(a)(1).

(e) The provisions of paragraphs (a) and (b) of this section shall not operate to prevent any person that uses leverage customer funds to purchase government obligations as described therein from receiving and retaining as its own any increment or interest resulting from such government obligations.

(f) The amount of leverage customer funds which are and which must be in a segregated account in order to comply with the requirements of this section shall be computed as of the close of each business day by each person required to segregate such leverage customer funds. A written record of this computation shall be made and kept, together with all supporting data, in accordance with the provsions of § 1.31 of this chapter. This daily computation shall be made by noon on the next business day and shall be identical in format to the Schedule of Segregation Requirements and Funds in Segregation contained in Form 2–FR.

(g) Each leverage transaction merchant shall maintain, as provided in § 1.31, a record of all securities and property received from leverage customers in lieu of money to purchase, guarantee or secure the entry into a leverage contract. Such record shall show separately for each leverage customer a description of the securities or property received; the name and address of such leverage customer; the dates when the securities or property were received; the identity of the depositories or other places where such securities or property are segregated; the dates of deposits and withdrawals from such depositories; and the date of return of such securities or property to such leverage customer, or other disposition thereof, together with the facts and circumstances of such other disposition.

§ 31.13 Financial reports of leverage transaction merchants.

(a) Each leverage transaction merchant who files an application for registration with the Commission under § 3.17 of this chapter shall submit concurrently with the filing of such application either:

(1) A Form 2–FR certified by an independent public accountant as of a date not more than 45 days prior to the date on which such report is filed; or

(2) A Form 2–FR as of a date not more than 45 days prior to the date on which such report is filed and an Form 2–FR certified by an independent public accountant as of a date not more than 1 year prior to the date on which such report is filed. Each such person must include with such financial report a statement describing the source of his current assets and representing that his capital has been contributed for the purpose of operating his business and will continue to be used for such purpose.

(b)(1) Each leverage transaction merchant must file, in accordance with the requirements of paragraph (e) of this section, a Form 2–FR for each fiscal quarter of each fiscal year. The Form 2–FR filed as of the close of the leverage transaction merchant's fiscal year must be certified by an independent public accountant. Each Form 2–FR must be filed no later than 45 days after the date for which the report is made: *Provided, however,* That any Form 2–FR which must be certified by an independent public accountant must be filed no later than 90 days after the close of the leverage transaction merchant's fiscal year.

(2) The provisions of paragraph (b)(1) of this section may be met by any person registered as a leverage transaction merchant who is a member of a designated self-regulatory organization and conforms to minimum financial standards and related reporting requirements set by such designated self-regulatory organization in its bylaws, rules, regulations, or resolutions and approved after the effective date of these regulations by the Commission pursuant to Section 19 of the Act and these regulations; *Provided, however,* That each such registrant shall promptly file with the Commission a true and exact copy of each financial report which it files with such designated self-regulatory organization.

(c) Each Form 2–FR which must be certified by an independent public accountant in accordance with the provisions of paragraphs (a)(1), (a)(2) and (b)(1) of this section, must be certified in accordance with § 1.16 of this chapter, and must be accompanied by the accountant's report on material inadequacies in accordance with the provisions of § 1.16(c)(5) of this chapter. In all other respects, the independent

public accountant shall act in accordance with the provisions of § 1.16 (except paragraph (f)): *Provided, however,* That the term "Form 2–FR" shall be substituted for "Form 1–FR" in § 1.16(c)(5), the term "31.9" shall be substituted for the term "§ 1.17," the term "leverage transaction merchant" shall be substituted for the term "futures commission merchant," and "the segregation requirements of § 31.12" shall be substituted for the "segregation requirements of Section 4d(2) of the Act and these regulations."

(d) Upon receiving written notice from any representative of the Commission or any self-regulatory organization of which it is a member, a leverage transaction merchant shall, on a monthly basis or at such other times as specified, furnish the Commission and the self-regulatory organization, if any, with a Form 2–FR or such other financial information as requested by the representative of the Commission or the self-regulatory organization. Each such Form 2–FR or such other information must be furnished within the time specified in the written notice.

(e) The reports provided for in this section will be considered filed when received by the regional office of the Commission with jurisdiction over the state wherein the principal place of business of the leverage transaction merchant is located, in accordance with § 140.2 of this chapter, and by the designated self-regulatory organization, if any: *Provided, however,* That firms under the jurisdiction of the Commission's Western Regional Office shall file their reports with the Southwestern Regional Office.

(f) Each Form 2–FR filed pursuant to this section which is not required to be certified by an independent public accountant must be completed in accordance with the instructions to the form and contain:

(1) A statement of financial condition as of the date for which the report is made;

(2) A statement of changes in ownership equity for the period between the date of the most recent statement of financial condition filed with the Commission and the date for which the report is made;

(3) A statement of the computation of the minimum capital requirements pursuant to § 31.9, a schedule of coverage requirements and coverage provided, and a schedule of segregation requirements and funds on deposit in segregation, as of the date for which the report is made; and

(4) In addition to the information expressly required, such further information as may be necessary to make the required statements and schedules not misleading.

(g) Each Form 2–FR filed pursuant to this § 31.13 which is required to be certified by an independent public accountant must be completed in accordance with the instructions to the form and contain:

(1) A statement of financial condition as of the date for which the report is made;

(2) Statements of: income (loss); changes in financial position; changes in ownership equity; and changes in liabilities subordinated to claims of general creditors, for the period between the date of the most recent statement of financial condition filed with the Commission and the date for which the report is made: *Provided, however,* That for an applicant filing pursuant to paragraph (a) of this section, the period must be the year ending as of the date of the statement of financial condition;

(3) A statement of the computation of the minimum capital requirements pursuant to § 31.9, a schedule of coverage requirements and coverage provided, and a schedule of segregation requirements and funds on deposit in segregation, as of the date for which the report is made;

(4) Appropriate footnote disclosures; and

(5) In addition to the information expressly required, such further information as may be necessary to make the required statements and schedules not misleading.

(h) The statements required by paragraphs (g) (1) and (2) of this section may be presented in accordance with generally accepted accounting principles in the certified reports filed as of the close of the registrant's fiscal year pursuant to paragraph (b) of this section, or accompanying the application for registration pursuant to paragraph (a) of this section, rather than in the format specifically prescribed by these regulations: *Provided, however,* That the statement of financial condition is presented in a format as consistent as possible with the Form 2–FR and a reconciliation is provided reconciling such statement of financial condition to the statement of the computation of the minimum capital requirements pursuant to § 31.9. Such reconciliation must be certified by an independent public accountant in accordance with § 1.16 of this chapter.

(i) Attached to each Form 2–FR filed pursuant to this section must be an oath or affirmation that to the best knowledge and belief of the individual making such oath or affirmation the information contained in the Form 2–FR is true and correct. If the leverage transaction merchant is a sole proprietorship, then the oath or affirmation must be made by the proprietor; if a partnership, by a general partner; or, if a corporation, by the chief executive officer or chief financial officer.

(j) Any leverage transaction merchant wishing to establish a fiscal year other than the calendar year may do so by notifying the Commission of its election of such fiscal year in writing, concurrently with the filing of Form 2–FR pursuant to paragraph (a) of this section or within 90 days of the effective date of this section, but in no event may such fiscal year end more than one year from the date of the Form 2–FR filed pursuant to paragraph (a) of this section or more than one year from the effective date of this regulation. A leverage transaction merchant which does not so notify the Commission will be deemed to have elected the calendar year as its fiscal year. A leverage transaction merchant must continue to use its elected fiscal year, calendar or otherwise, unless a change in such fiscal year is approved upon written application to the principal office of the Commission in Washington, D.C.

(k) In the event any leverage transaction merchant finds that it cannot file its report for any period within the time specified in paragraphs (b) or (d) of this section without substantial undue hardship, it may file with the principal office of the Commission in Washington, D.C., to the attention of the Chief Accountant, Division of Trading and Markets, an application for an extension of time to a specified date which may not be more than 90 days after the date as of which the financial report was to have been filed. The application must state the reasons for the requested extension and must contain an agreement to file the report on or before the specified date. The application must be received by the Commission before the time specified in paragraphs (b) or (d) of this section for filing the report. Within 10 calendar days after receipt of the application for an extension of time, the Commission shall: (1) Notify the leverage transaction merchant of the grant or denial of the requested extension; or (2) indicate that additional time is required to analyze the request, in which case the amount of time needed will be specified.

(l)(1) In the event a leverage transaction merchant finds that it cannot file its certified financial report and schedules for any year within the time specified in paragraph (b) of this section without substantial undue hardship, it may file with the principal

office of the Commission in Washington, D.C., to the attention of the Chief Accountant, Division of Trading and Markets, an application for an extension of time to a specified date not more than 90 days after the dates as of which the certified financial report and schedules were to have been filed. The application must be submitted by the leverage transaction merchant and must: (i) State the reasons for the requested extension; (ii) indicate that the inability to make a timely filing is due to circumstances beyond the control of the leverage transaction merchant, if such is the case, and describe briefly the nature of such circumstances; (iii) be accompanied by the latest available formal computation of its adjusted net capital and minimum financial requirements computed in accordance with § 31.9; (iv) be accompanied by the latest available computation of required segregation and by a computation of the amount of leverage customer funds segregated pursuant to § 31.12 as of the date of the latest available computation; (v) be accompanied by the latest available computation of required cover and by a computation of cover provided pursuant to § 31.8 as of the date of the latest available computation; (vi) contain an agreement to file the report on or before the date specified by the leverage transaction merchant in the application; (vii) be received by the principal office of the Commission in Washington, D.C., prior to the date on which the report is due; and (viii) be accompanied by a letter from the independent public accountant answering the following questions:

(A) What specifically are the reasons for the extension request?

(B) On the basis of that part of your audit to date, do you have any indication that may cause you to consider commenting on any material inadequacies in the accounting system, internal accounting controls or procedures for safeguarding customer or firm assets?

(C) Do you have any indication from the part of your audit completed to date that would lead you to believe that the firm was or is not meeting the minimum capital requirements specified in § 31.9 or the cover or segregation requirements of these regulations, or has any significant financial or recordkeeping problems?

(2) Within 10 calendar days after receipt of an application for extension of time, the Commission shall: (i) Notify the leverage transaction merchant of the grant or denial of the requested extension; or (ii) indicate that additional time is required to analyze the request, in which case the amount of time needed will be specified.

(3) On the written request of a leverage transaction merchant, or on its own motion, the Commission may grant an extension of time or an exemption from any of the certified financial reporting requirements of this section either unconditionally or on specified terms and conditions.

(m) All of the Forms 2–FR filed pursuant to this section will be public: *Provided, however,* That if the statement of financial condition, the computation of the minimum capital requirements pursuant to § 31.9, the schedule of coverage requirements and cover provided, and the schedule of segregation requirements and funds on deposit in segregation are bound separately from the other financial statements (including the statement of income (loss)), footnote disclosures and schedules of Form 2–FR, trade secrets and certain other commercial or financial information on such other statements and schedules, then such other statements and schedules will be treated as nonpublic for purposes of the Freedom of Information Act and the Government in the Sunshine Act and Parts 145 and 147 of this chapter. All information on such other statements, footnote disclosures and schedules will, however, be available for official use by any official or employee of the United States or any State, and by any other person to whom the Commission believes disclosure of such information is in the public interest. The independent public accountant's opinion filed pursuant to this section will be deemed to be public information.

(n)(1) Until such time as the Commission orders, otherwise, the Commission hereby delegates to the Director of the Division of Trading and Markets or his designee the authority to perform all functions reserved to the Commission in this section.

The Director of the Division of Trading and Markets may submit to the Commission for its consideration any matter which has been delegated to him pursuant to paragraph (n)(1) of this section.

§ 31.14 Recordkeeping.

(a) All books, records and other documents required to be kept by this part shall be kept in accordance with the provisions of § 1.31 of this chapter. In addition, information concerning leverage transactions shall be made available upon request of the Executive Director, the Director of the Division of Trading and Markets, the Director of the Division of Economics and Education or the Director of the Division of Enforcement, or other designees, at a time and place and in such form and manner as may be specified in the call.

(b) Each leverage transaction merchant shall:

(1) Keep full, complete, and systematic records, together with all pertinent data and memoranda, of all transactions relating to leverage contracts, commodity futures, commodity options and cash commodities and furnish true and correct information and reports as to the contents or the meaning thereof when and as requested by any authorized representative of the Commission, designated self-regulatory organization, if any, or the United States Department of Justice. Included among such records shall be: all leverage contract orders; signature cards; journals; ledgers; canceled checks; bank statements; loan agreements; invoices; copies of confirmations; copies of statements of purchase, repurchase, liquidation and delivery; copies of month-end statements; monthly trial balances, and a monthly listing as described in paragraph (d) of this section; reports, letters and copies of disclosure statements signed by leverage customers as described in § 31.11; promotional material, circulars, memoranda, publications, writings, and all other literature or written advice distributed to leverage customers or prospective leverage customers; and all other records, data and memoranda which have been prepared in the course of the business of the leverage transaction merchant concerning leverage contracts, commodity futures, commodity options, and cash commodities;

(2) Keep a record in permanent form which shall show for each leverage customer's account carried by such leverage transaction merchant: (i) The true name and address of the person for whom such account is carried; (ii) the principal occupation and/or type of business of the person for whom such account is carried; (iii) the name and address of any other person who assumes or purports to assume any financial responsibility for or operational control of such account; and (iv) the names of the persons who have solicited and are responsible for each leverage customer's account.

(c) Each leverage transaction merchant shall, as a minimum requirement, prepare regularly and promptly, and keep systematically and in permanent form, the following:

(1) A financial ledger which will show separately for each leverage customer's account all charges against and credits to such leverage customer's account,

including but not limited to all charges and credits for purchases and sales of leverage contracts (including the corresponding transaction identification numbers) and all funds transferred, deposited into, or withdrawn from the leverage customer's account.

(2) A record of transactions which will show separately for each leverage customer's account in chronological sequence all leverage contracts entered into with such customer. This record will show for each transaction: the date of the transaction; the commodity involved; a transaction identification number; the maturity date; the number of contracts; whether the transaction represents an initial purchase, a closing transaction, or a delivery; and, if a closing transaction, the total amount realized.

(3) A daily record or journal which will show separately by leverage commodity complete details of all leverage transactions executed on that day, including the person for whom such transaction was made, the leverage commodity and contract involved, the number of leverage contracts, the transaction identification number for each leverage contract, whether the transaction was an initial purchase, repurchase, liquidating transaction or delivery, the total value of the initial purchase or liquidating transaction.

(4) The acknowledgment specified in § 31.11(a).

(5) A record of all notification under § 31.11(h).

(6) Where reproductions on microfilm of the records required by this paragraph (c) are substituted for hard copy in accordance with the provisions of paragraph (a) of this section, the requirement of paragraphs (c)(1) and (c)(2) of this section will be considered met if the person required to keep such records is ready at all times to provide, and immediately provides at such time and place as required by the Commission and at the expense of such person, reproduced copies which show the records as specified in paragraphs (c)(1) and (c)(2) of this section, on request by any representative of the Commission, designated self-regulatory organization or the United States Department of Justice.

(d) Each leverage transaction merchant shall prepare, as of the close of the last business day of each calendar month, a listing of all open leverage contracts carried for leverage customers. Such listing shall be by leverage commodity and contract and shall include the following details with respect to each leverage contract:

(1) The customer account identification number;

(2) The name of the leverage commodity and contract;

(3) The date of execution and the maturity date;

(4) The transaction identification number;

(5) The value of the leverage contract when initiated; and

(6) The unrealized profit or loss on each open leverage contract marked to the market on the basis of the leverage transaction merchant's bid price.

§ 31.15 Reporting to leverage customers.

Each leverage transaction merchant shall furnish in writing directly to each leverage customer:

(a) Promptly upon the repurchase, liquidation or delivery of a leverage contract, a statement showing the financial result of the transactions involved, including the gain or loss on the leverage contract as well as the commission and other charges;

(b) As of the close of the last business day of each calendar month or as of any regular monthly date selected a statement which clearly shows:

(1) All leverage contracts which were terminated for or by the leverage customer during the monthly reporting period by leverage commodity and contract, the number of contracts involved, the transaction identification number for each leverage contract, whether the terminating transaction involved repurchase, liquidation, or delivery, the date the contract was initially entered into, the value of the contract when initiated, the date the contract was terminated, the value of the contract when terminated, and the realized profit or loss on the contract;

(2) The open leverage contract positions carried for the leverage customer by leverage commodity and contract, the dates on which such contracts were executed and their maturity dates, the number of contracts, the total value of the contracts when initiated, and the unrealized profit or loss on each such contract marked to the market on the basis of the leverage transaction merchant's bid price;

(3) The net ledger balance carried in the leverage customer's account as of the monthly closing date and a complete accounting of any leverage customer funds held for the leverage customer;

(4) A detailed accounting of all financial charges and credits to the previous ledger balance during the monthly reporting period, including all leverage customer funds received from or disbursed to the leverage customer, and all commissions and fees incidental to the contract which have been charged and received, as well as all realized profits and losses; and

(5) Any securities or other property which the leverage customer has deposited with the leverage transaction merchant that represent leverage customer funds.

The monthly statement must also contain the following bold-faced legend in at least ten-point type: IF YOU BELIEVE YOUR MONTHLY STATEMENT IS INACCURATE YOU SHOULD PROMPTLY CONTACT (name of LTM) AT (telephone number).

(c) With respect to any leverage account controlled by any person other than the leverage customer for whom the account is carried, except such leverage customer's spouse, parent or child, a copy of the statements required by paragraphs (a) and (b) of this section shall be sent to the controller of the account as well as to the leverage customer for whom such account is carried.

§ 31.16 Monthly reporting requirements.

Each leverage transaction merchant shall file written monthly reports with the Commission's headquarters office in Washington, D.C., by the tenth business day of the month following the month covered by the reports. Reports shall be prepared on CFTC Forms 188 and 189 and shall show the following information separately for each leverage commodity and contract:

(a) The total number of leverage contracts that are open as of the close of business on the last business day of the month for:

(1) All customer accounts, and

(2) Separately for commercial leverage accounts.

(b) The total number of leverage contracts purchased by leverage customers during the month for:

(1) All customers, and

(2) Separately for commercial leverage accounts.

(c) The total number of leverage contracts which were repurchased by the leverage transaction merchant during the month.

(d) The total number of leverage contracts which were liquidated by the leverage transaction merchant during the month (i.e., as a result of overdue or unanswered margin calls).

(e) The total number of leverage contracts on which deliveries were taken during the month.

(f) The total number of leverage contracts which were rescinded during the month.

(g) The leverage transaction merchant's last bid price offered and last ask price offered as of the close of business on each business day.

§ 31.17 Records of leverage transactions.

(a) Each leverage transaction merchant receiving a leverage customer's order shall immediately upon receipt thereof prepare a written record of such order, including the account identification and order number, and shall record thereon, by time-stamp or other timing device, the date and time, to the nearest minute, such order is received.

(b) Each leverage transaction merchant executing the order of a leverage customer shall record on a written record of such order, including the account identification and order number, by time-stamp or other timing device, the date and time, to the nearest minute, such order is executed.

(c) For the purposes of this section, the term "order" shall include, but not be limited to, any order for the purchase, repurchase, rescission, settlement by delivery, or liquidation of a leverage contract.

(d) Each leverage transaction merchant shall establish and maintain a record of the bid and ask prices of each leverage contract on each leverage commodity that the leverage transaction merchant offers to sell or sells. The record shall include the times these prices were in effect to the nearest ten seconds.

§ 31.18 Margin calls.

(a) No leverage transaction merchant shall liquidate a leverage contract because of a margin deficiency without effecting personal contact with the leverage customer. If a leverage transaction merchant is unable to effect personal contact with a leverage customer, a telegram sent to the leverage customer at the address furnished by the customer to the leverage transaction merchant shall be sufficient contact.

(b) A leverage transaction merchant shall allow a leverage customer a reasonable time after contact is effected in which to respond to a margin call. Twenty-four hours, excluding Saturdays, Sundays, and holidays, will be a reasonable time: *Provided, however,* That in the event the leverage customer's leverage account equity falls below 50% of aggregate minimum margin with respect to the leverage contracts therein, the leverage transaction merchant may liquidate sufficient contracts to restore minimum margin without prior notice: *Provided, further,* That the leverage customer must be notified of such liquidation within no more than 24 hours thereafter and must be permitted to re-establish his contract for a period of 5 business days at the then prevailing bid prices without commissions, fees or other mark-ups or charges.

(c) A record of all margin calls, including all contacts with leverage customers and attempts to contact leverage customers with respect to such calls, shall be kept by the leverage transaction merchant in accordance with the provisions of § 31.14.

§ 31.19 Unlawful representations.

It shall be unlawful for any person:

(a) Required to be registered with the Commission in accordance with §§ 3.17 and 3.18 of this chapter expressly or impliedly to represent that the Commission, by registering that person or by registering the leverage commodity which underlies contracts offered for sale or sold by that person, or otherwise, has directly or indirectly approved that person, the person's method of operation, or any leverage commodity or leverage contract solicited or accepted by that person;

(b) To represent in writing that it is registered with the Commission or that it is offering any leverage commodity registered with the Commission without also stating in writing in connection with that representation that the Commission, by registering that person or the leverage commodity which underlies contracts offered or sold by that person, has not directly or indirectly approved the person, the person's method of operation, or any leverage commodity or contract solicited or accepted by that person; or

(c) In or in connection with an offer to enter into, the entry into, the confirmation of the execution of, or the maintenance of any leverage contract, expressly or impliedly to represent that compliance with the provisions of the Act and these regulations constitutes a guarantee of the fulfillment of the leverage contract.

§ 31.20 Prohibition of guarantees against loss.

(a) No leverage transaction merchant shall in any way represent that it will, with respect to any leverage contract in any account carried by the leverage transaction merchant for or on behalf of any person:

(1) Guarantee such person against loss;

(2) Limit the loss of such person; or

(3) Not call for or attempt to collect initial, minimum or maintenance leverage margin established for customers.

(b) No person shall in any way represent that a leverage transaction merchant will engage in any of the acts or practices described in paragraphs (a)(1), (a)(2) or (a)(3) of this section.

(c) This section shall not be construed to prevent a leverage transaction merchant from assuming or sharing in the losses resulting from an error or mishandling of an order.

(d) This section shall not affect any guarantee entered into prior to the effective date of this section, but this section shall apply to any extension, modification or renewal thereof entered into after such date.

§ 31.21 Leverage contracts entered into prior to effective date of these regulations; subsequent transactions.

Nothing contained in these regulations shall be construed to affect any lawful activities that occurred prior to the effective date of these regulations. All leverage contracts offered or entered into on or after the effective date of these regulations shall be subject to the terms and conditions of these regulations.

§ 31.22 Prohibited trading in leverage contracts.

No futures commission merchant shall offer to enter into, enter into, confirm the execution of, or solicit or accept orders for any leverage contract: *Provided, however,* That the foregoing shall not apply to any person who was lawfully engaged in a leverage business and who was registered with the Commission as a futures commission merchant prior to the effective date of this section, and who has filed an application for registration in accordance with the provisions of § 3.17 of this chapter pending a final determination by the Commission on such application.

§ 31.23 Limited right to rescind first leverage contract.

(a) A leverage customer who is entering a leverage contract or contracts for the first time with a particular leverage transaction merchant may rescind such contract or contracts during a period of not less than three business days from and including the day on which the leverage customer receives the confirmation statement pursuant to the following provisions:

(1) Such customer may be assessed actual price losses accruing to the customer's position from the time at which the customer entered into a leverage contract to the time that the leverage contract was rescinded. Such losses do not extend to any other charges or fees, such as account initiation, carrying, margin or account termination;

(2) Losses accruing to the position may be calculated only by subtracting the ask price of the leverage contract offered by the leverage transaction

merchant at the time when the leverage contract was rescinded from the ask price at which the leverage contract was purchased and which appears on the confirmation statement.

(3) Such customer may rescind the contract by telegram sent to the leverage transaction merchant at the address provided on the confirmation statement, or by telephone to a telephone number provided by the leverage transaction merchant on the confirmation statement with immediate written affirmation of rescission by telegram, certified letter or at least equivalent means.

(b) A leverage transaction merchant must make complete refund of all monies received except for actual price losses as calculated in paragraph (a)(2) of this section, to the leverage customer who has rescinded a contract pursuant to paragraph (a) of this section within 24 hours of notification of rescission.

§ 31.24 Petitions for exemption.

Any person adversely affected by any requirement of this part may file a petition with the Secretary of the Commission, which petition must set forth with particularity the reasons why that person believes that he should be exempt from such requirement. The Commission may, in its discretion, grant such an exemption if that person demonstrates to the Commission's satisfaction that (a) under the exemption, that person's business will be conducted in a manner that may reasonably be expected to insure the financial solvency of the contracts to be offered and sold and to prevent manipulation and fraud, (b) the manner in which the business will be conducted will present no substantial risk to the public and (c) the exemption is not otherwise contrary to the public interest or to the purposes of the provision from which exemption is sought. The petition will be granted or denied on the basis of the papers filed. The petition may be be granted subject to such terms and conditions as the Commission may find appropriate.

PART 145—COMMISSION RECORDS AND INFORMATION

25. Section 145.5 is amended by adding paragraph (d)(1)(i)(F), by revising paragraphs (d)(1)(vi) and (d)(1)(vii), and by adding paragraph (d)(1)(viii) to read as follows:

§ 145.5 Nonpublic matters.

* * * * *

(d) * * *

(1) * * *

(i) * * *

(F) The following portions, and footnote disclosures thereof, of the Form 2–FR, provided the procedure set forth in § 31.13(m) of this chapter is followed: The Statement of Income (Loss), the Statement of Changes in Financial Position, the Statement of Changes in Ownership Equity, the Statement of Changes in Liabilities Subordinated to the Claims of General Creditors Pursuant to a Satisfactory Subordination Agreement and the accountant's report on material inadquacies filed under § 1.16(c)(5) of this chapter;

* * * * *

(iv) Reports required to be filed pursuant to Parts 15–21 of this chapter;

(vii) Reports concerning option positions of large traders required to be filed pursuant to Part 16 of this chapter; and

(viii) Form 188;

* * * * *

PART 147—OPEN COMMISSION MEETINGS

26. Section 147.3 is amended by adding paragraph (b)(4)(i)(A)(*6*) by revising paragraphs (b)(4)(i)(F) and (b)(4)(i)(G), and by adding paragraph (b)(4)(i)(H) to read as follows:

§ 147.3 General requirement of open meetings; grounds upon which meetings may be closed.

* * * * *

(b) * * *

(4) * * *

(i) * * *

(A) * * *

(*6*) The following portions, and footnote disclosures thereof, of the Form 2–FR provided the procedure set forth in § 31.13 of this chapter is followed: The Statement of Income (Loss), the Statement of Changes in Financial Position, the Statement of Changes in Ownership Equity the Statement of Changes in Liabilities Subordinated to the Claims of General Creditors Pursuant to Satisfactory Subordination Agreement and the accountant's report on material inadequacies filed under § 1.16(c)(5) of this chapter;

* * * * *

(F) Reports required to be filed pursuant to Parts 15–21 of this chapter;

(G) Reports concerning option positions of large traders required to be filed pursuant to Part 16 of this chapter; and

(H) Form 188.

* * * * *

PART 190—BANKRUPTCY

27. Section 190.01 is amended by revising paragraph (g) and adding paragraph (nn) to read as follows:

§ 190.01 Definitions.

* * * * *

(g) "Commodity contract" shall have the same meaning, subject to paragraph (nn) of this section, as that set forth in Section 761(4) of the Bankruptcy Code.

* * * * *

(nn) "Leverage contract" shall have the same meaning as that set forth in § 31.4(w) of this chapter.

Issued in Washington, D.C. on February 7, 1984, by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

BILLING CODE 6351-01-M

Date: _____

Disclosure Statement
Illustrative Transaction

Commodity _____ Contract Expiration: _____

Leverage Transaction Merchant's Ask Price Per Contract _____

Break-Even Calculation for a Leverage Contract Left Open for One year a/

	If Contract is Repurchased	If Contract is Liquidated	If Delivery is Taken
Initial Charges	_____	_____	_____
Carrying Charges	_____	_____	_____
Termination Charges	_____	_____	_____
Bid-Ask Spread	_____	_____	_____
Total Charges and Spread:	_____	_____	_____
Price to Break-Even	_____ b/	_____ b/	_____ d/
Percentage Price Change to Break-Even	_____ c/	_____ c/	_____ e/

Price Series to Evaluate the Leverage Contract _____
Source of the Price Series _____

---

a/ Based on current fee schedules, which are subject to change.
b/ Equals total charges and spread plus bid price of the contract.
c/ Equals total charges and spread divided by the ask price per contract.
d/ Equals total initial, carrying and termination charges plus the ask price per contract; does not include any expense which will be incurred privately by the customer reselling the commodity, such as freight, insurance, assay, inspection or discounts typical in the retail market.
e/ Equals initial, carrying and termination charges divided by the ask price per contract.

CONFIRMATION STATEMENT

IF YOU ARE A FIRST-TIME LEVERAGE CUSTOMER YOU MAY RESCIND YOUR FIRST LEVERAGE CONTRACT PURCHASE, SUBJECT ONLY TO ACTUAL PRICE LOSSES BUT OTHERWISE WITHOUT PENALTY FOR THREE BUSINESS DAYS FOLLOWING AND INCLUDING RECEIPT OF THIS CONFIRMATION. ACTUAL LOSSES ARE CALCULATED BY SUBTRACTING THE ASK PRICE OF THE LEVERAGE COMMODITY AT THE TIME OF THE CUSOMER'S RESCISSION FROM THE ASK PRICE AT WHICH THE LEVERAGE COMMODITY WAS PURCHASED AND WHICH APPEARS ON THIS CONFIRMATION. TO RESCIND THIS CONTRACT SEND A TELEGRAM TO (name and address of LTM) OR YOU MAY TELEPHONE (name of LTM) AT (telephone number). IF YOU RESCIND BY TELEPHONE, YOU MUST ALSO SEND IMMEDIATE AFFIRMATION BY TELEGRAM, CERTIFIED LETTER OR AT LEAST EQUIVALENT MEANS TO THE ADDRESS PROVIDED ABOVE.

1. DATE	2. COMMODITY	3. TRANSACTION I.D. NUMBER

4. CONTRACT EXP. DATE	5. LEVERAGE MERCHANT'S ASK PRICE PER CONTRACT		NUMBER OF CONTRACTS		TOTAL VALUE
	(_____)	X	(_____)	=	(_____)

I. BREAK-EVEN CALCULATION FOR A LEVERAGE CONTRACT LEFT OPEN FOR ONE YEAR a/

	IF CONTRACT IS REPURCHASED	IF CONTRACT IS LIQUIDATED	IF DELIVERY IS TAKEN
Initial Charges			
Carrying Charges			
Termination Charges			
Bid-Ask Spread			
Price to Break-Even			
Price to Break-Even	b/	b/	d/
Percentage Price Change to Break-Even	c/	c/	e/

II. MARGIN REQUIREMENTS (Dollars per Contract)

INITIAL MARGIN:	MINIMUM MARGIN:	MAINTENANCE MARGIN:

PRICE SERIES TO EVALUATE THE LEVERAGE CONTRACT:	SOURCE OF THE PRICE SERIES:

a/ Based on current fee schedules, which are subject to change.
b/ Equals total charges and spread plus bid price of the contract.
c/ Equals total charges and spread divided by the ask price per contract.
d/ Equals total initial, carrying and termination charges plus the ask price per contract; does not include any expenses, which will be incurred privately by the customer reselling the commodity, such as freight, insurance, assay, inspection, or discounts typical in the retail market.
e/ Equals initial, carrying and termination charges divided by the ask price per contract.

BILLING CODE 6351-01-C

Instructions for Preparing and Filing CFTC Form 188 on Leverage Contracts

Leverage Transaction Merchant

(See Part 31 of the Regulations under the Commodity Exchange Act.)

Report Date—The last business day of each calendar month.

Who Should Report—Each person registered as a leverage transaction merchant which has entered into a leverage transaction with a customer during the month preceding the report date ("reporting month") or has open leverage contracts with customers as of the close of business on the report date.

When to Report—The report shall be submitted to the Commission not later than the tenth business day following the report date.

Where to Report —The report shall be submitted to the Commodity Futures Trading Commission, Washington, D.C., office, at 2033 K Street, NW., Washington, D.C. 20581, Att'n: Division of Economics and Education.

What to Report—Report all customer transactions and open contracts separately, by each leverage contract traded on a registered leverage commodity as follows.[1]

1. The number of open contracts as of the close of business on the report date held by:

a. All customers.

b. Commercial enterprises (i.e., producers, processors, commercial users or merchants which, as part of their business, handle the commodity which is the subject of the leverage contract or the products or by-products thereof).

2. The total number of leverage contracts purchased by leverage customers during the month for:

a. All customers.

b. Commercial enterprises.

3. The total number of leverage contracts which were repurchased by leverage transaction merchants during the month.

4. The total number of leverage contracts which were liquidated by the leverage transaction merchant during the month (i.e., as a result of overdue or unanswered margin calls).

5. The total number of leverage contracts on which deliveries were taken during the month.

6. The total number of leverage contracts which were rescinded during the month.

[1] In accordance with the Commission's regulations regarding the registration of leverage commodities, different leverage commodities, specify different delivery units, i.e., 100 oz. gold bullion and one kilo gold bullion are different leverage commodities as are different grades of the same commodity.

Instructions for Preparing and Filing CFTC Form 189 on Leverage Contracts

Leverage Transaction Merchant

(See Part 31 of the Regulations under the Commodity Exchange Act.)

Report Date—The last business day of each calendar month.

Who Should Report—Each person registered as a leverage transaction merchant which has entered into a leverage contract with a customer during the month preceding the report date ("reporting month") or has open leverage contracts with customers as of the close of business on the report date.

When to Report—The report shall be submitted to the Commission not later than the tenth business day following the report date.

Where to Report—The report shall be submitted to the Commodity Futures Trading Commission, Washington, D.C. office, 2033 K Street, N.W., Washington, D.C. 20581, Attn: Division of Economics and Education.

What to Report—Report by each leverage contract traded on each registered leverage commodity the last bid price offered and the last ask price offered as of the close of business of each business day.[2]

CFTC FORM 2-FR

(OMB No. 3038-0029)

General Instructions

This form contains the financial statements and schedules which are required to be filed by each leverage transaction merchant, or applicant therefor, in accordance with the Commission's regulations. These instructions, and any other instructions issued from time to time, must be used in preparing this form and constitute a part of this form.

The heading of each page includes a space for the firm's employer identification number. Use the employer identification number ("EIN") assigned by the Internal Revenue Service.

The references in this form to Sections 1.12, 1.16, 1.17, 1.31, 31.4, 31.7, 31.8, 31.9, 31.11, 31.12, 31.13 and 145.9 are to the Commission's regulations contained in 17 CFR Chapter I. The reference to Section 240.15c3-1 is to the Securities and Exchange Commission's regulations contained in 17 CFR Chapter II.

Before completing this form, the applicant or registrant should be familiar with the following sections of the Commission's regulations:

(1) 1.12—Maintenance of minimum financial requirements by futures commission merchants and introducing brokers.

(2) 1.16—Qualifications and reports of accountants (if this report is required to be certified by an independent public accountant).

(3) 1.17—Minimum financial requirements for futures commission merchants and introducing brokers.

(4) 1.31—Books and records; keeping and inspection.

(5) 31.4—Definitions [relating to leverage transactions].

(6) 31.7—Maintenance of minimum financial requirements by leverage transaction merchants.

(7) 31.8—Cover of leverage contracts.

(8) 31.9—Minimum financial requirements [for leverage transaction merchants].

(9) 31.11—Disclosure [by leverage transaction merchants].

(10) 31.12—Segregation [by leverage transaction merchants].

(11) 31.13—Financial reports of leverage transaction merchants.

(12) 145.9—Petition for confidential treatment of certain information submitted to the Commission.

The terms "current assets," "liabilities," "net capital," and "adjusted net capital" are all defined terms which may be found in Section 31.9 of the Commission's regulations. Those definitions largely incorporate by reference the definitions of those terms contained in Section 1.17 of the Commission's regulations, and leverage transaction merchants should be familiar with that section.

Unaudited Report

Each unaudited report filed pursuant to Section 31.13(f) must be completed in accordance with the instructions to the form and include the following:

(a) A Statement of Financial Condition;

(b) A Statement of the Computation of the Minimum Capital Requirements;

(c) A Schedule of Leverage Contracts and Coverage Provided;

(d) A Statement of Changes in Ownership Equity;

(e) A Schedule of Segregation Requirements and Funds on Deposit in Segregation; and

(f) Any additional information that may be necessary to make the required statements not misleading.

Audited Report

Each report certified by an independent public accountant must be completed in accordance with the

[2] In accordance with the Commission's regulations regarding the registration of leverage commmodities, different leverage commodities, specify different delivery units, i.e., 100 oz. gold bullion and one kilo gold bullion are different leverage commodities as are different grades of the same commodity.

instructions to the form and contain the statements set forth above as well as the following statements all completed in accordance with Sections 1.16 and 31.13 of the regulations:

(a) A Statement of Income (Loss);

(b) A Statement of Changes in Financial Position;

(c) A Statement of Changes in Liabilities Subordinated to the Claims of General Creditors Pursuant to a Satisfactory Subordinaton Agreement;

(d) Accountant's report covering the Form 2–FR and all supporting schedules included as part of the report;

(e) Accountant's supplemental report on material inadequacies; and

(f) Appropriate footnote disclosures.

Each item on page 1 of the report form must be answered completely and the attestation must be signed and dated. This form must be based on the applicant's or registrant's accounting records. All records which support amounts shown in this report must be retained in accordance with Section 1.31 of the Commission's regulations.

The report must be prepared in conformity with generally accepted accounting principles (except where otherwise indicated by the regulations) applied on a basis consistent with that of the preceding report and must include all informative disclosures which are necessary to make the required statements and schedules not misleading. The report must be prepared on the accrual basis of accounting. If no response is made to an item or subdivision thereof, it will be assumed that the applicant or registrant has nothing to report.

Freedom of Information Act

This form generally is considered by the Commission to be a public record, copies of which may be obtained upon written request to the Commission's Office of Public Information in Washington, D.C. If a registrant or applicant follows the procedures set forth in Section 31.13(m) of the regulations for separate binding of certain portions of this form, only such separately bound portions will be made available to the public. The separately bound public portion of the form must include: (1) The Statement of Financial Condition; (2) the Statement of the Computation of the Minimum Capital Requirements; (3) the Schedule of Leverage Contracts and Coverage Provided; (4) the Schedule of Segregation Requirements and Funds on Deposit in Segregation; and (5) the independent public accountant's opinion, if the report is audited. Leverage transaction merchants are also reminded that Section 31.11(m) requires them to furnish, upon request, to all leverage customers whose leverage contracts have not matured or are otherwise still open, and to prospective customers who are being solicited to enter leverage contracts with it, a true copy of the quarterly unaudited or annual audited financial statement most recently filed with the Commission pursuant to Section 31.13, except that the portions of those statements which will generally be accorded non-public treatment by the Commission need not be so furnished.

Under the provisions of the Freedom of Information Act (5 U.S.C. § 552), the Commission may disclose to third parties portions of the "non-public" information in the report under the following circumstances: (1) In connection with matters in litigation; (2) in connection with Commission investigations; (3) where the information is furnished to regulatory, self-regulatory and law enforcement agencies to assist them in meeting responsibilities assigned to them by law; (4) where disclosure is required under the Freedom of Information Act; and (5) in other circumstances in which withholding of such information appears unwarranted.

If the applicant or registrant files a petition for confidential treatment of this information, Section 145.9 of the Commission's regulations affords the appllicant or registrant with the right to notice and a right to appeal any Commission staff decision to disclose this information pursuant to a request for information under the Freedom of Information Act. In addition, if the applicant or registrant believes that the placing of any other information submitted on or with this form in the Commission's public files would constitute an unwarranted invasion of the applicant's or registrant's personal privacy or would reveal sensitive business information, the registrant or applicant may petition the Commission to treat such other information as nonpublic pursuant to § 145.9 in response to requests under the Freedom of Information Act.

BILLING CODE 6351-01-M

OMB No, 3038-0029

COMMODITY FUTURES TRADING COMMISSION
LEVERAGE TRANSACTION MERCHANT'S
REPORT ON LEVERAGE CONTRACTS
FORM CFTC 188
Customer Accounts

Leverage Transaction Merchant's Name:

Report Date:

NOTICE: Failure to file a report required by the Commodity Exchange Act and the regulations thereunder, or the filing of a false or fraudulent report may be a basis for administrative action under 7 U.S.C. Sec. 9, and may be punishable by fine or imprisonment, or both, under 7 U.S.C. Sec. 13, or 18 U.S.C. Sec. 1001.

		Commodity:	Commodity:	Commodity:
1. NUMBER OF LEVERAGE CONTRACTS OPEN AT END OF MONTH	contract- contract- contract-			
2. NUMBER OF LEVERAGE CONTRACTS IN COMMERCIAL ACCOUNTS OPEN AT END OF MONTH	contract- contract- contract-			
3. NUMBER OF LEVERAGE CONTRACTS ENTERED INTO DURING MONTH	contract- contract- contract-			
4. NUMBER OF LEVERAGE CONTRACTS ENTERED INTO DURING MONTH BY COMMERCIAL ACCOUNTS	contract- contract- contract-			
5. NUMBER OF REPURCHASES DURING THE MONTH	contract- contract- contract-			
6. NUMBER OF LIQUIDATIONS DURING THE MONTH	contract- contract- contract-			
7. NUMBER OF DELIVERIES TAKEN DURING THE MONTH	contract- contract- contract-			
8. NUMBER OF CONTRACTS RESCINDED DURING THE MONTH	contract- contract- contract-			

COMMODITY FUTURES TRADING COMMISSION
LEVERAGE TRANSACTION MERCHANT'S BID
AND ASK PRICES AT CLOSE OF TRADING
FORM CFTC 189

Leverage Transaction Merchant's Name:

Report Date:

NOTICE: Failure to file a report required by the Commodity Exchange Act and the regulations thereunder, or the filing of a false or fraudulent report may be a basis for administrative action under 7 U.S.C. Sec. 9, and may be punishable by fine or imprisonment, or both, under 7 U.S.C. Sec 13, or 18 U.S.C. Sec. 1001.

	Type of Commodity:		Type of Commodity:		Type of Commodity:		Type of Commodity:		Type of Commodity:		Type of Commodity:	
Day of the Month	Bid	Ask	Bid	Ask	Bid	Ask	Bid	Ask	Bid	Ask	Bid	Ask
1												
2												
3												
4												
5												
6												
7												
8												
9												
10												
11												
12												
13												
14												
15												
16												
17												
18												
19												
20												
21												
22												
23												
24												
25												
26												
27												
28												
29												
30												
31												

Note: Denote a weekend or holiday on which no transactions took place by "C."

OMB No. 3038-0029

FORM 2-FR

Name of Registrant or Applicant	Firm Employer ID No.
Address of Principal Place of Business	Name of Person to Contact Concerning This Report
	Telephone No. of Contact ( )
(City) (State) (Zip Code)	

1. Report for the period beginning _____ and ending _____

2. Name of Designated Self-Regulatory Organization Supervising Registrant _____

3. If an audited report, identify independent public acccuntant expressing an opinion thereon:

NAME _____

ADDRESS _____
(Number and Street)

_____
(City) (State) (Zip Code)

The leverage transaction merchant, or applicant for registration therefor, submitting this Form and its attachments and the person whose signature appears below represent that, to the best of their knowledge, all information contained therein is true, correct and complete. It is understood that all required items, statements and schedules are integral parts of this Form and that the submission of any amendment represents that all unamended items, statements and schedules remain true, correct and complete as previously submitted. It is further understood that any intentional misstatements or omissions of facts constitute Federal Criminal Violations (see 18 U.S.C. 1001).

Signed this _____ day of _____ 19 ___.

Manual signature _____

Type or Print Name _____

☐ Sole Proprietor ☐ Chief Financial Officer

☐ General Partner ☐ Chief Executive Officer

Firm: / Firm Employer ID No. /

FORM 2-FR

STATEMENT OF FINANCIAL CONDITION

AS OF ___/___/___

Assets

	Current	Non-Current	Total
1. Cash:			
A. Cash	$		$
B. Cash segregated for the benefit of leverage customers			
C. Other restricted cash		$	
2. Receivables from and deposits with clearing organizations:			
A. Securities transactions			
B. Firm commodity transactions			
3. Receivables from other futures commission merchants and brokers:			
A. Firm commodity transactions			
B. Securities transactions (attach details)			
C. Allowance for doubtful accounts	( )		( )
D. Security deposit			
4. Receivables from leverage customers:			
A. Debit and deficit accounts			
B. Allowance for doubtful accounts	( )	( )	( )
5. Receivables from proprietary leverage accounts:			
A. Debit and deficit accounts of general partners			
B. Allowance for doubtful accounts	( )	( )	( )

6. Other receivables and advances:
   - A. Merchandising . . . . . □
   - B. Taxes receivable . . . . . □
   - C. Insurance claims . . . . . □
   - D. Dividends and interest . . . □
   - E. Notes receivable . . . . . □
   - F. Advances on cash commodities . . . . . □
   - G. Receivables from employees and leverage representatives □
   - H. Other (itemize here or on a separate page) . . . . . □
   - I. Allowance for doubtful accounts . . . . . ( ) □ ( ) □ ( ) □

7. Securities purchased under agreement to resell . . . . . □ □ □

8. Inventories of securities-readily marketable, at market value:
   - A. Firm owned . . . . . □ □
   - B. Customer owned in segregation. . . . . □ □
   - C. Investment of segregated funds. . . . . □ □

9. Inventories of cash commodities, raw materials, work in progress and finished goods
   - A. Covered . . . . . □ □ □
   - B. Not covered . . . . . □ □ □
   - C. Segregated -- cover for leverage contracts . . . . □ □ □

10. Securities owned not readily marketable at estimated fair value . . . . . □ □

11. Partners' individual securities accounts at market value . . . . □ □ □

12. Secured demand notes (market value of collateral $_____ □ --safety factor charges applicable to such collateral $_____ □) . . . . . □ □ □

13. Guarantee deposits with and stock in clearing organizations (at cost) . . . . . □ □ □

14. Exchange memberships (market value $_____) at cost . . □ □

15. Investments in and receivables from affiliates and subsidiaries			
16. Plant, property, equipment and capitalized leases (at cost net of accumulated depreciation and amortization of $_____)			
17. Other assets:			
A. Prepaid expenses and deferred charges			
B. Miscellaneous (itemize here or on a separate page)			
18. Total Assets.			

Firm: / Firm Employer ID No.

FORM 2-FR

STATEMENT OF FINANCIAL CONDITION

AS OF ___/___/___

Liabilities & Ownership Equity

Liabilities

19. Loans payable:
    A. Secured by warehouse receipts. $
    B. Secured by other property . .
    C. Unsecured . . . . . .

20. Securities sold under repurchase agreement . . . . . .

21. Payable to clearing organizations:
    A. Securities accounts. . . . .
    B. Firm commodity accounts. . .

22. Payable to other futures commission merchants or brokers:
    A. Payables relating to securities transactions (attach details)
    B. Payables relating to firm commodity transactions . . .

23. Payable to leverage customers . .

24. Payable to proprietary accounts:
    A. Securities accounts . . . .
    B. Commodity and leverage accounts of general partners. . . . .

25. Securities sold not yet purchased at market value--including arbitrage . . . . . .

26. Accounts payable, accrued liabilities and expenses:
    A. Drafts payable . . . . . .
    B. Accounts payable . . . . . .
    C. Income taxes payable . . . .
    D. Deferred income taxes . . .
    E. Accrued expenses and other liabilities . . . . . .

F. Salaries, wages and commissions payable . . . . . .
G. Advances against commodities
H. Notes, mortgages and other payables due within twelve months of the date of this statement (see item 27) . .
I. Other (itemize here or on a separate page) . . . . . .

27. Notes, mortgages and other payables not due within twelve months of the date of this statement:
A. Unsecured . . . . . .
B. Secured . . . . . .

28. Liabilities subordinated to claims of general creditors:
A. Subject to a satisfactory subordination agreement . .
B. Not subject to a satisfactory subordination agreement . .

29. Total liabilities . . . . . .

Ownership Equity

30. Sole proprietorship . . . . . .

31. Partnership:
A. Partnership contributed and retained capital . . . .
B. Additional capital per partnership agreement (equities in partners' trading accounts, etc.)

32. Corporation:
A. Preferred stock . . . . . .
B. Common stock . . . . . .
C. Additional paid in capital .
D. Retained earnings . . . . .
E. Sub-total . . . . . .
F. Less capital stock in treasury ( )

33. Total ownership equity . . . . .

34. Total liabilities and ownership equity $

Firm: / Firm Employer ID No.

FORM 2-FR

STATEMENT OF THE COMPUTATION OF THE MINIMUM CAPITAL REQUIREMENTS

AS OF ___/___/___

Net Capital

1. Current assets - Item 18*			$
2. Adjustments to current assets:			
A. Segregated assets (to the extent liabilities are deducted in 4(B) below)** .	$		
B. (Increase)-decrease to clearing organization stock to reflect margin value . .			
C. Total deductions		( )	
D. Net current assets			$
3. Total liabilities - Item 29* . .			
4. Deduct:			
A. Liabilities subject to satisfactory subordination agreements - Item 28A* . . .			
B. Equities in leverage customers' accounts**			
C. Certain deferred income tax liability (see regulation 1.17(c)(4)(iv)) . . .			
D. Certain current income tax liability (see regulation 1.17(c)(4)(v)) . . .			
E. Long term debt pursuant to regulation 1.17(c)(4)(vi). .			
F. Total deductions		( )	
G. Adjusted liabilities			
5. Net capital			$

Charges to Net Capital

6. Excess of advances paid on cash commodity contracts over 95% of the market value of commodities covered by such contracts		$

* References are to item numbers on the Statement of Financial Condition.
** Item #2A must equal Item #4B.

7. Five percent (5%) of the market value of inventories covered by open futures contracts or commodity options. (See Note below). _____ ☐

8. Twenty percent (20%) of the market value of uncovered inventories. (See Note below) . . . . . _____ ☐

9. Ten percent (10%) of the market value of commodities involved in fixed price commitments and forward contracts which are covered by open futures contracts or commodity options . . . . . _____ ☐

10. Twenty percent (20%) of the market value of commodities involved in fixed price commitments and forward contracts which are not covered by open futures contracts or commodity options . . . . . _____ ☐

11. Charges as specified in §240.15c3-1(c)(2)(vi) and (vii) (or, for securities brokers or dealers only, §240.15c3-1(f)) against securities:

	Assets Market Value	Charge
A. Securities owned:		
(a) Bankers' acceptances, certificates of deposit and commercial paper . .	$ _____ ☐	_____ ☐
(b) U.S. and Canadian government obligations . .	_____ ☐	_____ ☐
(c) State and Municipal government obligations .	_____ ☐	_____ ☐
(d) Corporate obligations .	_____ ☐	_____ ☐
(e) Stocks and warrants . .	_____ ☐	_____ ☐
(f) Arbitrage	_____ ☐	_____ ☐
(g) Other securities	_____ ☐	_____ ☐
(h) Total (a) - (g)	$ _____ ☐	
B. Investment of segregated funds		_____ ☐
C. Total A+B		_____ ☐

NOTE: There is no charge applicable to inventories registered as deliverable on a contract market and which are covered by futures contracts; nor is any charge applicable against inventories representing cover for leverage contracts.

12. Charges on securities options as specified in §240.15c3-1, Appendix A

13. Charges against open contractual commitments as specified in §240.15c3-1(c)(2)(viii) . . . . .

14. Undermargined leverage customer accounts -- amount in each account required to meet maintenance margin requirements less the amount of current margin calls in that account . . . . . .

15. Uncovered open futures (unless such futures represent cover for leverage contracts entered into by the leverage transaction merchant, in which case there is no charge) and commodity option contracts in proprietary accounts -- percentage of margin requirements applicable to such contracts. . . . . .
Less: equity in proprietary accounts included in liabilities (p.5, line 24B) . . . . . ( )

16. A. Ten percent (10%) of the market value of commodities which are the subject of commodity options not traded on a contract market carried long by the applicant or registrant which has value and such value increased adjusted net capital (this charge is limited to the value attributed to such options) . . .

B. Commodity options which are traded on contract markets and carried long in proprietary accounts. Charge is the same as would be applied if applicant or registrant was the grantor of the options (this charge is limited to the value attributed to such options) . . . . . .

17. Five percent (5%) of all unsecured receivables from unregistered futures commission merchants or securities brokers or dealers . .

18. Secured demand note deficiency .

19. For securities brokers or dealers all other deductions specified in §240.15c3-1 . . . . . ☐

Net Capital Computation

20. Total charges . . . . . ( ) ☐

21. Adjusted net capital . . . . . $ ☐

22. Net capital required:
    A. Market value of the physical commodities underlying each uncovered leverage contract entered into by the leverage transaction merchant* . . . ☐
    B. 20% of A . . . . . ☐
    C. Enter $2,500,000 plus B ☐

23. Excess net capital (Item 21 less Item 22C) . . . . . $ ☐

24. Enter 120% of line 22C. This is your early warning capital level. If this amount is greater than the amount on line 21, you must immediately notify your DSRO and the Commission and begin filing monthly financial reports pursuant to regulation §31.7(b). $ ☐

*Indicate below the cash price series used, by commodity, to compute the value in Item 22A

Firm:	/ Firm Employer ID No. /

FORM 2-FR

SCHEDULE OF COVERAGE REQUIREMENTS AND COVERAGE PROVIDED

PHYSICAL COMMODITY SUBJECT TO A LEVERAGE CONTRACT	Platinum	Gold Bullion	Bulk Gold Coins	Silver Bullion	Bulk Silver Coins
1. Quantity of physical commodities subject to leverage contracts carried in leverage customers' accounts (oz., lbs., etc.)					
2. Coverage required -- Enter 90% of line 1					
3. Coverage provided:					
A. Futures and options:					
i. Quantity of physical commodities subject to futures contracts . . .					
ii. Quantity of physical commodities subject to exchange-traded options.					
B. Quantity of inventory* (this must equal at least 25% of line 1 -- if it does not, see regulation §31.8(b))					
C. Other (describe on a separate sheet)					
D. Total (sum of A, B, and C)					
4. Excess (insufficiency) of coverage (3D minus 2). If there is an insufficiency, see regulation §31.8(b) . . .					

* The inventory appearing on this line, if encumbered, may not be encumbered in excess of 70 percent of its market value. See regulation §31.8(a)(2)(i) and (ii).

Firm: / Firm Employer ID No. /

FORM 2-FR

SCHEDULE OF COVERAGE REQUIREMENTS AND COVERAGE PROVIDED

PHYSICAL COMMODITY SUBJECT TO A LEVERAGE CONTRACT	Copper	British Pound	Deutsche Mark	Japanese Yen	Swiss Franc
1. Quantity of physical commodities subject to leverage contracts carried in leverage customers' accounts (oz., lbs., etc.)					
2. Coverage required -- Enter 90% of line 1					
3. Coverage provided:					
A. Futures and options:					
i. Quantity of physical commodities subject to futures contracts . . .					
ii. Quantity of physical commodities subject to exchange-traded options.					
B. Quantity of inventory* (this must equal at least 25% of line 1 -- if it does not, see regulation §31.8(b))					
C. Other (describe on a separate sheet)					
D. Total (sum of A, B, and C)					
4. Excess (insufficiency) of coverage (3D minus 2). If there is an insufficiency, see regulation §31.8(b) . . .					

* The inventory appearing on this line, if encumbered, may not be encumbered in excess of 70 percent of its market value. See regulation §31.8(a)(2)(i) and (ii).

Firm: / Firm Employer ID No.

FORM 2-FR

STATEMENT OF INCOME (LOSS)

FOR THE PERIOD FROM _____ THROUGH _____

Revenues

1.	Merchandising activities:		
	A. Net sales	$	
	B. Cost of goods sold	( )	
	C. Gross income from sales . .		$
2.	Leverage commissions.		
3.	Leverage maintenance fees		
4.	Firm trading accounts:		
	A. Realized commodity futures and options		
	B. Unrealized commodity futures and options		
	C. Realized security and security options		
	D. Unrealized security and security options		
5.	Interest and dividends:		
	A. Interest earned on investments of leverage customers' segregated funds		
	B. Interest earned on leverage customer debit balances. . .		
	C. Other interest and dividends		
6.	Other income (itemize here or on a separate page)		
7.	Total revenue		$

Expenses

8.	Commissions	
9.	Employee compensation and benefits (exclusive of commissions) . . .	
10.	Occupancy and equipment rental .	
11.	Advertising and promotional activities	

12.	Communications	
13.	Bad debt expense:	
	A. Leverage accounts.	
	B. Merchandising	
	C. Other	
14.	Trade Errors:	
	A. Customer Accounts	
	B. Other	
15.	Interest	
16.	Warehousing expense	
17.	Other expenses (itemize here or on a separate page)	
18.	Total expenses	$
19.	Income (loss) before income taxes and items below	
20.	Income tax expense	
21.	Minority interest in income of consolidated subsidiaries	
22.	Equity in earnings of unconsolidated subsidiaries less applicable tax	
23.	Income (loss) before extraordinary items	
24.	Extraordinary gains (loss), less applicable tax	
25.	Cumulative effect of changes in accounting principles, less applicable tax	
26.	Net income (loss)	$

STATEMENT OF CHANGES IN FINANCIAL POSITION

The statement may be in any format which is relevant, but must be in accordance with generally accepted accounting principles.

Firm: / Firm Employer ID No.

FORM 2-FR

STATEMENT OF CHANGES IN OWNERSHIP EQUITY

FOR THE PERIOD FROM _____ THROUGH _____

1. Total ownership equity as previously reported . . . . . $_____
2. Net income (loss) for period . . . . . _____
3. Other additions to capital (explain below) . _____
4. Dividends . . . . . ( )
5. Other deductions from capital (including partner and proprietary withdrawals) (explain below) . . . . . ( )
6. Balance -- to agree with Item 33 on the current Statement of Financial Condition . . $_____

Date	Explanation	Addition (Deduction) Amount
		$

SUPPLEMENTAL QUESTION

Do the amounts reported as ownership equity or liabilities subordinated to the claims of general creditors include any amounts expected to be withdrawn or maturing within the next six months? YES _____ NO _____.

If yes, furnish a statement giving full particulars.

Firm: / Firm Employer ID No. /

FORM 2-FR

STATEMENT OF CHANGES IN LIABILITIES

SUBORDINATED TO THE CLAIMS OF GENERAL CREDITORS

PURSUANT TO A SATISFACTORY SUBORDINATION AGREEMENT

FOR THE PERIOD FROM _____ THROUGH _____

1. Total subordinated borrowings as previously reported . . . . . $_____
2. Increases (explain below) . . . . . _____
3. Decreases (explain below) . . . . . (_____)
4. Balance -- to agree with Item 28A or the current Statement of Financial Condition . . $_____

Date	Explanation	Increase (Decrease) Amount
		$

Firm: / Firm Employer ID No.

FORM 2-FR

SCHEDULE OF SEGREGATION REQUIREMENTS AND FUNDS

IN SEGREGATION AS OF ___/___/____

LEVERAGE CUSTOMER FUNDS

SEGREGATION REQUIREMENTS

1.	Net ledger balance:	
	A. Cash	$
	B. Securities (at market) . . .	
2.	Net unrealized profit (loss) in leverage customers' open leverage contracts.	
3.	Net equity (deficit) (total of 1 and 2)	
4.	Add accounts liquidating to a deficit and accounts with debit balances with no open contracts . .	
5.	Amount required to be segregated (total of 3 and 4).	

FUNDS IN SEGREGATION

		BANKS	FCMs	
6.	Funds on deposit in segregated leverage customer accounts:			
	A. Cash			
	B. Gain (loss) on open futures contracts . . .			
	C. Securities:			
	i. Investments			
	ii. Held for particular customers			
	D. Unencumbered inventory .			
	E. Amount of funds in segregation (total of A,B,C, and D).			
7.	Excess (insufficiency) of funds in segregation (5 minus 6.E)			

AUTHORITY: Sections 8a, 17 and 19 of the Commodity Exchange Act (7 U.S.C. 12a, 21 and 23).

[FR Doc. 84-3727 Filed 2-10-84; 8:45 am]

BILLING CODE 6351-01-C

federal register

Monday
February 13, 1984

Part V

Department of Energy

Federal Energy Regulatory Commission

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act; Notice

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Vol. 1060]

Determination by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: February 7, 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 7, 1984

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
KENTUCKY DEPARTMENT OF MINES & MINERALS									
-KENTUCKY WEST VIRGINIA GAS CO		RECEIVED: 01/09/84		JA: KY					
8415638	506490	1619500000		108		A J ABSHIRE #6483	KENTUCKY EAST	3.7	
8415639	506491	1619500000		108		A J ABSHIRE #6507	KENTUCKY EAST	6.6	
8415653	506572	1619500000		108		A W STRATTON #5775	KENTUCKY EAST	11.7	
8415705	506767	1611500000		107-DV		ALBERT G WELLS - #5548	KENTUCKY EAST	7.3	
8415704	506766	1611500000		107-DV		ALBERT G WELLS #5532	KENTUCKY EAST	12.8	
8415673	506605	1619500000		108		ALEXANDER RATLIFF #7236	KENTUCKY EAST	4.3	
8415681	506627	1611900000		108		ARIO CORP #1695	KENTUCKY EAST	6.1	
8415719	506907	1611900000		103		ARIO CORP #1696	KENTUCKY EAST	1108.0	KENTUCKY WEST VIR
8415686	506660	1611900000		108		ARIO CORP #1701	KENTUCKY EAST	8.0	
8415609	506461	1611900000		108		B F KING -#582	KENTUCKY EAST	4.0	
8415645	506564	1613300000		108		BENJAMIN HALL #6869	KENTUCKY EAST	10.6	
8415659	506582	1619500000		108		BETHLEHAM MINES CORP - #1503	KENTUCKY EAST	2.9	
8415660	506583	1619500000		108		BETHLEHAM MINES CORP - #1504	KENTUCKY EAST	7.4	
8415683	506657	1619500000		108		BETHLEHEM MINES CORP #1505	KENTUCKY EAST	13.8	
8415655	506574	1611900000		108		BOON HOWARD #6399	KENTUCKY EAST	4.6	
8415635	506487	1615900000		108		C W PREECE #5245	KENTUCKY EAST	8.0	
8415664	506589	1615900000		108		C W PREECE #5357	KENTUCKY EAST	10.3	
8415643	506562	1615900000		108		C W PREECE #5556D	KENTUCKY EAST	9.9	
8415716	506890	1607100000		107-DV		CARROLL & GOULD #1 # 5102	KENTUCKY EAST	7.3	
8415700	506762	1611900000		107-DV		CHESTER COMBS #1076	KENTUCKY EAST	8.8	
8415606	506458	1607100000		108		CHRIS GOBLE - #524	KENTUCKY EAST	9.5	
8415615	506467	1607100000		108		CHRIS GOBLE -#673	KENTUCKY EAST	17.3	
8415619	506471	1607100000		108		CHRIS GOBLE #689	KENTUCKY EAST	5.8	
8415671	506596	1611500000		107-DV		CRATE RICE #1493 C	KENTUCKY EAST	4.3	
8415695	506757	1607100000		107-DV		D D MARTIN #1 #440	KENTUCKY EAST	10.9	
8415674	506606	1619500000		108		DAVID SMITH #6416D	KENTUCKY EAST	5.6	
8415640	506492	1619500000		108		E H MILLER #6603	KENTUCKY EAST	17.8	
8415629	506481	1619500000		108		E L PINSON #1068	KENTUCKY EAST	9.5	
8415679	506611	1612700000		108		ECK CARTER #1557	KENTUCKY EAST	5.5	
8415677	506609	1613300000		108		ELKHORN COAL CO INC #1565	KENTUCKY EAST	2.7	
8415663	506588	1615900000		108		ESTHER YOUNG #6808	KENTUCKY EAST	15.8	
8415678	506610	1613300000		108		F C LUSK #1589	KENTUCKY EAST	9.2	
8415668	506593	1607100000		108		F M RICE #622	KENTUCKY EAST	19.6	
8415625	506477	1619500000		108		FERRELL ELKINS #907	KENTUCKY EAST	5.9	
8415626	506478	1619500000		108		FERRELL ELKINS #923	KENTUCKY EAST	6.2	
8415642	506561	1613100000		108		FORDSON COAL CO #1622	KENTUCKY EAST	3.8	
8415717	506891	1619300000		107-DV		FORDSON COAL CO #1627	KENTUCKY EAST	15.0	
8415657	506576	1619500000		108		GEORGE W MAY #6647	KENTUCKY EAST	20.3	
8415687	506661	1611900000		108		GOODLOE BROS CO #1708	KENTUCKY EAST	3.0	
8415685	506659	1611900000		108		GOODLOE BROTHERS CO #1660	KENTUCKY EAST	5.6	
8415600	506452	1607100000		108		H JARRELL #1-#385	KENTUCKY EAST	4.0	
8415670	506595	1607100000		108		H L MOORE #149	KENTUCKY EAST	1.3	
8415605	506457	1607100000		108		HAMILTON COAL & LAND CO #508	KENTUCKY EAST	4.3	
8415604	506456	1607100000		108		HAMILTON COAL & LAND CO-#498D	KENTUCKY EAST	17.0	
8415701	506763	1613300000		107-DV		HANK HALL - #6470D	KENTUCKY EAST	3.6	

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8415669	506594	1607100000		108		HELEN MARTIN - #236	KENTUCKY EAST	20.4	
8415706	506768	1611500000		107-DV		HENRY C WELLS HRS #5642	KENTUCKY EAST	5.5	
8415627	506479	1607100000		108		HIRAM SLOAN #982	KENTUCKY EAST	2.4	
8415711	506773	1613300000		107-DV		IRA HALL - #6526	KENTUCKY EAST	4.0	
8415680	506626	1613100000		108		ISAAC S YATES - FARMER HENDRIX #16*	KENTUCKY EAST	3.1	
8415651	506570	1619500000		108		J A TAYLOR #660D	KENTUCKY EAST	9.4	
8415654	506573	1611900000		108		J B PIGMAN #5989	KENTUCKY EAST	12.6	
8415646	506565	1619500000		108		J C KERR #6897	KENTUCKY EAST	11.2	
8415620	506472	1619500000		108		J C MULLINS #720	KENTUCKY EAST	14.3	
8415622	506474	1619500000		108		J C MULLINS #746	KENTUCKY EAST	7.4	
8415710	506772	1611900000		107-DV		J F RICHIE - #6478	KENTUCKY EAST	12.8	
8415636	506488	1615900000		108		J G CARLISLE #5265	KENTUCKY EAST	5.7	
8415637	506489	1615900000		108		J G CARLISLE #5296	KENTUCKY EAST	6.2	
8415703	506765	1611500000		107-DV		J M COLLINS #5505	KENTUCKY EAST	10.9	
8415613	506465	1619500000		108		J M TAYLOR #659	KENTUCKY EAST	10.2	
8415616	506468	1619500000		108		J M TAYLOR -#674	KENTUCKY EAST	19.3	
8415611	506463	1619500000		108		J M TAYLOR #621	KENTUCKY EAST	5.6	
8415621	506473	1619500000		108		J M TAYLOR #733	KENTUCKY EAST	11.1	
8415623	506475	1619500000		108		J M TAYLOR #748	KENTUCKY EAST	5.7	
8415666	506591	1619500000		108		J M TAYLOR #991	KENTUCKY EAST	19.5	
8415676	506608	1613300000		108		J R LUSK #1603	KENTUCKY EAST	5.2	
8415618	506470	1619500000		108		J S CLINE #677	KENTUCKY EAST	6.8	
8415652	506571	1607100000		108		J W WEBB #1277	KENTUCKY EAST	0.3	
8415644	506563	1619500000		108		JAMES GIBSON #6157D	KENTUCKY EAST	3.0	
8415708	506770	1613300000		107-DV		JAS B TAYLOR - #6151	KENTUCKY EAST	19.7	
8415697	506759	1611900000		107-DV		JASON & SARAH RICHIE #1 #489	KENTUCKY EAST	2.9	
8415599	506451	1607100000		108		JASPER FITZPATRICK 379D	KENTUCKY EAST	4.4	
8415607	506459	1607100000		108		JENNIE & JAMES CALDWELL -#573	KENTUCKY EAST	9.4	
8415688	506662	1619500000		108		JERRY FRANCISCO - #7259	KENTUCKY EAST	17.6	
8415713	506875	1611500000		107-DV		JESSE PRESTON - #5587	KENTUCKY EAST	8.0	
8415693	506741	1619300000		107-DV		JOE DAVIDSON #7010	KENTUCKY EAST	12.3	
8415672	506604	1619500000		108		JOHN EP RATLIFF #7238	KENTUCKY EAST	11.6	
8415608	506460	1607100000		108		JOHN H & BENJAMIN SELLARDS #574	KENTUCKY EAST	10.4	
8415696	506758	1607100000		107-DV		JOHN P MAYO #1 #443	KENTUCKY EAST	12.0	
8415712	506774	1613300000		107-DV		JOSEPH HALL - #6547	KENTUCKY EAST	16.4	
8415698	506760	1611900000		107-DV		JOSEPH HALL - #871	KENTUCKY EAST	6.6	
8415630	506482	1619300000		108		KENTUCKY RIVER COAL CORP #1169	KENTUCKY EAST	3.0	
8415631	506483	1619300000		108		KENTUCKY RIVER COAL CORP #1170	KENTUCKY EAST	7.9	
8415632	506484	1619300000		108		KENTUCKY RIVER COAL CORP #1191	KENTUCKY EAST	6.4	
8415690	506707	1613100000		107-DV		KYCOGA LAND CO #1604	KENTUCKY EAST	26.1	
8415684	506658	1613100000		108		KYCOGA LAND CO #1607	KENTUCKY EAST	4.0	
8415691	506708	1613100000		107-DV		KYCOGA LAND CO #1632	KENTUCKY EAST	12.3	
8415649	506568	1607100000		108		L D TRAUTMAN #248	KENTUCKY EAST	7.2	
8415633	506485	1619500000		108		LEONARD KING #1219	KENTUCKY EAST	14.1	
8415603	506455	1607100000		108		M F MARTIN #497	KENTUCKY EAST	10.2	
8415658	506577	1611900000		108		MANFORD SMITH #6482	KENTUCKY EAST	11.9	
8415715	506889	1613300000		107-DV		MINERAL FUEL CO #7158	KENTUCKY EAST	4.4	
8415610	506462	1619500000		108		N J BOYD -#613	KENTUCKY EAST	2.1	
8415612	506464	1607100000		108		NELSON BOYD -#623	KENTUCKY EAST	11.8	
8415614	506463	1607100000		108		NOAH AKERS -#668	KENTUCKY EAST	19.8	
8415694	506756	1607100000		107-DV		P L SAULSBURY #2 #229	KENTUCKY EAST	2.2	
8415689	506706	1619300000		103		PAUL PETREY #1654	KENTUCKY EAST	36.4	
8415661	506584	1619500000		108		PLEASANT BARTLEY - #7194	KENTUCKY EAST	6.9	
8415692	506740	1619300000		107-DV		R M MCINTIRE #6865	KENTUCKY EAST	8.8	
8415602	506454	1607100000		108		RHODA JOHNSON #1-#449	KENTUCKY EAST	6.6	
8415662	506585	1619500000		108		RICHARD POTTER - #7232	KENTUCKY EAST	2.7	
8415628	506480	1619500000		108		ROBERT WILLIAMS #1023	KENTUCKY EAST	9.7	
8415624	506476	1619500000		108		ROBT DAMRON #770D	KENTUCKY EAST	12.7	
8415682	506628	1619500000		108		ROBT H MARTIN #6590C	KENTUCKY EAST	4.7	
8415617	506469	1611900000		108		SHERWOOD OSBORNE-#676	KENTUCKY EAST	4.0	
8415702	506764	1619300000		107-DV		SIZEMORE MINING CORP #1482	KENTUCKY EAST	5.5	
8415641	506560	1612700000		108		STELLA S MOORE #1187	KENTUCKY EAST	6.1	
8415634	506486	1615900000		108		T J HARDIN JR #1237	KENTUCKY EAST	7.8	
8415707	506769	1611900000		107-DV		TANDY KING - #6089	KENTUCKY EAST	19.3	
8415667	506592	1619500000		108		THOS DESKINS #652	KENTUCKY EAST	17.0	
8415665	506590	1615900000		108		W B PREECE #5321D	KENTUCKY EAST	14.4	
8415699	506761	1611900000		107-DV		W D HALL - #874D	KENTUCKY EAST	3.6	
8415601	506453	1607100000		108		W J GOBLE #2-#425	KENTUCKY EAST	5.3	
8415650	506569	1607100000		108		W J HUNTER #540	KENTUCKY EAST	18.4	
8415647	506566	1619500000		108		WILLIAM CHILDERS #7233	KENTUCKY EAST	12.6	
8415709	506771	1619500000		107-DV		WILLIAM JOHNSON - #6226	KENTUCKY EAST	2.9	
8415656	506575	1619500000		108		WILLIAM JOHNSON #6452	KENTUCKY EAST	14.0	
8415718	506899	1619300000		108		WILLIAM O ZIEBOLD #1332	KENTUCKY EAST	8.0	
8415648	506567	1619300000		108		WM FIELDS #6948	KENTUCKY EAST	11.2	
8415714	506876	1611900000		107-DV		WM KELLY #5598	KENTUCKY EAST	6.4	
8415675	506607	1619500000		108		WM M SLONE #5463D	KENTUCKY EAST	8.5	
8415598	506450	1607100000		108		WM WICKER #3-#373	KENTUCKY EAST	5.2	

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** DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, CASPER,WY

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-ANADARKO PRODUCTION COMPANY			RECEIVED:	01/10/84	JA: WY 5				
8415596	W3-3	4900922088	102-2			POWELL FEDERAL A-1	POWELL	224.0	MOUNTAIN FUEL SUP
-BELCO PETROLEUM CORPORATION			RECEIVED:	01/10/84	JA: WY 5				
8415581	W17-3	4903520705	103			BPMV 14-48	BIG PINEY MESAVERDE U	0.0	NORTHWEST PIPELIN
-CELERON OIL & GAS CO			RECEIVED:	01/10/84	JA: WY 5				
8415580	W40-3	4903520637	103			CASTLE CREEK 21-28	CASTLE CREEK FEDERAL	547.5	NORTHWEST PIPELIN
-COLUMBINE EXPLORATION CORP			RECEIVED:	01/10/84	JA: WY 5				
8415583	W38-3	4903722136	103			CREST FEDERAL #24-1	SIX MILE SPRING	138.5	MOUNTAIN FUEL SUP
-DIAMOND CHEMICALS CO			RECEIVED:	01/10/84	JA: WY 5				
8415591	W-41-3	4900922197	102-2			CAMPBELL FEDERAL #32-5	SCOTT	0.0	MCCULLOCH GAS PR
8415590	W42-3	4900922196	102-2			CAMPBELL FEDERAL #34-5	SCOTT	0.0	MCCULLOCH GAS PRO
-EXETER EXPLORATION COMPANY			RECEIVED:	01/10/84	JA: WY 5				
8415593	W34-3	4900921959	102-2			SCOTT FEDERAL #5-33	SCOTT	35.0	CHINOOK CONSTRUC
8415592	W35-3	4900921971	102-2			SCOTT FEDERAL #7-32	SCOTT	29.0	CHINOOK CONSTRUC
-FOREST OIL CORPORATION			RECEIVED:	01/10/84	JA: WY 5				
8415582	W18-3	4904170074	102-2			HENRY UNIT #9	HENRY UNIT	1500.0	MOUNTAIN FUEL SUP
-KERR-MCGEE CORPORATION			RECEIVED:	01/10/84	JA: WY 5				
8415589	W46-3	4900526630	103			FEDERAL #1-19	LINDSEY-MUDDY	0.0	MGPC INC
-NATURAL GAS CORPORATION OF CALIF			RECEIVED:	01/10/84	JA: WY 5				
8415584	W30-3	4902320304	107-RT			FONTENELLE 32-19	FONTENELLE	254.0	PACIFIC GAS TRANS
-PHILLIPS PETROLEUM COMPANY			RECEIVED:	01/10/84	JA: WY 5				
8415595	W25-3	4900922179	103			DUGOUT CREEK FEDERAL B #7	WILDCAT	9.8	PANHANDLE EASTER
8415594	W26-3	4900922141	102-2			W GIBSON DRAW FED A #1	SCHOOL CREEK	13.5	PANHANDLE EASTERN
-SAMSON RESOURCES COMPANY			RECEIVED:	01/10/84	JA: WY 5				

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8415585	W2-3	4904120483		107-TF		BRUFF FEDERAL #1-14	VERNE	18.3	NORTHWEST PIPELIN
8415586	W1-3	4904120483		103		BRUFF FEDERAL #1-14	VERNE	18.3	NORTHWEST PIPELIN
-SOUTHLAND ROYALTY CO				RECEIVED:	01/10/84	JA: WY 5			
8415597	W789-2	4900922193		103		MANNING FEDERAL #1-33	PHILLIPS CREEK	91.0	MOUNTAIN FUEL SUP
-TENNECO OIL COMPANY				RECEIVED:	01/10/84	JA: WY 5			
8415579	W14-3	4904120554		103		GRACE USA 1-6	WILDCAT	100.0	NORTHWEST PIPELIN
-TEXACO INC				RECEIVED:	01/10/84	JA: WY 5			
8415587	W794-2	4903722122		103		TABLE ROCK UNIT #56	TABLE ROCK	55.1	COLORADO INTERSTA
8415588	W795-2	4903722150		103		TABLE ROCK UNIT #58	TABLE ROCK	53.5	COLORADO INTERSTA
-WEXPRO COMPANY				RECEIVED:	01/10/84	JA: WY 5			
8415578	W10-3	4903722132		103		CHURCH BUTTES UNIT #37	CHURCH BUTTES - DAKOT	250.0	MOUNTAIN FUEL SUP

[FR Doc. 84-3777 Filed 2-10-84; 8:45 am]
BILLING CODE 6717-01-C

federal register

Monday
February 13, 1984

Part VI

Department of Agriculture

Office of the Secretary

7 CFR Part 3200

Competitive Research Grants Program; Administrative Provisions; Final Rule

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 3200

Competitive Research Grants Program; Administrative Provisions

AGENCY: Office of Grants and Program Systems, Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: This document establishes rules relating to the administration of the Competitive Research Grants Program conducted under the authority of section 2(b) of the Act of August 4, 1965, as amended (7 U.S.C. 450i(b)). The issuance of these rules establishes the procedures to be followed annually in the solicitation of competitive research grant proposals, the evaluation of such proposals, and the award of competitive research grants.

EFFECTIVE DATE: October 1, 1984.

FOR FURTHER INFORMATION CONTACT: Douglas E. Tabor, Acting Chief, Grants Administrative Management, Office of Grants and Program Systems, U.S. Department of Agriculture, Room 014, West Auditor's Building, 15th and Independence Avenue, SW., Washington, D.C. 20251. (Telephone: (202) 475–5050.)

SUPPLEMENTARY INFORMATION:

Paperwork Reduction

Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35, section 3504(h)), the collection of information requirements contained in this rule have been approved under OMB Document No. 0524–0010.

Classification

This rule has been reviewed under Executive Order 12291 and it has been determined that it is not a major rule because it does not involve a substantial or major impact on the nation's economy or on large numbers of individuals or businesses. There will be no major increase in cost or prices for consumers, individual industries, Federal, state, of local governmental agencies, or geographical regions. It will not have a significant economic impact on competitive employment, investment, productivity, innovation, or on the ability of U.S. enterprises to compete with foreign-based enterprises in domestic or export markets. In addition, it will not have a significant impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, Pub. L. 96–534 (5 U.S.C. 601).

Regulatory Analysis

Not required for this rulemaking.

Environmental Impact Statement

This regulation does not significantly affect the environment. Therefore, an environmental impact statement is not required under the National Environmental Policy Act of 1969.

Catalog of Federal Domestic Assistance

10.206, Grants for Agricultural Research, Competitive Research Grants.

Introduction

Under the authority of Section 2(b) of the Act of August 4, 1965, as amended, the Secretary of Agriculture is authorized to make competitive grants for research to further the programs of the Department of Agriculture. Section 2(b) charges the Secretary with the responsibility to seek the widest participation of qualified scientists in the Federal Government, all colleges and universities, state agricultural experiment stations, and the private sector in seeking research proposals and in performing peer review evaluations of such proposals. In the past, a Notice was published in the **Federal Register** annually announcing the availability of funds for competitive research grants and soliciting proposals. In addition, the Notice set forth the procedures and criteria for the evaluation of the proposals and the procedures and conditions relating to award and administration of the grants. This rule establishes and codifies such procedures, criteria, and conditions to be employed annually. It standardizes the rules applicable to the administration of the Competitive Research Grants Program and eliminates the need to republish them annually.

On July 7, 1983, the Department published a Notice in the **Federal Register** (48 FR 31348) proposing the establishment of these regulations and inviting comments from interested individuals and organizations. Comments on that proposal were requested by August 15, 1983.

During the comment period, the Department received 12 responses containing 14 different comments regarding the proposed rule. Seven letters from state universities, three memoranda from the Department, and two responses from organizations associated with the nation's state agricultural experiment station system were received and reviewed. All comments suggested either revisions, additions, minor corrections, or clarifications. None opposed the proposed rulemaking action. Copies of the comments may be examined in the Department's Office of Grants and Program Systems, Room 111, West Auditor's Building, 15th and Independence Avenue, SW., Washington, D.C. 20251.

Discussion of Comments

On respondent stated that listing specific high-priority research areas under § 3200.1(a) (1) through (6) could be misleading to prospective applicants and suggested that the listing be deleted.

The Department agrees with this position; areas of research emphasis may change in future years and flexibility is needed to allow occasional redefinition of research directions. Therefore, the listing of high-priority research areas which appeared under § 3200.1(a) in the Proposed Rule dated July 7, 1983, has been deleted. In addition, the last sentence under § 3200.1(a) has been removed.

The majority of responses centered around the Department's expansion of language under § 3200.1(a)(5) relating to high-priority research in the area of human nutrition. Commentors indicated that the added phrase "* * * related to agricultural *products and processes*" represents a narrowing of program scope which is contrary to Congressional intent as expressed in the statutory language. Most commentors suggested deleting the additional phraseology so that the wording aligns with that contained in the statute. The Department agrees with this position and gives assurance that the scope and intent of this program area have not changed. Because this subsection was deleted along with the other areas of high-priority research, as indicated above, however, the actual correction does not appear in this Final Rule.

One commentor was concerned that *Biological Stress in Plants* was not identified in the Proposed Rule as a specific high-priority program area. This respondent felt that, while the thrust of other program areas may permit a good deal of research related to *Biological Stress in Plants* to be performed without a specially designated category in this area, many research topics (e.g., entomology, fungal and bacterial pathogens, nematodes, weeds, and large crop predators) do not fit. Therefore, this commentor suggested that *Biological Stress in Plants* be included as an area of high-priority research. Although *Biological Stress in Plants* was not specifically identified as an area of thrust, there is no intention to lessen emphasis on this program. Biological stress as a research topic area will

continue to appear in the annual competitive research grants solicitation.

One commentor suggested that the competitive research grants program be administered in such a manner that proposals which seek to verify the marketability of crops and other products under the program will also qualify for consideration.

This respondent was particularly concerned about the emphasis placed on developing new crops without a corresponding emphasis on the ability of processors to handle these new crops with currently available facilities and equipment. The Department disagrees. A major aim of the overall program is to support research aimed at development of fundamental new knowledge of ultimate benefit to agriculture; therefore, the current philosophy of the program and the way in which it is administered must remain unchanged. The question raised concerning the ability of processors to handle any new crops developed in the future is being addressed by scientists currently located in or being supported by the agricultural experiment station system, as well as by units within USDA. Because the competitive research grants program is not charged with this responsibility in the enabling legislation or elsewhere, the program cannot be broadened to include these areas of concern.

One commentor suggested that a new subsection be inserted between subsections (2) and (3) under § 3200.4(a) announcing the requirement that renewal applications contain a restatement of objectives from the prior research project grant, a summary of progress or accomplishments in support of those objectives, and a listing of publications resulting from the previous award.

The Department agrees with this suggestion and emphasizes that these are not new requirements. Because previous annual solicitations have been silent on the issue, however, these items have often been omitted from renewal applications. Oversights such as this have caused considerable difficulties for peer reviewers when they attempt to evaluate the performance record of the proposed research team, determine the likelihood of project success, etc. Thus, the Department has formally incorporated these requirements into this Final Rule. Rather than adding the suggested phraseology to § 3200.4(a), we felt that it would be more appropriate to include it under § 3200.6(c)(2) entitled *Renewal grant.* Therefore, the second sentence of this subsection has been modified to read as follows: "When a renewal application is submitted, it should include a restatement of objectives from the prior research project grant, a summary of all progress to date in support of those objectives, and a listing of publications resulting from work performed under the previous award."

One commentor suggested that § 3200.4(d)(3)(ii) entitled *Rationale and significance* be strengthened and clarified so that applicants will be able to more meaningfully demonstrate the precise relationship between the objectives stated in their research proposals and the aims of the program area under which they are applying as outlined in the annual solicitation.

The Department believes that the current statement in this section is adequate and therefore has left it unchanged.

One commentor questioned whether or not the Department actually has a mechanism for deferring support of a project due to a lack of funds (see § 3200.5(b)(2)). It was this respondent's understanding that, according to current procedures, applicants whose projects cannot be supported because of limited total program funds must reapply and recompete for funding in a subsequent fiscal year. There are two basic circumstances under which project support is usually deferred under this program. First, in rare cases, support may be deferred pending further scientific evaluation should the peer review group decide that it does not have the expertise to adequately review and recommend approval or disapproval of a particular project. Departmental officials then seek the necessary expert advice to provide such evaluations so that a concrete decision can be reached. Second, projects are sometimes approved by the responsible peer review group and Departmental officials based upon their scientific merit. However, when scores for all projects in a particular program area are ranked, some proposals fall below the lower limit of fundable applications. The highest-ranking of these projects may be considered for support later in the same fiscal year in the event that funds become available, e.g., if an organization with an approved, fundable project receives support from another source and withdraws its application. On the other hand, applicants whose projects cannot be supported because of limited program funds generally must reapply and recompete for funding in a following year. Often, because of useful critiques from *ad hoc* and panel reviews, reapplications are strengthened, rank higher, and are funded.

One respondent suggested that the Department expand § 3200.6(c)(4) to include a statement indicating that requests for supplemental grants must be made during the grant review process. The rationale behind this suggestion was that funds are not available for this purpose at other times during the year. We believe that it would be overly restrictive as well as impractical to have grantees confine the timing of requests for supplemental grants to certain narrowly defined periods during the fiscal year. Research cannot be planned in such a fashion that financial needs always become known to scientists at prespecified intervals. While most funding decisions themselves may of necessity continue to be made during the grant review process, requests from from grantees need not coincide with that process. Therefore, we have left § 3200.6(c)(4) unchanged.

One respondent urged that a statement be included under § 3200.3(a) regarding the ineligibility of foreign organizations to receive research project grants under this program.

The Department prefers not to incorporate statements of this nature. Any reference to the ineligibility of foreign organizations may stifle the free exchange of scientific information between U.S. and foreign scientists and could prevent U.S. scientists from establishing cooperative research projects with foreign scientists, many of whom are leaders in their fields. Therefore, § 3200.3(a) remains unchanged in this Final Rule.

One respondent thought that the requirement for an 80-character title in § 3200.4(d)(1) is sufficient for Departmental purposes and suggested that the requirement for a 100-character research description be removed. The Department agrees with this suggestion. The requirement for a 100-character research description has been deleted.

One commentor pointed out that research plans which include the involvement of human subjects at risk do not require approval by the proposing organization's Institutional Review Board prior to a funding commitment by the Department. Therefore, this respondent suggested that the subsection dealing with human subjects at risk (§ 3200.4(d)(7)(ii)) be corrected.

We agree and have modified that subsection accordingly.

Two commentors stated that 10 copies of additions to project descriptions as specified in § 3200.4(d)(10) of the proposed rule are inadequate. So that sufficient copies are available to provide each peer reviewer with a set instead of limiting distribution to primary

reviewers, both suggested that the number be increased to 20.

Because the number of copies actually requested from proposers may change in future years, the Department feels that there is a need to remain flexible. Therefore, reference to a specific number of copies has been deleted and a portion of § 3200.4(d)(10) reworded accordingly.

One commentor pointed out an ambiguity in wording. The Proposed Rule stated (§ 3200.4(a)(1)) that the Department's annual solicitation will specify which program areas will be supported each year, yet the definition of "project" (§ 3200.2(f)) seemed to limit research activities to those areas identified under § 3200.1.

Although the specific areas of research under § 3200.1 have been deleted from this Final Rule, the Department agrees that the definition of "project" needs to be modified to bring it into line with § 3200.4. Therefore, § 3200.2(f) has been changed to read as follows:

"(f) 'Project' means the particular activity within the scope of one or more of the research areas identified in the annual solicitation of proposals, which is supported by a grant award under this part."

Two commentors called the Department's attention to typographical errors or omissions.

In response to these comments, we have corrected the word "granted" in § 3200.2(e), line three, to read "grantee" and have added the title number to the "Uniform Federal Assistance Regulations" citation appearing in § 3200.8 to read "7 CFR Part 3015."

List of Subjects in 7 CFR Part 3200

Grant programs—agriculture, Grant administration.

The Department therefore amends Title 7, Subtitle B of the Code of Federal Regulations, by adding Chapter XXXII consisting of Part 3200 as follows:

CHAPTER XXXII—SCIENCE AND EDUCATION

PART 3200—COMPETITIVE RESEARCH GRANTS PROGRAM

Subpart A—General

Sec.

3200.1 Applicability of regulations.
3200.2 Definitions.
3200.3 Eligibility requirements.
3200.4 How to apply for a grant.
3200.5 Evaluation and disposition of applications.
3200.6 Grant awards.
3200.7 Use of funds; changes.
3200.8 Other Federal statutes and regulations that apply.
3200.9 Other conditions.

Subpart B—Scientific Peer Review of Research Grant Applications

3200.10 Establishment and operation of peer review groups.
3200.11 Composition of peer review groups.
3200.12 Conflicts of interest.
3200.13 Availability of information.
3200.14 Proposal review.
3200.15 Evaluation factors.

Authority: Section 2(h) of the Act of August 4, 1965, as amended (7 U.S.C. 450i(h)).

Subpart A—General

§ 3200.1 Applicability of regulations.

(a) The regulations of this part apply to competitive research grants awarded under the provisions of Section 2(b) of the Act of August 4, 1965, as amended (7 U.S.C. 450i(b)), for the support of research to further the programs of the Department of Agriculture. Taking into consideration any determinations made by the Joint Council on Food and Agricultural Sciences and the National Agricultural Research and Extension Users Advisory Board, the Secretary of Agriculture, or his or her designee, shall determine and announce, through publication of a Notice in the **Federal Register** each year, high-priority research areas for which proposals will be solicited to the extent that funds are available.

(b) The regulations of this part do not apply to research grants awarded by the Department of Agriculture under any other authority.

§ 3200.2 Definitions.

As used in this part:

(a) "Secretary" means the Secretary of Agriculture and any other officer or employee of the Department of Agriculture to whom the authority involved may be delegated.

(b) "Department" means the Department of Agriculture.

(c) "Principal investigator" means a single individual designated by the grantee in the grant application and approved by the Secretary who is responsible for the scientific and technical direction of the project.

(d) "Grantee" means the institution, organization, agency, or individual designated in the grant award document as the responsible legal entity to whom a grant is awarded under this part.

(e) "Research project grant" means the award by the Secretary of funds to a grantee to assist in meeting the costs of conducting for the benefit of the public an identified project which is intended and designed to establish, discover, elucidate, or confirm information or the underlying mechanisms relating to a research area as set forth generally in § 3200.1 of this part.

(f) "Project" means the particular activity within the scope of one or more of the research areas identified in the annual solicitation of proposals, which is supported by a grant award under this part.

(g) "Project period" means the total length of time that is approved by the Secretary for conducting the research project as outlined in an approved grant application.

(h) "Budget period" means the interval of time (usually 12 months) into which the project period is divided for budgetary and reporting purposes.

(i) "Awarding official" means the Secretary and any other officer or employee of the Department to whom the authority to issue or modify grant instruments has been delegated.

(j) "Peer review group" means an assembled group of experts or consultants qualified by training and experience in particular scientific or technical fields to give expert advice, in accordance with the provisions of this part, on the scientific and technical merit of grant applications in those fields.

(k) "*Ad hoc* reviewers" means experts or consultants qualified by training and experience in particular scientific or technical fields to render special expert advice, whose written evaluations of grant applications are designed to complement the expertise of the peer review group, in accordance with the provisions of this part, on the scientific or technical merit of grant applications in those fields.

(l) "Research" means any systematic study directed toward new or fuller knowledge and understanding of the subject studied.

(m) "Methodology" means the project approach to be followed and the resources needed in carrying out the project.

§ 3200.3 Eligibility requirements.

(a) Except where otherwise prohibited by law, any state agricultural experiment station, college, university, other research institution or organization, Federal agency, private organization, corporation or individual shall be eligible for a grant award, provided the applicant qualifies as a responsible grantee under the criteria set forth in paragraph (b) of this section.

(b) To qualify as responsible, an applicant must meet the following standards as they relate to a particular project:

(1) Have adequate financial resources for performance, the necessary experience, organizational and technical qualifications, and facilities, or a firm

commitment, arrangement, or ability to obtain such (including proposed subagreements);

(2) Be able to comply with the proposed or required completion schedule for the project;

(3) Have a satisfactory record of integrity, judgment, and performance, including in particular, any prior performance under grants and contracts from the Federal Government;

(4) Have an adequate financial management system and audit procedure which provides efficient and effective accountability and control of all property, funds, and assets; and

(5) Be otherwise qualified and eligible to receive a grant award under applicable laws and regulations.

(c) Any applicant who is determined to be not responsible will be notified in writing of such findings and the basis therefor.

§ 3200.4 How to apply for a grant.

(a) A request for proposals will be prepared and announced in the **Federal Register** as early as practicable each fiscal year. It will contain information sufficient to enable all eligible applicants to prepare competitive research grant proposals and will be as complete as possible with respect to:

(1) Descriptions of specific research areas which the Department proposes to support during the fiscal year involved, including anticipated funds to be awarded;

(2) Deadline dates for having proposal packages postmarked;

(3) Name and address where proposals should be mailed;

(4) Number of copies to be submitted;

(5) Forms required to be used when submitting proposals; and

(6) Special requirements.

(b) *"Research Grant Application Kit."* A "Research Grant Application Kit" will be made available to any potential grant applicant who requests a copy. This kit outlines applicable competitive research topic areas supported and provides required forms, certifications, instructions, and general regulatory provisions applicable to the submission, award, and administration of grant instruments.

(c) *Signatures.* (1) All research proposals submitted by private organizations or corporations, state agricultural experiment stations, colleges and universities, Federal agencies, and other research institutions must be signed by the proposing principal investigator(s) and endorsed by the authorized organizational representative who possesses the necessary authority to commit the institution's time and other relevant resources.

(2) Any research proposals submitted by individuals who lack organizational affiliation need only be signed by the proposing principal investigator.

(d) *Format for research proposals.*— (1) *Title of project.* The title of the project must be brief (80-character maximum), yet represent the major thrust of the research. This title will be used by the Department to provide information to the Congress and other interested parties; therefore, highly technical words or phraseology should be avoided.

(2) *Project summary.* The project summary (one-page maximum) is *not* intended for the general reader; consequently, it should be couched in language which will have meaning to others in disciplines relating to the food and agricultural sciences. It should be specific and focus on:

(i) Overall project goal(s) with supporting objectives;

(ii) Relevance or significance of project to national needs; and

(iii) Experimental methodologies or approaches.

(3) *Project description.* The project description (15-page maximum) must contain the following components:

(i) *Introduction.* Long-term goal(s) and supporting objectives of the proposed research should be stated and described in detail. The most significant previous work in the field under consideration, including the work of key project personnel on the current application, should be reviewed. The current status of research in this field of science should also be described. All work cited, including that of key personnel, shall be footnoted or otherwise referenced.

(ii) *Rationale and significance.* Rationale behind the proposed research must be presented concisely, and specific objectives must be listed for the total period of requested support. How the objectives specifically relate to the applicable research area identified in the relevant **Federal Register** Notice and to potential long-range improvement in food production or human nutrition should be clearly shown. Any novel ideas or contributions which the proposed project offers should also be discussed under this section.

(iii) *Experimental plan.* The hypotheses or questions to be asked and the methodology to be applied to the proposed research project should be explicitly stated. The methodology should include but not necessarily be limited to:

(A) Description of proposed investigations and/or experiments *in the sequence in which it is planned to carry them out;*

(B) Techniques to be employed, including their feasibility;

(C) Kinds of results expected;

(D) Means by which data will be analyzed or interpreted;

(E) Pitfalls which might be encountered;

(F) Limitations to proposed procedures; and

(G) Tentative schedule for conducting major steps of investigations and/or experiments.

(iv) *Facilities and equipment.* All facilities, including laboratories, which are *available for use or assignment to the proposed research project during the requested period of support,* should be described. Any materials, procedures, situations, or activities, whether or not directly related to a particular phase of the proposed research, and which may be hazardous to personnel, must be fully explained, along with an outline of precautions to be exercised. All items of major instrumentation *available for use or assignment to the proposed research project during the requested period of support* should be listed. In addition, items of nonexpendable equipment needed to conduct and bring the proposed project to a successful conclusion should be listed.

(v) *Collaborative arrangements.* If the proposed project requires collaboration with other research scientists, corporations, organizations, agencies, or entities, such collaboration must be fully explained and justified. Evidence should be provided to assure peer reviewers that the collaborators involved agree with the arrangements. It should be specifically indicated whether or not such collaborative arrangements have the potential for any conflict(s) of interest. Proposals which indicate collaborative involvement must state which proposer is to receive any resulting grant award, since only one submitting individual, corporation, organization, institution, agency, or other entity can be the recipient of a research project grant under one proposal.

(4) *References to project description.* All references cited should conform to an accepted journal format.

(5) *Vitae and publication list(s) of key project personnel.* Vitae of the proposing principal investigator(s), senior associate(s), and other professional personnel should be provided to assist reviewers in evaluating the competence and experience of the project staff. This section of the proposal should include curricula vitae for *all* key persons who will work on the proposed research

project, whether or not Federal funds are sought for their support. A chronological list of the most representative publications during the past five years shall be provided for each professional project member for whom a curriculum vitae appears under this section. Authors should be listed in the same order as their names appear on each paper cited, along with the title and complete reference as these usually appear in journals.

(6) *Budget.* A detailed budget is required for *each year* of requested support. In addition, a summary budget is required detailing the requested support for the overall project period. A copy of the form which must be used for this purpose, along with instructions for completion, is included in the "Research Grant Application Kit" identified under § 3200.4(b) of this part and may be reproduced as needed by proposers. Funds may be requested under any of the categories listed, provided that the item or service for which support is requested is allowable under applicable Federal cost principles and can be identified as necessary for successful conduct of the proposed research project. All research project grants awarded under this part shall be issued without regard to matching funds or cost sharing by recipients of such grants.

(7) *Research involving special considerations.* A number of situations encountered in the conduct of research require special information and supporting documentation before funding can be approved for the project. If such situations are anticipated, the proposal must so indicate. It is expected that a significant number of competitive research grant proposals will involve the following:

(i) *Recombinant DNA molecules.* All key personnel identified in a proposal and all endorsing officials of a proposed performing organization are required to comply with guidelines established by the National Institutes of Health entitled, "Guidelines for Research Involving Recombinant DNA Molecules," as revised.

(ii) *Human subjects at risk.* Responsibility for safeguarding the rights and welfare of human subjects used in any research project supported with grant funds provided by the Department rests with the performing organization. Guidance is contained in Pub. L. 93–348, as implemented by the Department of Health and Human Services' policies under 45 CFR Part 46. In the event that a project involving human subjects at risk is recommended for award, the proposer will be required to submit a statement certifying that the research plan has been reviewed and approved by the Institutional Review Board at the proposing organization or institution. Individual proposers or small business firms should contact local universities or other organizations which have established such reviewing mechanisms so that this service may be performed for them. The "Research Grant Application Kit," identified above in § 3200.4(b), contains a form which is suitable for such certification.

(8) *Current and pending support.* All proposals must list any other *current* public or private research support, in addition to the proposed project, to which key personnel listed in the proposal under consideration have committed portions of their time, whether or not salary support of the person(s) involved is included in the budgets of the various projects. This section must also contain analogous information for all projects underway and for pending research proposals which are currently being considered by, or which will be submitted in the near future to, other possible sponsors, including other Departmental programs or agencies. Concurrent submission of identical or similar projects to other possible sponsors will not prejudice its review or evaluation by the Secretary or experts or consultants engaged by the Secretary for this purpose.

(9) *Organizational information.* Specific management information relating to a proposing individual or organization shall be submitted on a *one-time basis prior to the award of a competitive research grant* identified under this part. Copies of forms recommended for use in fulfilling the requirements contained in this paragraph are available upon request from the agency specified in this part.

(10) *Additions to project descriptions.* Each project description is expected by the Secretary, members of peer review groups, and the relevant program staff to be complete in itself. However, in those instances in which the inclusion of additional information is necessary, the number of copies submitted should match the number of copies of the application requested in the annual request for proposals, as indicated in § 3200.4(a)(4). Each set of such material must be identified with the title of the research project as it appears on the cover page of the proposal and the name(s) of the principal investigator(s). Examples of additional material may include photographs which do not reproduce well, reprints, and other pertinent materials which are deemed to be unsuitable for inclusion in the proposal.

§ 3200.5 Evaluation and disposition of applications.

(a) *Evaluation.* All proposals received from eligible applicants and postmarked in accordance with deadlines established in the applicable request for proposals shall be evaluated by the Secretary through such officers, employees, and others as the Secretary determines are uniquely qualified in the areas of research represented by particular projects. To assist in equitably and objectively evaluating proposals and to obtain the best possible balance of viewpoints, the Secretary shall solicit the advice of peer scientists and others who are recognized specialists in the research areas covered by the applications received and whose general roles are defined in § 3200.2(j) and § 3200.2(k). Specific evaluations shall be based upon the factors established in Subpart B, § 3200.15, of this part. The overriding purpose of such evaluations is to provide information upon which the Secretary can make informed judgments in selecting proposals for ultimate support. Incomplete, unclear, or poorly organized applications will work to the detriment of proposers during the peer evaluation process. To ensure a comprehensive evaluation, all applications should be written with the care and thoroughness accorded papers for publication.

(b) *Disposition.* On the basis of the Secretary's evaluation of an application in accordance with paragraph (a) of this section, the Secretary will (1) approve support using currently available funds, (2) defer support due to lack of funds or a need for further evaluations, or (3) disapprove support for the proposed project in whole or in part. With respect to approved projects, the Secretary will determine the project period (subject to extension as provided in § 3200.7(c)) during which the project may be supported. Any deferral or disapproval of an application will not preclude its reconsideration or a reapplication during subsequent fiscal years.

§ 3200.6 Grant awards.

(a) *General.* Within the limit of funds available for such purpose, the awarding official shall make research project grants to those responsible, eligible applicants whose proposals are judged most meritorious in the announced program areas under the evaluation criteria and procedures set forth in this part. The date specified by the Secretary as the beginning of the project period shall be no later than September 30 of the Federal fiscal year in which the project is approved for support and funds are appropriated for such purpose.

unless otherwise permitted by law. All funds granted under this part shall be expended solely for the purpose for which the funds are granted in accordance with the approved application and budget, the regulations of this part, the terms and conditions of the award, the applicable Federal cost principles, and the Department's Uniform Federal Assistance Regulations (7 CFR Part 3015).

(b) *Grant award document and notice of grant award*—(1) *Grant award document.* The grant award document shall include at a minimum the following:

(i) Legal name and address of performing individual, corporation, organization, or agency to whom the Secretary has awarded a competitive research project grant under the terms of this part;

(ii) Title of project;

(iii) Name(s) and address(es) of principal investigator(s) chosen to direct and control approved activities;

(iv) Identifying grant number assigned by the Department;

(v) Project period, which specifies how long the Department intends to support the effort without requiring recompetition for funds;

(vi) Total amount of Federal financial assistance approved by the Secretary during the project period;

(vii) Legal authority(ies) under which the grant is awarded to accomplish the purpose of the law;

(viii) Approved budget plan for categorizing allocable project funds to accomplish the stated purpose of the grant award; and

(ix) Other information or provisions deemed necessary by the Department to carry out its granting activities or to accomplish the purpose of a particular research project grant.

(2) *Notice of Grant award.* The notice of grant award, in the form of a letter, will be prepared and will provide pertinent instructions or information to the grantee which are not included in the grant award document.

(c) *Categories of grant instruments.* The major categories of grant instruments shall be as follows:

(1) *Standard grant.* This is a grant instrument by which the Department agrees to support a specified level of research effort for a predetermined project period without the announced intention of providing additional support at a future date. This type of research project grant is approved on the basis of peer review and recommendation and is funded for the entire project period at the time of award.

(2) *Renewal grant.* This is a document by which the Department agrees to provide additional funding under a standard grant as specified in paragraph (c)(1) of this section for a project period beyond that approved in an original or amended award, provided that the cumulative period does not exceed the statutory limitation. When a renewal application is submitted, it should include a restatement of objectives from the prior research project grant, a summary of all progress to date in support of those objectives, and a listing of publications resulting from work performed under the previous award. Such a renewal shall be based upon a new application, *de novo* peer review and staff evaluation, new recommendation and approval, and a new award instrument.

(3) *Continuation grant.* This is a grant instrument by which the Department agrees to support a specified level of effort for a predetermined period of time with a statement of intention to provide additional support at a future date provided that performance has been satisfactory, appropriations are available for this purpose, and continued support would be in the best interests of the Federal Government and the public. It involves a long-term research project that is considered by peer reviewers and Departmental officers to have an unusually high degree of scientific merit, the results of which are expected to have a significant impact on the food and agricultural sciences, and it supports the efforts of experienced scientists with records of outstanding research accomplishments. This kind of document will normally be awarded for an initial one-year period and any subsequent continuation grants will also be awarded in one-year increments.

The award of a continuation research project grant to fund an initial or succeeding budget period does not constitute an obligation to fund any subsequent budget period.

A grantee must submit a separate application for continued support for each subsequent year. Requests for such continued support must be submitted in duplicate at least three months prior to the expiration date of the budget period currently being funded. Such requests must include: an interim progress report detailing all work performed to date; a "Grant Application"; a proposed budget for the ensuing period, including an estimate of funds anticipated to remain unobligated at the end of the current budget period; and current information regarding other extramural support for senior personnel.

Decisions regarding continued support and the actual funding level of such support in future years will usually be made administratively after consideration of such factors as the grantee's progress and management practices and within the context of available funds. Since initial peer reviews were based upon the full term and scope of the original competitive grant application, additional evaluations of this type are not generally required prior to successive years' support. However, in unusual cases (e.g., when the nature of the project or key personnel change or when the amount of future support requested substantially exceeds the grant application originally reviewed and approved), additional reviews may be required prior to approving continued funding.

(4) *Supplemental grant.* This is an instrument by which the Department agrees to provide small amounts of additional funding under a standard grant as specified in paragraph (c)(1) of this section and involves a short-term (usually six months or less) extension of the project period beyond that approved in an original or amended award. A supplement is awarded only if required to assure adequate completion of the original scope of work and if there is sufficient justification of need to warrant such action. A request of this nature does not normally require additional peer review.

(d) *Obligation of Federal Government.* Neither the approval of any application nor the award of any research project grant shall legally commit or obligate the United States in any way to make any renewal, supplemental, continuation, or other award with respect to any approved application or portion of an approved application.

§ 3200.7 Use of funds; changes.

(a) *Delegation of fiscal responsibility.* The grantee may not in whole or in part delegate or transfer to another person, institution, or organization the responsibility for use or expenditure of grant funds.

(b) *Changes in project plans.*

(1) The permissible changes by the grantee, principal investigator(s), or other key project personnel in the approved research project grant shall be limited to changes in methodology, techniques, or other aspects of the project to expedite achievement of the project's approved goals. If the grantee and the principal investigator(s) are uncertain as to whether a change complies with this provision, the question must be referred to the Secretary for a final determination.

(2) Changes in approved goals, or objectives, shall be requested by the grantee and approved in writing by the

Department *prior to effecting such changes.* In no event shall requests for such changes be approved which are outside the scope of the original approved project.

(3) Changes in approved project leadership or the replacement or reassignment of other key project personnel shall be requested by the grantee and approved in writing by the Department *prior to effecting such changes.*

(4) Transfers of actual performance of the substantive programmatic work in whole or in part and provisions for payment of funds, whether or not Federal funds are involved, shall be requested by the grantee and approved in writing by the Department *prior to effecting such transfers.*

(c) *Changes in project period.* The project period determined pursuant to § 3200.5(b) may be extended by the Secretary without additional financial support, for such additional period(s) as the Secretary determines may be necessary to complete, or fulfill the purposes of, an approved project. Such extension, when combined with the originally approved or amended project period, shall not exceed five (5) years (the limitations established by statute) and shall be further conditioned upon prior request by the grantee and approval in writing by the Department.

(d) *Changes in approved budget.* Changes in an approved budget shall be requested by the grantee and approved in writing by the Department prior to instituting such changes if the revision will:

(1) involve transfers of amounts budgeted for indirect costs to absorb increases in direct costs;

(2) involve transfers of amounts budgeted for direct costs to accommodate changes in indirect cost rates negotiated during a budget period and not approved when a standard, renewal, continuation, or supplemental grant was awarded;

(3) involve transfers of amounts previously budgeted for training allowances;

(4) result in a need or claim for the award of additional funds; or

(5) involve transfers or expenditures of amounts requiring prior approval as set forth in the applicable Federal cost principles, Departmental regulations, or in the standard, continuation, renewal, or supplemental award.

§ 3200.8 Other Federal statutes and regulations that apply.

Several other Federal regulations or statutes apply to research project grants considered for review or awarded under this part. These include but are not limited to:

7 CFR 1.1—USDA implementation of Freedom of Information Act

7 CFR Part 15, Subpart A—USDA implementation of Title VI of the Civil Rights Act of 1964

7 CFR Part 3015—USDA Uniform Federal Assistance Regulations, as amended, implementing OMB directives (i.e., Circular Nos. A–102, A–110, A–87, A–21, and A–122) and incorporating provisions of 31 U.S.C. 6301–6308 (formerly, the Federal Grant and Cooperative Agreement Act of 1977, Pub. L. 95–224), as well as general policy requirements applicable to recipients of Departmental financial assistance

29 U.S.C. 794, Section 504—Rehabilitation Act of 1973, and 7 CFR Part 15b (USDA effectuation of statute), prohibiting discrimination based upon physical or mental handicap in Federally assisted programs

35 U.S.C. 200 *et seq.*—Bayh-Dole Act, controlling allocation of rights to inventions made by employees of small business firms and domestic nonprofit organizations, including universities, in Federally assisted programs (implementing regulations are contained in OMB Circular No. A–124).

§ 3200.9 Other conditions.

The Secretary may, with respect to any research project grant or to any class of awards, impose additional conditions prior to or at the time of any award when, in the Secretary's judgment, such conditions are necessary to assure or protect advancement of the approved project, the interests of the public, or the conservation of grant funds.

Subpart B—Scientific Peer Review of Research Grant Applications

§ 3200.10 Establishment and operation of peer review groups.

(a) To the extent applicable, the Federal Advisory Committee Act (5 U.S.C. App. I) and Departmental implementing regulations (7 CFR Part 25) will govern the establishment and operation of peer review groups.

(b) Subject to § 3200.5 and paragraph (a) of this section, the Secretary will adopt procedures for the conduct of peer reviews and the formulation of recommendations under § 3200.14.

§ 3200.11 Composition of peer review groups.

Peer review group members will be selected based upon their training and experience in relevant scientific or technical fields taking into account the following factors:

(a) the level of formal scientific or technical education by the individual;

(b) the extent to which the individual has engaged in relevant research, the capacities in which the individual has done so (i.e., principal investigator, assistant), and the quality of such research;

(c) professional recognition as reflected by awards and other honors received from scientific and professional organizations outside of the Department;

(d) the need of the group to include within its membership experts from various areas of specialization within relevant scientific or technical fields;

(e) the need of the group to include within its membership experts from a variety of organizational types (e.g., universities, industry, private consultant(s)) and geographical locations; and

(f) the need of the group to maintain a balanced membership, e.g., minority and female representation and equitable age distribution.

§ 3200.12 Conflicts of interest.

(a) Members of peer review groups covered by this part are subject to relevant provisions contained in Title 18 of the United States Code relating to criminal activity, Departmental regulations governing employee responsibilities and conduct (7 CFR Part 0) and Executive Order 11222, as amended.

(b) No member of a peer review group may participate in any review under this part of a specific grant application for which the member has had or is expected to have any other responsibility or involvement (whether preaward or postaward) as an officer or employee of the United States.

(c) Where permissible under the authorities cited in paragraph (a) of this section, the Secretary may waive the requirements in paragraph (b) of this section if he or she determines that there is no other practical means for securing appropriate expert advice on a particular grant application.

§ 3200.13 Availability of information.

Information regarding the peer review process will be made available to the extent permitted under the Freedom of Information Act (5 U.S.C. 552), the Privacy Act (5 U.S.C. 552a), and implementing Departmental regulations (7 CFR Part 1).

§ 3200.14 Proposal review.

(a) All research grant applications will be acknowledged. Prior to technical examination, a preliminary review will be made for responsiveness to the request for proposals (e.g., relationship of application to funding program).

(b) All applications will be carefully reviewed by the Secretary, qualified officers or employees of the Department, the respective peer review group, and *ad hoc* reviewers, as required. Written comments will be solicited from *ad hoc* reviewers, and individual written comments and in-depth discussions will be provided by peer review group members prior to recommending applications for funding. Applications will be ranked and support levels recommended within the limitation of total available funding for each particular program as announced in the request for proposals.

(c) No awarding official will make a research project grant based upon an application covered by this part unless the application has been reviewed by a peer review group and/or *ad hoc* reviewers in accordance with the provisions of this part and said reviewers have made recommendations concerning the scientific merit of such application.

(d) Except to the extent otherwise provided by law, such recommendations are advisory only and are not binding on the awarding official or on program personnel.

§ 3200.15 Evaluation factors.

In carrying out its review under § 3200.14, the peer review group will take into account the following factors:

(a) Scientific merit of the proposal.

(1) Conceptual adequacy of hypothesis;

(2) Suitability and feasibility of methodology; and

(3) Appropriateness of techniques.

(b) Objectives and approach.

(1) Scientific soundness or information value;

(2) Novelty, uniqueness, and orginality; and

(3) Adequacy of the description of the undertaking.

(c) Human and physical resources.

(1) Qualifications of principal investigator(s), and all other key project personnel, such as training, demonstrated awareness of previous and alternative approaches to the problem identified in the proposal, and performance record and/or potential for future accomplishments;

(2) Time allocated for systematic attainment of objectives;

(3) Institutional experience and competence in subject area;

(4) Adequacy of available or obtainable support personnel, facilities, and instrumentation; and

(5) Likely efficiency of resource utilization.

(d) Impact of anticipated results.

(1) Relevance of research itself to practical needs; and

(2) Scientific contribution of research in leading to important discoveries or significant breakthroughs in announced program area.

(e) Probability of success of project.

(f) Projected economic feasibility for near-term application.

Done at Washington, D.C., this 3rd day of February 1984.

Orville G. Bentley,

Assistant Secretary for Science and Education.

[FR Doc. 84-3605 Filed 2-10-84; 8:45 am]

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federal register

Monday
February 13, 1984

Part VII

Environmental Protection Agency

40 CFR Ch. I

Air Pollution Control; Regulation of Polycyclic Organic Matter Under the Clean Air Act; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

[AD-FRL-2494-6]

Air Pollution Control; Regulation of Polycyclic Organic Matter Under the Clean Air Act

AGENCY: Environmental Protection Agency.

ACTION: Proposed decision and opportunity for public hearing.

SUMMARY: This notice proposes for public comment the Environmental Protection Agency's (EPA) decision not to regulate polycyclic organic matter (POM) as a specified air pollutant under the Clean Air Act. This proposed decision responds to section 122 of the Clean Air Act, as amended in 1977, which requires EPA to determine if POM should be specifically regulated under the Act to protect public health. A public hearing will be held, if requested, to provide interested persons the opportunity for oral presentation of data, views and arguments concerning this proposed decision.

DATES: *Comments.* Comments must be received on or before March 29, 1984.

Public Hearing. A public hearing, if requested by February 27, 1984, will be held about 30 days after proposal beginning at 10:00 a.m. The exact date and location of any such hearing will be available by contacting Ms. Nancy Riley, Strategies and Air Standards Division (MD–12), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, phone number (919) 541–5519.

ADDRESSES: *Comments.* Send comments (in duplicate if possible) to the Central Docket Section (A–130), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, Attention: Docket No. A–83–32.

Public Hearing. The public hearing, if requested, will be held at Research Triangle Park, North Carolina. Persons wishing to present oral testimony should notify Ms. Nancy Riley at the address listed above.

FOR FURTHER INFORMATION CONTACT:

Kent Berry, Strategies and Air Standards Division, (MD–12), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone (919) 541–5504 or FTS 629–5504.

SUPPLEMENTARY INFORMATION:

Background

Section 122 of the Clean Air Act, as amended in 1977, requires EPA to review all relevant information on polycyclic organic matter (POM) to determine whether emissions of POM into the ambient air "will cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health." If the Administrator concludes that POM does cause or contribute to such air pollution, he must simultaneously with such determination include POM on the list of pollutants to be covered by national ambient air quality standards (NAQS), list it as a hazardous pollutant under section 112, or list significant POM source categories to be covered by new source performance standards (NSPS) (or by taking a combination of these actions). As required by section 122, the decision on the need to regulate POM is to be issued after notice and opportunity for public hearing.

POM is a generic term which covers a large number of chemical substances containing two or more ring structures. These include compounds made up of only carbon and hydrogen (polycyclic aromatic hydrocarbons, or PAH), compunds with a ring nitrogen (aza and imino arenes), oxygenated species, and nitrated and chlorinated POM (including dioxins and pesticides such as aldrin and DDT).

Due to their high molecular weight, POM compounds are generally emitted as particulate matter from various stationary and mobile sources and are usually collected as particulate matter in the ambient air. POM emissions are rarely composed of just a single POM compound, but are released as part of a complex mixture of variety of POM compounds. Frequently, POM emissions are also accompanied by a variety of other substances such as trace metals which may also be of environmental concern.

POM emissions to the atmosphere are generally produced by combustion porcesses, especially where combustion is incomplete. Each POM source category is likely to emit a different and unique mixture of POM compounds. There is considerable variability in the type and amount of emissions among sources within the same source category. Major POM source categories include coke production, residential use of wood and coal in fireplaces and stoves, mobile sources such as automibilies, trucks, and aircraft, forest fires, and commercial and industrial incineration.

In response to section 122 of the Act requiring a regulatory decision on POM, EPA initiated: (1) An assessment of the health effects of POM; and (2) a population exposure study for POM using benzo(a)pyrene (BaP) as an indicator. BaP was used because it is one of the most studied POM compounds in terms of health effects, emissions and ambient measurements and is one of the more common POM compounds found in source and ambient samples. Based on these documents EPA's Carcinogen Assessment Group prepared a third document on the population risks due to POM exposures (1), also using BaP as the indicator. These three documents were released for review by the public and the Science Advisory Board (SAB), an advisory group of nationally prominent scientists from outside EPA, and were the subject of a public SAB subcommittee meeting on August 3 and 4, 1978. The SAB subcommittee issued a draft report on the three documents making a variety of recommendations for change and concluding in general that the documents were insufficient for decisionmaking without significant change. Based on comments by the subcommittee and the public, the health document and the population exposure document were revised. (2,3) Because of the uncertainty in the underlying data, no further work was done on the population risk report. The revised health and exposure documents were not reviewed again by the SAB.

On July 19, 1982 the State of New York filed a citizen suit under section 304 of the Clean Air Act to compel EPA to make the determination on POM required by section 122. On May 31, 1983 the U.S. District Court for the Southern District of New York ruled that EPA must issue the decision on POM by May 31, 1984. *State of New York v. Ruckelshaus,* No. 82–CIV–4695. EPA has based this proposal on available information, including the EPA 1979 POM health assessment document and a recently-released report by the National Research Council, National Academy of Sciences, entitled "Polycyclic Aromatic Hydrocarbons: Evaluation of Sources and Effects." (4) EPA particularly solicits the submission of information published since the POM health document was prepared in 1979 or information that was not reviewed by the recent NRC/NAS report, that would have a significant bearing on the Administrator's decision. Of particular interest would be information that: (1) Identifies the contribution of the POM component in complex environmental mixtures to the biological activity of the mixture; and (2) allows the calculation of carciogenic potency or risk of the

POM component of environmental mixtures.

Health Effects of POM

This discussion about the health effects of POM deals specifically with the non-halogenated combustion and pyrolysis POM products of organic matter. The major human health effect of concern about exposure to this class of airborne POM is that of cancer. It is well-established that extracts of particular air pollutants which contain POM are carcinogenic when painted on the skin of rodents or injected into newborn mice. Several POM compounds are among the most potent animal carcinogens known to exist. A variety of POM and POM mixtures are mutagenic in various tests. However, not all POMs have demonstrated carcinogenic and/or mutagenic activity, and many POMs have not been tested. While epidemiology studies have not directly linked any single POM compound to human cancer, a number of such studies have established that mixtures containing compounds of POM are associated with an excess incidence of cancer in humans. Populations exposed to POM-containing mixtures which have shown excess lung cancer include cigarette smokers, roofing tar workers, coal-gas workers, and coke oven workers. Animal studies suggest that POM represents a substantial part, but not all, of the carcinogenic potential of the mixtures to which these populations are exposed.

A number of the carcinogenic POM compounds have been measured in the ambient air and thus could be expected to present some degree of risk. However, a number of problems are involved in quantifying this risk. The potency of different POM mixtures varies substantially. Also, levels of individual POMs are not highly predictive of the carcinogenic potency of the mixtures which contain them. The carcinogenic impact of any given source should be evaluated in terms of the mixture as a whole rather than by its POM content, but very few POM-containing mixtures have been thus characterized.

Attempts have been made to estimate cancer risks associated with exposure to POM-containing mixtures. For example, this was done for coke oven emissions by using the potency derived from the incidence of cancer in exposed workers, a surrogate to estimate worker exposure to the emissions, and a mathematical model to estimated ambient emissions exposure. The potency of diesel exhaust has been estimated by comparison with coke oven emissions in biological test systems to provide a basis for quantitative risk estimation. A similar approach might also be useful for other POM-containing mixtures. However, the lack of information about the potency of most POM-containing mixtures together with the difficulties involved in characterizing the POM content and estimating the extent of exposure for each POM source, make the quantification of the total cancer burden due to ambient levels of POM uncertain at this time.

Sources and Emissions

National estimates of POM emissions are characterized by great uncertainty. The reasons for this include: (1) There is little uniformity as to what is analyzed for (e.g., total POM, PAH, BaP) or in the measurement methods used; (2) there are great problems obtaining representative samples from such difficult to sample and highly variable sources as wood stoves, other small combustion operations, and forest, agricultural and other open burning; and (3) other difficulties involving the collection, extraction and detection of POM. Consequently, different studies may present very different pictures as to which sources are the most significant emitters of POM.

One study(5) estimated national POM emissions in 1980 to be nearly 18,000 tons. The most important source categories in terms of the percent of this national total were as follows: mobile source (40%), residential wood stoves (44%), wildfires (5%), fireplaces (3.1%), commercial and industrial incineration (2.7%), and coke oven emissions (2.2%). Within the mobile source category 29 percent is from noncatalyst passenger cars, 15 percent is from gasoline engine trucks, 12 percent from diesel trucks, and the remainder from other mobile sources (ships, planes, railroads, etc.). The non-motor vehicle mobile source emissions tend to be of less concern to public health because most of the emissions result in little public exposure (railroads, ships, farm machinery) or because their emissions are dispersed above the boundary layer (aircraft).

By the year 2000, motor vehicle emissions, as indicated by BaP, are estimated to decrease by 11 percent (4). This reflects the benefit of catalyst-equipped spark-ignition passenger cars over their noncatalyst counterparts, which is partially offset by the incursion of diesel vehicles and increased vehicle miles traveled (VMT), particularly diesel truck mileage. In the year 2000, without further particulate emission controls, diesel vehicles will account for 40 percent of the mileage, 50 percent of the fuel consumption, and 80 percent of the total motor-vehicle BaP emissions, according to this estimate. Because heavy duty diesel truck VMT are expected to increase much more rapidly than other vehicles and are traveled predominantly in rural areas (80%), it is estimated that about 40 percent of the BaP from motor vehicles will be released in urban areas in the year 2000, compared with 63 percent in 1979. Thus, the BaP emissions from motor vehicles nationwide will decrease slightly and there will be a shift of emissions which will result in significant decreases in public exposure.

The reductions in mobile source emissions will be the indirect result of several Federal programs affecting these sources. The control programs directed at reducing emissions of hydrocarbons and carbon monoxide from new light, medium, and heavy duty gasoline engine vehicles under Title II of the Clean Air Act will result in reduced POM emissions from this sector of the vehicle fleet as older vehicles are retired. The use of oxidation catalysts to comply with the Title II requirements is particularly effective in reducing POM emissions (as indicated by BaP). Progressively more stringent limitations on particulate emissions from light and heavy duty diesels will also limit the increase in POM emissions resulting from substantially increased diesel VMT. Substantial Agency research has been directed at determining the health effects, particularly with respect to carcinogenicity, of diesel particulate. While there is some indication that diesel emissions may be carcinogenic, the diesel control program to date has been based primarily on regulating particulate emissions which contribute to violations of the national ambient air quality standards for particulate matter and to other adverse welfare effects related to particulate matter (e.g., visibility reduction and soiling). The Agency is continuing its assessment of the health effects of diesel particulate and will modify the basis and/or the stringency of its current control program as necessary.

POM emissions for most stationary source categories will also decrease. Stringent particulate matter NSPS (which will also reduce POM emissions) have been established for new or modified sources such as utility boilers, electric arc and basic oxygen steel-making furnaces, ferroalloy plants, asphalt concrete plants, kraft pulp mill recovery furnaces, refinery catalytic cracking units, and large incineration units. NSPS are under development which would indirectly reduce POM emissions from sources such as industrial boilers and process heaters.

As existing sources are replaced or modified, POM emissions for most of these source categories can be expected to go down. State Implementation Plan (SIP) requirements for new source review and for existing sources in particulate matter non-attainment areas can also be expected to indirectly reduce POM emissions from many source categories in the future.

There are trends in several of the POM categories which may run counter to the general downward trend for POM emissions. The most important of these involves industrial combustion of wood and residential combustion of wood and coal in fireplaces and stoves. There is some indication that the rapid increase during the 1970's in both industrial and residential wood combustion has leveled off, but some continued slow growth is anticipated. There has been little State regulation of these source categories in the past, especially for residential heating, but control activities are beginning to increase.

Another trend that could potentially affect emissions of POM involves switching from the use of gas and oil to coal. With the exception of the increased use of residential stoves, fuel switching is expected to occur primarily in large combustors such as utility boilers and large industrial furnaces. Since POM emissions from burning coal in these relatively efficient units are very low, switching to coal would have a negligible effect on POM emissions, both nationally and locally.

Air Quality Concentrations and Trends

As mentioned above, POM in the ambient air is usually adsorbed on to fine particles in the air and collected as particulate matter on filters. There are significant difficulties involving: (1) The collection of very small POM-containing particles and of volatile POM; (2) evaporate and oxidate losses during and after collection; (3) extraction from the collection media; and (4) detection, all of which make measurements of total POM in ambient and source samples extremely difficult and uncertain. However, there are several relatively simple, inexpensive techniques for reliably measuring some individual POM compounds. As the number of compounds to be measured increases, the cost and time of analysis increase substantially. For these reasons, the ambient monitoring data for POM are usually from short-term studies (i.e., less than a year of data) and are not uniform in terms of the compounds measured, the analytical techniques used, and time periods covered. There is no national monitoring network for POM. Thus, the available data do not give a good overall picture of the ambient situation for POM.

Nationwide trends data are available, however, for the period 1966–1977 for BaP, with some limited BaP data available after 1977. While it is generally acknowledged that BaP is not an accurate surrogate for total POM, the BaP data provide a rough approximation of the trend in POM air quality over the same years at the sites monitored. The annual average concentrations for 26 urban sites in the National Air Surveillance Network (NASN) were 4.0 and 0.7 ng/m^3 for the 1966–1969 and 1974–1977 periods, respectively. Three remote rural sites recorded averages for these same periods of 0.27 ng/m^3 and 0.08 ng/m^3. Of the 26 urban sites, 18 were characterized as being impacted to some degree by coke oven emissions, and the averages for these sites were usually more than double the urban non-coke sites. The averages for 1977, the last year with complete data, continued to reflect these differences: urban (total) −0.35 ng/m^3; urban (coke) −0.41 ng/m^3; urban (non-coke) −0.23 ng/m^3; remote rural −0.08 ng/m^3. Although incomplete data are available after 1977, no abrupt changes from the immediately preceding years are apparent. The above data indicate that BaP concentrations have decreased by almost 90 percent from 1966 to 1977, and major reductions in other POM compounds for the same period would also seem likely.

The BaP data show substantial seasonal variability, especially in the earlier years, with winter averages often 2 or more times the summer average. This reflects the increased BaP emissions due to space heating and generally poorer winter dispersion conditions.

The clear downward trend in BaP concentrations for the 1966–1977 period for all types of sites can be attributed to a variety of control programs generally directed at reducing emissions of pollutants subject to national ambient air quality standards. These programs include:

1. The decrease (about 50 percent between 1970 and 1977) in coal consumed for space heating, particularly in the older downtown sections of the cities where the NASN sites were located;

2. Restrictions on open burning and residential, commercial, and industrial incineration;

3. Control of coke oven and perhaps other industrial sources; and

4. Increased use of catalyst-controlled automobiles.

Since the ambient data from NASN show no apparent upward trend in BaP that might reflect the increased POM emissions from wood-burning stoves and fireplaces, and increases have apparently been more than offset by reductions from other POM sources. However, the NASN data are generally recorded in the downtown area of medium to large cities, which might not be impacted by woodburning activities that are more likely to occur in suburban areas and small cities.

Need for Regulation of POM Under the Clean Air Act

The decision whether to regulate POM under the Act has centered on cancer as the primary health effect of concern. As explained above, there is significant uncertainty as to the human cancer risk due to POM in the ambient air. Because of this uncertainty, the Administrator cannot conclude at this time that POM compounds pose a significant risk at ambient concentration levels. As a result, the Administrator proposes not to regulate POM as a class of compounds under the Clean Air Act. In the Administrator's judgment a more practical means of regulating POM emissions which may contribute to adverse health effects is to list under section 112 the emissions of such source categories or to regulate individual source types under other Clean Air Act authority (e.g., section 111 or Title II). This will allow EPA to evaluate the total potential health risk of non-POM compounds as well as POM compounds emitted from these source categories.

In this regard, Federal regulatory programs are either underway or under consideration for coke oven emissions under section 112 and for diesel particulate emissions under Title II. Indirect control of POM emissions is being achieved through a variety of State Implementation Plan and NSPS regulations and light duty (gasoline engine) vehicle emission standards.

With respect to several of the pesticides that are POM, the Agency has acted under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) to significantly curtail the uses of aldrin, dieldrin and DDT. The Agency will soon be requesting additional inhalation toxicity data from manufacturers for other uses of certain POM pesticides, like aldrin, to determine whether this route of exposure presents a health hazard. With respect to dioxin compounds which are considered POM, an Agency task force is developing a comprehensive strategy to: (1) Study the extent of dioxin contamination and the associated risks to humans and the

environment; (2) implement necessary clean-up actions at contaminated sites; and (3) further evaluate regulatory alternatives to prevent future contamination as well as disposal alternatives to alleviate current problems. The activities on POM pesticides and dioxins are good example of a more targeted approach for dealing with subcategories of POM that may be of concern, as opposed to trying to assess, and perhaps regulate, the entire category of POM.

EPA intends to continue gathering data on various POM sources to determine the magnitude of their emissions, the public health risks due to the various complex mixtures emitted, and applicable control techniques. For example, over the last several years the Agency has had a substantial program to characterize the emissions from wood burning stoves and fireplaces and to develop ways of minimizing these emissions through stove design and/or operating changes. This has been a difficult task considering the large variety of stove designs, fuels burned, and operating practices. Additional work to characterize the health effects of these sources is anticipated. As noted above, substantial research on the health effects of diesel emissions has been conducted and assessment in this area is continuing. Significant research on the health effects of synthetic fuel production and use has also been conducted over the last several years. While synfuels are currently an insignificant source of POM emissions, this category could become significant in the future depending on future energy scenarios in this country. Results of these studies will be made available to the public as they are completed, and EPA will initiate additional listings or other regulatory activity under the Act or other Federal legislation if needed to protect the public health.

Under Executive Order 12291, EPA must judge whether this action is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This action is not major because it imposes no additonal regulatory requirements on States or sources. This proposal was submitted to the Office of Management and Budget for review. Any comments from OMB and any EPA responses are available in the docket. Pursuant to 5 U.S.C. 605(6), I hereby certify that this action will not have a significant economic impact on a substantial number of small entities because it imposes no new requirements. This action does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980.

(42 U.S.C. 7411 and 7412)

Dated: February 3, 1984.

William D. Ruckelshaus,

Administrator.

References

1. U.S. Environmental Protection Agency, "Carcinogen Assessment Group's Preliminary Report on POM Exposures," External Review Draft, July 1978.

2. U.S. Environmental Protection Agency, "Health Assessment Document for Polycyclic Organic Matter" (Preprint), December 1979.

3. Energy and Environmental Analysis, Inc., "Preliminary Assessment of the Sources, Control, and Popululation Exposure to Airborne Polycyclic Organic Matter (POM) as Indicated by Benzo(a)pyrene (BAP)," November 10, 1978.

4. National Research Council, "Polycyclic Aromatic Hydrocarbons: Evaluation of Sources and Effects," 1983.

5. Kelley, M. E., "Sources and Emissions of Polycyclic Organic Matter (POM)," Radian Corp., October 27, 1983.

[FR Doc. 84-3693 Filed 2-10-84; 8:45 am]

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federal register

Monday
February 13, 1984

Part VIII

Department of the Treasury

Comptroller of the Currency

Federal Reserve System

Federal Deposit Insurance Corporation

12 CFR Parts 20, 211, and 351

Regulations on Reporting and Disclosure of International Assets and on Allocated Transfer Risk Reserve; Proposed Regulations on Accounting for International Loan Fees

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

FEDERAL RESERVE SYSTEM

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 20, 211, and 351

Reporting and Disclosure of International Assets

AGENCY: Comptroller of the Currency, Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation.

ACTION: Joint Notice of final rules.

SUMMARY: To implement section 907 of the International Lending Supervision Act of 1983, the rules require banking institutions to submit, at least quarterly, a report on the amounts and composition of their international assets. The report also would include information to be made available to the public concerning material foreign country exposure. The format, contents and reporting and filing dates of the reports would be prescribed jointly by the Federal banking agencies (Comptroller of the Currency, Board of Governors of the Federal Reserve System and the Federal Deposit Insurance Corporation).

DATE: Effective February 13, 1984.

FOR FURTHER INFORMATION CONTACT: *Comptroller of the Currency:* Harold Schuler, Director, International Relations and Financial Evaluation (202/447–1747); Leon S. Tarrant, Manager, ICERC Secretariat (202/447–1747); or Dorthy Sable, Senior Attorney (202/447–1880). *Federal Reserve System:* Nancy P. Jacklin, Assistant General Counsel (202/452–3428); Kathleen O'Day, Senior Counsel, Legal Division (202/452–3786); or Michael G. Martinson, Projects Manager, International Activities, Division of Banking Supervision and Regulation (202/452–3621). *Federal Deposit Insurance Corporation:* Edward T. Lutz, Assistant Director, Division of Bank Supervision (202/389–4512) or Peter M. Kravitz, Senior Attorney, Legal Division (202/389–4171).

SUPPLEMENTARY INFORMATION: Since 1977, banking institutions have been reporting their foreign country exposure (international assets subject to transfer risk categorized by country) on a semiannual basis. Section 907 of the International Lending Supervision Act of 1983 (Title IX, Pub. L. 98–181, 97 Stat. 1153) ("the Act") requires the Federal banking agencies to promulgate regulations requiring banking institutions with foreign country exposure to submit, no fewer than four times each calendar year, information regarding such exposure. Under section 907(b) of the Act, the agencies' regulations must also require that information concerning banking institutions' material foreign country exposure in relation to assets and to capital be made available to the public. The agencies are required to promulgate regulations necessary to implement this section of the Act on or before March 29, 1984.

The regulations set forth the framework for implementation of the reporting and disclosure requirements of section 907 of the Act. Each banking institution will submit to its primary Federal banking supervisor, at least quarterly, information on the amounts and composition of its international assets. Each institution also must submit information on concentrations in its international assets that are material in relation to total assets and to capital; this information will be made available to the public on request. The format, content, and reporting and filing dates of the reports will be jointly determined by the Federal banking agencies. For this purpose, the agencies have initiated modifications in the current Country Exposure Report (Form FFIEC 009).

By notice published in the **Federal Register** on December 23, 1983, 48 FR 56848, the Federal Financial Institutions Examination Council (FFIEC) requested comments on two proposed changes to the Country Exposure Report. One of these changes would add a new two-part summary to the form. Part A of the summary would provide certain information on exposures to any country that exceed 1% of the reporting institution's assets. Part B would provide less detailed information on such exposures that exceed 0.75%, but do not exceed 1%, of the reporting institution's assets. This summary information would be disclosed to the public on request. The comment period closed on January 23, 1984 and it is intended that necessary procedures for adopting changes in the Report will be completed in order to affect reporting for the first quarter of 1984.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601 *et seq.*) the agencies certify that the regulations will not have a significant economic impact on a substantial number of small entities since small banking institutions generally do not have material foreign country exposure and would not be affected by these regulations. The Act requires a banking institution to disclose information on material foreign country exposure. Banking institutions with minimal holdings on international assets thus are generally exempt from the disclosure mandated by the Act and these regulations and will not be required to file reports.

Executive Order 12291

The Comptroller of the Currency has determined that this regulation does not constitute a "major rule" and therefore does not require a regulatory impact analysis.

List of Subjects in 12 CFR Parts 20, 211 and 351

Banks, banking, Federal Reserve System, Foreign banking, Investments, Reporting and record keeping requirements, Export trading companies, Allocated transfer risk reserve, National banks, International operations, Reserves on certain international assets, Reporting and disclosure of international assets, State nonmember banks.

Notice and Comment; Effective Date

The provisions of 5 U.S.C. 553 relating to notice and public participation are not followed in connection with the adoption of these regulations because the agencies find for good cause that notice and public participation are unnecessary. These regulations are merely enabling provisions mandated by statute that do not differ from the statutory requirements in any material respect. An immediate effective date is necessary in order for banking institutions to have sufficient advance notice to prepare the reports required by the Act for the first quarter of 1984.

Authority and Issuance

Accordingly, pursuant to their respective authorities, the agencies have amended Title 12 of the Code of Federal Regulations, Parts 20, 211 and 351, as follows:

COMPTROLLER OF THE CURRENCY

[Docket No. 84–4]

PART 20—[AMENDED]

Title 12 CFR Part 20 is amended as follows:

1. The authority citation for 12 CFR Part 20 is as follows:

Authority: 12 U.S.C. 1 *et seq.* unless otherwise noted.

2. Part 20 is amended by adding a new § 20.10 to read as follows:

§ 20.10 Reporting and disclosure of international assets.

(a) *Requirements.* (1) Pursuant to section 907(a) of the International Lending Supervision Act of 1983 (Title IX, Pub. L. 98–181, 97 Stat. 1153) ("the Act") a banking institution shall submit to the Comptroller of the Currency, at least quarterly, information regarding the amounts and composition of its holdings of international assets.

(2) Pursuant to section 907(b) of the Act, a banking institution shall submit to the Comptroller of the Currency information regarding concentrations in its holdings of international assets that are material in relation to total assets and to capital of the institution, such information to be made publicly available by the Comptroller of the Currency on request.

(b) *Procedures.* The format, content and reporting and filing dates of the reports required under paragraph (a) of this section shall be determined jointly by the Federal banking agencies. The requirements to be prescribed by the agencies may include changes to existing reporting forms (such as the Country Exposure Report, form FFIEC No. 009) or such other requirements as the agencies deem appropriate. The agencies also may determine to exempt from the requirements of paragraph (a) of this section banking institutions that, in the agencies' judgment, have *de minimis* holdings of international assets.

(c) *Reservation of Authority.* Nothing contained in this rule shall preclude the Comptroller of the currency from requiring from a banking institution such additional or more frequent information on the institution's holdings of international assets as the office may consider necessary.

Dated: February 8, 1984.

C. T. Conover,

Comptroller of the Currency.

FEDERAL RESERVE SYSTEM

[Regulation K; Docket No. R–0508]

PART 211—[AMENDED]

Pursuant to the Board's authority under sections 9, 25 and 25(a) of the Federal Reserve Act (12 U.S.C. 221 *et seq.*, 601–604a, and 611 *et seq.*), section 5 of the Bank Holding Company Act (12 U.S.C. 1844) and section 907 of the International Lending Supervision Act of 1983 (Pub. L. 98–181, Title IX, 97 Stat. 1153), the board has amended 12 CFR Part 211, Subpart D by adding a new § 211.44 to read as follows:

§ 211.44 Reporting and disclosure of international assets.

(a) *Requirements.* (1) Pursuant to section 907(a) of the International Lending Supervision Act of 1983 (Title IX, Pub. L. 98–181, 97 Stat. 1153) (ILSA), a banking institution shall submit to the Board, at least quarterly, information regarding the amounts and composition of its holdings of international assets.

(2) Pursuant to section 907(b) of ILSA, a banking institution shall submit to the Board information regarding concentrations in its holdings of international assets that are material in relation to total assets and to capital of the institution, such information to be made publicly available by the Board on request.

(b) *Procedures.* The format, content and reporting and filing dates of the reports required under paragraph (a) of this section shall be determined jointly by the Federal banking agencies. The requirements to be prescribed by the agencies may include changes to existing reporting forms (such as the Country exposure Report, form FFIEC No. 009) or such other requirements as the agencies deem appropriate. The agencies also may determine to exempt from the requirements of paragraph (a) of this section banking institutions that, in the agencies' judgment, have *de minimis* holdings of international assets.

(c) *Reservation of Authority.* Nothing contained in this rule shall preclude the Board from requiring from a banking institution such additional or more frequent information on the institution's holding of international assets as the Board may consider necessary.

Dated: February 8, 1984.

William W. Wiles,

Secretary, Board of Governors of the Federal Reserve System.

FEDERAL DEPOSIT INSURANCE CORPORATION

PART 351—[AMENDED]

1. The authority citation for 12 CFR Part 351 is as follows:

Authority: Title IX, Pub. L. 98–181, 97 Stat. 1153.

2. Part 351 is amended by adding new §§ 351.2 and 351.3 to read as follows:

§ 351.2 [Reserved]

§ 351.3 Reporting and disclosure of international assets.

(a) *Requirements.* (1) Pursuant to section 907(a) of the International Lending Supervision Act of 1983 (Title IX, Pub. L. 98–181, 97 Stat. 1153) (ILSA), a banking institution shall submit to the FDIC, at least quarterly, information regarding the amounts and composition of its holdings of international assets.

(2) Pursuant to section 907(b) of ILSA, a banking institution shall submit to the FDIC information regarding concentrations in its holdings of international assets that are material in relation to total assets and to capital of the institution, such information to be made publicly available by the FDIC on request.

(b) *Procedures.* The format, content and reporting and filing dates of the reports required under paragraph (a) of this section shall be determined jointly by the Federal banking agencies. The requirements to be prescribed by the Federal banking agencies may include changes to existing forms (such as revisions to the Country Exposure Report, Form FFIEC No. 009) or such other requirements as the Federal banking agencies deem appropriate. The Federal banking agencies also may determine to exempt from the requirements of paragraph (a) of this section banking institutions that, in the Federal banking agencies' judgment, have *de minimis* holdings of international assets.

(c) *Reservation of Authority.* Nothing contained in this rule shall preclude the FDIC from requiring from a banking institution such additional or more frequent information on the institution's holdings of international assets as the agency may consider necessary.

By Order of the Board of Directors.

Dated: February 6, 1984.

Alan J. Kaplan,

Deputy Executive Secretary, Federal Deposit Insurance Corporation.

[FR Doc. 84–3961 Filed 2–9–84; 2:39 pm]

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12 CFR Parts 20, 211 and 351

Allocated Transfer Risk Reserve

AGENCIES: Comptroller of the Currency, Board of Governors of the Federal Reserve System and Federal Deposit Insurance Corporation.

ACTION: Joint notice of final rules and request for additional comments.

SUMMARY: These regulations require banking institutions to establish special reserves against the risks presented in certain international assets when the

Federal banking agencies (Board of Governors of the Federal Reserve System ("Board"), Comptroller of the Currency and Federal Deposit Insurance Corporation) determine that such reserves are necessary. In particular, they are intended to require banking institutions to recognize uniformly the transfer risk and diminished value of international assets which have not been serviced over a protracted period of time. These regulations implement one aspect of the joint program of the Federal banking agencies to strengthen the supervisory and regulatory framework relating to foreign lending by U.S. banking institutions, incorporated in section 905(a) of the International Lending Supervision Act of 1983.

It is important that this provision of law be implemented expeditiously for banking regulatory and supervisory purposes. Accordingly, the regulations will be effective upon publication.

Further regulations implementing other provisions of the International Lending Supervision Act of 1983 will be issued separately.

EFFECTIVE DATE: February 13, 1984.

ADDRESS: *Comptroller of the Currency:* Comments, which should refer to Docket No. 84–3, should be sent to Communications Division, 3rd Floor, Office of the Comptroller of the Currency, 490 East L'Enfant Plaza, SW., Washington, D.C. 20219. Attention: Lynette Carter. Comments will be available for public inspection and copying. *Federal Reserve System:* All comments, which should refer to Docket No. R–0498, should be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or delivered to the C Street entrance, 20th and Constitution Avenue NW., Washington, D.C., between the hours of 8:45 a.m. and 5:15 p.m. weekdays. All comments received will be available for inspection in room B–1122 between 8:45 a.m. and 5:15 p.m. weekdays. *Federal Deposit Insurance Corporation:* Comments should be sent to Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429. Comments may be hand delivered to room 6108 between the hours of 8:30 a.m. and 5:00 p.m. weekdays.

FOR FURTHER INFORMATION CONTACT: *Comptroller of the Currency:* Harold Schuler, Director, International Relations and Financial Evaluation (202/447–1747); William Ryback, Director, International Banking Activity (202/447–0413); or Dorothy Sable, Senior Attorney (202/447–1880).

Board: Nancy P. Jacklin, Assistant General Counsel (202/452–3428); Kathleen O'Day, Senior Counsel, Legal Division (202/452–3786); or Michael G. Martinson, Projects Manager, International Activities, Division of Banking Supervision and Regulation (202/452–3621).

FDIC: Edward T. Lutz, Assistant Director, Division of Bank Supervision (202/389–4512) or Peter M. Kravitz, Senior Attorney, Legal Division (202/389–4171).

SUPPLEMENTARY INFORMATION: In December, 1983, the agencies published for comment regulations to implement section 905(a) of the International Lending Supervision Act of 1983 (Title IX, Pub. L. 98–181, 97 Stat. 1153) ("the Act"), which requires banking institutions to maintain a special transfer risk reserve against certain foreign loans or other international assets.

The agencies received comments as follows: The Board received a total of 39 comments (17 comments from U.S. banks and bank holding companies; 5 from trade or professional associations; 8 from foreign banks; 8 from Federal Reserve banks; and one from the New York State Banking Department); the Comptroller of the Currency received 17 comments, principally from national banks; and the Federal Deposit Insurance Corporation received 6 comments.

In the explanatory materials accompanying the proposed regulation, the agencies specifically requested comments on: (1) The percentage norms for the special reserves; (2) the factors to be used in determining the amount of reserves; (3) the appropriate treatment of new loans where comparable outstanding loans are subject to reserves required by this regulation; and (4) the extent and manner in which to apply the reserves and other provisions of the Act to U.S. branches and agencies and commercial lending company subsidiaries of foreign banks. Those submitting comments addressed themselves to these and other issues. In light of the comments received, the agencies have made revisions to clarify and improve the proposed regulations.

Following are the major topics raised in the comments and the agencies' responses thereto:

(1) Assets to be covered by the Allocated Transfer Risk Reserve (ATRR)

The proposed regulations required banking institutions to establish an ATRR for "specified international assets," and defined "international assets" to mean those assets included in Country Exposure Report forms (FFIEC No. 009). Numerous commenters suggested clarification of the definition of international assets or exemption for certain categories of assets or for specific assets.

The agencies intend that an ATRR will be required only for international assets subject to transfer risk. International assets subject to transfer risk associated with the country of residence of the obligor normally do not include, for example, (1) assets guaranteed by a resident of a foreign country different from that of the direct obligor; (2) certain collateralized assets; (3) commitments; and (4) assets of a foreign office of the banking institution payable in local currency for which the foreign office has equivalent local currency liabilities. (The foregoing examples are described in more detail in the Instructions to Country Exposure Report forms.)

The banking agencies also will consider whether the performance characteristics of certain categories of assets are such that no ATRR is warranted against those assets (*e.g.*, assets on which debt service has been maintained with little or no interruption.)

In this connection, in line with the suggestions of several commenters on the treatment of new loans, an ATRR normally would not be required initially for net new lending when the additional loans are made in countries implementing economic adjustment programs, such as programs approved by the International Monetary Fund, designed to correct the countries' economic difficulties in an orderly manner. Such new lending under appropriate circumstances may strengthen the functioning of the adjustment process, help to improve the quality of outstanding credit, and thus be consistent with the objectives of the program of improved supervision of international lending. Whether an ATRR subsequently is required for those new loans would be determined by the agencies on the basis of performance and continued inapplicability generally of the criteria for establishment of an ATRR.

(2) Applicability to nonbank and foreign subsidiaries

The proposed regulations would apply to a banking institution and its subsidiaries, and "subsidiary" was defined to mean an organization of which a banking institution has control or holds 25 percent or more of the voting shares. Two issues raised by the

comments were (1) whether the provision should apply to minority-owned nonbank subsidiaries; and (2) whether it should apply to foreign bank subsidiaries of banking institutions.

On the issue of whether minority-owned subsidiaries should be covered, several of the commenters reasoned that a banking institution with a 25 percent interest in an entity may not be able to compel that entity to comply with the regulation and should not be held responsible for the entity's accounting methods. Several commenters proposed that the regulations cover only those nonbank subsidiaries that are consolidated with the parent banking institution under Generally Accepted Accounting Principles (GAAP). Objections also were raised to applying the regulations to foreign subsidiaries.

In light of these comments, the agencies determined that each "banking institution" is subject to the regulations on a consolidated basis. "Banking institution" is defined in the regulations as a domestic bank, Edge or Agreement corporation engaged in banking, and bank holding company. Other than the foregoing banking institutions, subsidiaries need not separately comply with these regulations. The effect of this rule for foreign bank subsidiaries is that specific reserves against, or write-downs of, international assets, taken from current earnings of the foreign bank, will be incorporated in the parent banking institution's consolidated financial statement.

For banks, consolidation should be in accordance with the procedures and tests of significance set forth in the instructions for preparation of *Consolidated Reports of Condition and Income* (currently, FFIEC Nos. 031, 032, 033, 034). For bank holding companies, the consolidation shall be in accordance with the principles set forth in the "Instructions to the Bank Holding Company Financial Supplement to Report F.R. Y–6" (Form F.R. Y–9). Edge and Agreement Corporations should file in accordance with the "Instructions for the Preparation of Report of Condition for Edge and Agreement Corporations" (Form F.R. 2886b).

In applying the foregoing rules to bank holding companies under section 910(a)(2) of the act, the Board has deemed such action appropriate to promote uniform application of section 905(a) of the Act and to prevent evasions thereof.

(3) Criteria for Requiring an ATRR

In determining whether an ATRR is warranted for particular international assets, the agencies are directed by statute to apply the following factors: (1) Whether the quality of a banking institution's assets has been impaired by a protracted inability of public or private obligors to pay *or* (2) whether no definite prospects exist for the orderly restoration of debt service. Some commenters urged more specific criteria; others were concerned that the criteria were not flexible enough. Most of the commenters, however, generally agreed that the statutory criteria are reasonable. The agencies consider the statutory criteria to be appropriate because they provide guidance as to when an ATRR is required, while allowing the agencies to take into account a sufficient range of factors in making their determinations.

(4) Percentage Norms

Under the proposed regulations, the initial year's provision for the ATRR would be ten percent of the principal amount of the specified international assets, or a greater or lesser percentage as determined by the banking agencies. In subsequent years, the agencies would review the assets concerned and determine whether additional reserves are required. The proposal provided for a reserve based on such review in the subsequent periods of 15 percent, or a higher or lower percentage as determined necessary by the banking agencies. In the preamble to the proposed regulation, the agencies specifically asked for comment on these percentages.

Some commenters thought the percentages were too low, and some considered them too high. Several were opposed to the establishment of any percentage norms, primarily on the ground that the appropriate percentages should be determined by the agencies in each case and that agency flexibility in making this determination should be preserved. However, a substantial number of comments supported the proposed percentages as reasonable.

The agencies believe that the norms contained in the regulations provide reasonable guidance to banking institutions of the likely ATRR requirements, yet the regulations give the agencies discretion to modify these percentages on a case-by-case basis as factors warrant.

(5) Treatment of ATRR Accounting

The provision in the proposed regulations eliciting most comment was the section allowing banking institutions to write down an asset in the same amount as required for the ATRR, instead of setting up the ATRR, but requiring the banking institution, in that case, to replenish the Allowance for Possible Loan Losses (APLL) out of current earnings by the amount written down. Commenters suggested that if a banking institution chooses to write down an asset instead of establishing an ATRR, the APLL should be replenished only to the extent necessary to restore it to a level adequate to reflect the remaining risks in the loan portfolio.

The commenters pointed out several problems they see with the replenishment provision as it was proposed: it could put banks that already have charged earnings at a disadvantage vis-a-vis those banks that have made no comparable provisions; it could thus discourage conservative practices; and, as a result of inconsistency with GAAP, it could distort financial statements and cause them to be qualified by accountants.

In light of these comments, the agencies have determined that, consistent with prudent banking practices and GAAP, replenishment of the APLL will be required to the extent necessary to restore it to a level which adequately provides for the estimated losses inherent in the loan portfolio. The agencies wish to emphasize, however, that it remains the responsibility of bank management and external auditors to recognize, and management to provide adequately for, any significant deterioration in the value of assets and this responsibility is in no way lessened as a result of the agencies' adoption of this recommendation.

Several commenters also sought further clarification of the alternative accounting treatment under which an ATRR would not be required if comparable amounts of the assets had been written down. Some comments stated that the regulations should clarify the treatment of interest payments which have been applied to the loan balance. They suggested that the regulations specify that such reductions of principal should be considered write-downs for purposes of the regulations. Another issue was the treatment of write-downs of assets in prior reporting periods. The final regulations clarify that write-downs in prior periods, as well as reductions in principal as described above, which are tantamount to write-downs, are acceptable alternatives to establishment of an ATRR.

Another issue raised in connection with the alternative accounting treatment was whether a write-down of an asset for commercial risk will be treated the same as a write-down for transfer risk reasons. The final regulations have been clarified to state that an ATRR applies to the principal amount of each specified international

asset in the percentage required. Accordingly, a write-down of any such asset for commercial risk can be included in the amount of a write-down which satisfies a required ATRR for that particular asset but not for specified assets in the aggregate.

One commenter suggested that the regulations be clarified to indicate that a banking institution may transfer to the ATRR any amount specifically allocated in the APLL for the assets subject to the ATRR. The agencies consider this approach an acceptable method of implementing the ATRR requirement, particularly since a banking institution could in any event write down an asset by a charge to its APLL rather than a charge to current earnings in the period the write-down is taken. However, in either instance, the APLL must be replenished to the extent necessary to restore it to a level that adequately provides for the estimated losses inherent in the loan portfolio.

Finally, clarification was sought, and the agencies have so provided in the final regulations, that a banking institution may reduce an established ATRR not only if the banking agencies determine it may be reduced, but also where the institution decides to write down the assets involved.

(6) Timing of ATRR implementation

Several commenters requested that notifications of ATRR requirements be made on a timely basis relative to banking institutions' reporting and filing dates for their financial statements. The banking agencies intend to make every effort, in providing notice of ATRR requirements, to accommodate these concerns, recognizing the importance, however, of prompt implementation of section 905(a) of the Act and initial establishment of the ATRR.

(7) Consultation with banking institutions

Several commenters stressed the importance of regular consultation with the affected banking institutions by the agencies before establishing the ATRR. One commenter suggested that concerns about a particular country should be discussed in the course of the normal bank examination process to evaluate all factors concerning the obligors' ability to pay. Discussions of foreign country exposure and transfer risk are a part of the ongoing examination process and efforts will be made by the agencies to strengthen consultations in this context.

(8) Applicability of the Act to U.S. branches and agencies of foreign banks

Comment was requested on whether and the extent to which foreign banks should be subject to this and other provisions of the Act. The period for comment on these general issues remains open to permit foreign banks adequate time to respond, and the final regulations do not apply to U.S. branches, agencies or commercial lending company subsidiaries of foreign banking organizations.

(9) Other comments

Questions were raised concerning the confidentiality of the agencies' determinations of the international assets specified as subject to the ATRR and the applicable reserve percentages. As is customary, such notifications are conveyed as confidential examination information to each affected U.S. banking institution by its primary federal banking supervisor.

Several commenters stated that the regulation should not govern disclosures under the federal securities laws. In this connection, the federal banking agencies understand that the staff of the Securities and Exchange Commission will provide guidance to registrants concerning appropriate disclosure of ATRR requirements in filings with the SEC.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601 *et seq.*), the agencies certify that the proposed regulation will not have a significant economic impact on a substantial number of small entities since small banking institutions generally do not have significant holdings of international assets and would not be affected by these regulations.

Executive Order 12291

The Comptroller of the Currency has determined that this regulation does not constitute a "major rule" and therefore does not require a regulatory impact analysis.

List of Subjects in 12 CFR Parts 20, 211 and 351

Banks, banking, Federal Reserve System, Foreign banking, Investments, Reporting and recordkeeping requirements, Export trading companies, Allocated transfer risk reserve, National banks, International operations, Reserves on certain international assets, Reporting and disclosure of international assets, State nonmember banks.

Effective Date

The provision of 5 U.S.C. 553 requiring a 30-day delay in the effective date of a regulation is not followed in connection with the adoption of these regulations for bank supervisory and regulatory reasons and because the agencies find for good cause that an immediate effective date is necessary in order for banking institutions to have sufficient advance notice of the reserves to be required under these regulations to accomplish their financial planning for the first quarter of 1984.

Authority and Issuance

Accordingly, pursuant to their respective authorities, the agencies have determined to amend Title 12 of the Code of Federal Regulations, Parts 20, 211 and 351, as follows:

COMPTROLLER OF THE CURRENCY

[Docket No. 84-3]

PART 20—[AMENDED]

The Comptroller of the Currency has amended 12 CFR Part 20 as follows:

1. 12 CFR Part 20 is amended by revising the Table of Contents to read as follows:

Subpart A—International and Foreign Exchange Activities

Sec.
20.1 Authority and policy.
20.2 Definitions and terms.
20.3 Prior notification of international activities.
20.4 Reporting of international activities.
20.5 Reporting of foreign exchange activities.

Subpart B—International Lending Supervision

20.6 Authority.
20.7 Definitions.
20.8 Allocated transfer risk reserve.

2. The authority citation for 12 CFR Part 20 is revised to read as follows:

Authority: 12 U.S.C. 1 *et seq.* unless otherwise noted.

3. Part 20 is amended by revising § 20.1(a) and revising the introductory text of § 20.2 to read as follows:

§ 20.1 Authority and policy.

(a) *Authority.* This subpart is issued under the authority of the national banking laws, 12 U.S.C. 1 *et seq.* and 93a.

* * * * *

§ 20.2 Definitions and terms.

For the purpose of this subpart:

* * * * *

4. Part 20 is amended by adding a new Subpart B to read as follows:

Subpart B—International Lending Supervision

§ 20.6 Authority.

This subpart is issued under the authority of 12 U.S.C. 1 *et seq.*, 93a, 161, and 1818; and the International Lending Supervision Act of 1983 (Pub. L. 98–181, Title IX, 97 Stat. 1153).

§ 20.7 Definitions.

For the purposes of this subpart:

(a) "Banking institution" means a national banking association or a District of Columbia bank.

(b) "Federal banking agencies" means the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation.

(c) "International assets" means those assets required to be included in banking institutions' "Country Exposure Report" forms (FFIEC No. 009).

(d) "Transfer risk" means the possibility that an asset cannot be serviced in the currency of payment because of a lack of, or restraints on the availability of, needed foreign exchange in the country of the obligor.

§ 20.8 Allocated transfer risk reserve.

(a) *Establishment of Allocated Transfer Risk Reserve.* A banking institution shall establish an allocated transfer risk reserve (ATRR) for specified international assets when required by the Comptroller in accordance with this section.

(b) *Procedures and Standards.*—(1) *Joint agency determination.* At least annually, the Federal banking agencies shall determine jointly, based on the standards set forth in subparagraph (b)(2) of this section, the following:

(i) Which international assets subject to transfer risk warrant establishment of an ATRR;

(ii) The amount of the ATRR for the specified assets; and

(iii) Whether an ATRR established for specified assets may be reduced.

(2) *Standards for requiring ATRR*—(i) *Evaluation of assets.* The Federal banking agencies shall apply the following criteria in determining whether an ATRR is required for particular international assets:

(A) Whether the quality of a banking institution's assets has been impaired by a protracted inability of public or private obligors in a foreign country to make payments on their external indebtedness as indicated by such factors, among others, as whether:

(*1*) Such obligors have failed to make full interest payments on external indebtedness;

(*2*) Such obligors have failed to comply with the terms of any restructured indebtedness; or

(*3*) A foreign country has failed to comply with any International Monetary Fund or other suitable adjustment program; or

(B) Whether no definite prospects exist for the orderly restoration of debt service.

(ii) *Determination of amount of ATRR.* (A) In determining the amount of the ATRR, the Federal banking agencies shall consider:

(*1*) The length of time the quality of the asset has been impaired;

(*2*) Recent actions taken to restore debt service capability;

(*3*) Prospects for restored asset quality; and

(*4*) Such other factors as the Federal banking agencies may consider relevant to the quality of the asset.

(B) The initial year's provision for the ATRR shall be ten percent of the principal amount of each specified international asset, or such greater or lesser percentage determined by the Federal banking agencies. Additional provision, if any, for the ATRR in subsequent years shall be fifteen percent of the principal amount of each specified international asset, or such greater or lesser percentage determined by the Federal banking agencies.

(3) *Notification.* Based on the joint agency determinations under paragraph (b)(1) of this section, the Comptroller shall notify each banking institution holding assets subject to an ATRR:

(i) Of the amount of the ATRR to be established by the institution for specified international assets; and

(ii) That an ATRR to be established for specified assets may be reduced.

(c) *Accounting treatment of ATRR.*—(1) *Charge to current income.* A banking institution shall establish an ATRR by a charge to current income and the amounts so charged shall not be included in the banking institution's capital or surplus.

(2) *Separate accounting.* A banking institution shall account for an ATRR separately from the Allowance for Possible Loan Losses, and shall deduct the ATRR from "gross loans and leases" to arrive at "net loans and leases." The ATRR must be established for each asset subject to the ATRR in the percentage amount specified.

(3) *Consolidation.* A banking institution shall establish an ATRR, as required, on a consolidated basis. Consolidation should be in accordance with the procedures and tests of significance set forth in the instructions for preparation of *Consolidated Reports of Condition and Income* (FFIEC Nos. 031, 032, 033 and 034). For bank holding companies, the consolidation shall be in accordance with the principles set forth in the "Instructions to the Bank Holding Company Financial Supplement to Report F.R. Y–6" (Form F.R. Y–9). Edge and Agreement corporations engaged in banking shall report in accordance with instructions for preparation of the Report of Condition for Edge and Agreement Corporations (Form F.R. 2886b).

(4) *Alternative accounting treatment.* A banking institution need not establish an ATRR if it writes down in the period in which the ATRR is required, or has written down in prior periods, the value of the specified international assets in the requisite amount for each such asset. For purposes of this paragraph, international assets may be written down by a charge to the Allowance for Possible Loan Losses or a reduction in the principal amount of the asset by application of interest payments or other collections on the asset. However, the Allowance for Possible Loan Losses must be replenished in such amount necessary to restore it to a level which adequately provides for the estimated losses inherent in the banking institution's loan portfolio.

(5) *Reduction of ATRR.* A banking institution may reduce an ATRR when notified by the Comptroller or, at any time, by writing down such amount of the international asset for which the ATRR was established.

Dated: February 8, 1984.

C. T. Conover,

Comptroller of the Currency.

FEDERAL RESERVE SYSTEM

[Regulation K; Docket No. R–0498]

PART 211—[AMENDED]

1. The table of contents of 12 CFR Part 211 is amended by adding entries for Subpart D and revising the authority citation to read as follows:

* * * * *

Subpart D—International Lending Supervision

Sec.

211.41 Authority, purpose and scope.
211.42 Definitions.
211.43 Allocated Transfer Risk Reserve.

Authority: Federal Reserve Act (12 U.S.C. 211 *et seq.*); Bank Holding Company Act of 1956, as amended (12 U.S.C. 1841 *et seq.*); the International Banking Act of 1978 (Pub. L. 95–369; 92 Stat. 607; 12 U.S.C. 3101 *et seq.*); the Bank Export Services Act (Title II, Pub. L. 97–290, 96 Stat. 1235); and the International Lending Supervision Act (Title IX, Pub. L. 98–181, 97 Stat. 1153).

2. 12 CFR Part 211 is amended by adding a new Subpart D, reading as follows:

Subpart D—International Lending Supervision

§ 211.41 Authority, purpose, and scope.

(a) *Authority:* This subpart is issued by the Board of Governors of the Federal Reserve System ("Board") under the authority of the International Lending Supervision Act of 1983 (Pub. L. 98–181, Title IX, 97 Stat. 1153) ("International Lending Supervision Act"); the Federal Reserve Act (12 U.S.C. 221 *et seq.*) ("FRA"), and the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1841 *et seq.*) ("BHC Act").

(b) *Purpose and scope.* This subpart is issued in furtherance of the purposes of the International Lending Supervision Act. It applies to State banks that are members of the Federal Reserve System ("State member banks"); corporations organized under section 25(a) of the FRA (12 U.S.C. 611–631) ("Edge Corporations"); corporations operating subject to an agreement with the Board under section 25 of the FRA (12 U.S.C. 601–604a) ("Agreement Corporations"); and bank holding companies (as defined in section 2 of the BHC Act (12 U.S.C. 1841(a)) but not including a bank holding company that is a foreign banking organization as defined in § 211.23(a)(2) of this regulation.

§ 211.42 Definitions.

For the purposes of this subpart:

(a) "Banking institution" means a State member bank; bank holding company; Edge Corporation and Agreement Corporation engaged in banking. "Banking institution" does not include a "foreign banking organization" as defined in § 211.23(a)(2).

(b) "Federal banking agencies" means the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation.

(c) "International assets" means those assets required to be included in banking institutions' "Country Exposure Report" forms (FFIEC No. 009).

(d) "Transfer risk" means the possibility that an asset cannot be serviced in the currency of payment because of a lack of, or restraints on the availability of, needed foreign exchange in the country of the obligor.

§ 211.43 Allocated transfer risk reserve.

(a) *Establishment of Allocated Transfer Risk Reserve.* A banking institution shall establish an allocated transfer risk reserve (ATRR) for specified international assets when required by the Board in accordance with this section.

(b) *Procedures and Standards.*—(1) *Joint agency determination.* At least annually, the Federal banking agencies shall determine jointly, based on the standards set forth in paragraph (b)(2) of this section, the following:

(i) Which international assets subject to transfer risk warrant establishment of an ATRR;

(ii) The amount of the ATRR for the specified assets; and

(iii) Whether an ATRR established for specified assets may be reduced.

(2) *Standards for requiring ATRR.*—(i) *Evaluation of assets.* The Federal banking agencies shall apply the following criteria in determining whether an ATRR is required for particular international assets:

(A) Whether the quality of a banking institution's assets has been impaired by a protracted inability of public or private obligors in a foreign country to make payments on their external indebtedness as indicated by such factors, among others, as whether:

(*1*) Such obligors have failed to make full interest payments on external indebtedness;

(*2*) Such obligors have failed to comply with the terms of any restructured indebtedness; or

(*3*) A foreign country has failed to comply with any International Monetary Fund or other suitable adjustment program; or

(B) Whether no definite prospects exist for the orderly restoration of debt service.

(ii) *Determination of amount of ATRR.* (A) In determining the amount of the ATRR, the Federal banking agencies shall consider:

(*1*) The length of time the quality of the asset has been impaired;

(*2*) Recent actions taken to restore debt service capability;

(*3*) Prospects for restored asset quality; and

(*4*) Such other factors as the Federal banking agencies may consider relevant to the quality of the asset.

(B) The initial year's provision for the ATRR shall be ten percent of the principal amount of each specified international asset, or such greater or lesser percentage determined by the Federal banking agencies. Additional provision, if any, for the ATRR in subsequent years shall be fifteen percent of the principal amount of each specified international asset, or such greater or lesser percentage determined by the Federal banking agencies.

(3) *Board notification.* Based on the joint agency determinations under paragraph (b)(1) of this section, the Board shall notify each banking institution holding assets subject to an ATRR:

(i) Of the amount of the ATRR to be established by the institution for specified international assets; and

(ii) That an ATRR established for specified assets may be reduced.

(c) *Accounting treatment of ATRR.*—(1) *Charge to current income.* A banking institution shall establish an ATRR by a charge to current income and the amounts so charged shall not be included in the banking institution's capital or surplus.

(2) *Separate accounting.* A banking institution shall account for an ATRR separately from the Allowance for Possible Loan Losses, and shall deduct the ATRR from "gross loans and leases" to arrive at "net loans and leases." The ATRR must be established for each asset subject to the ATRR in the percentage amount specified.

(3) *Consolidation.* A banking institution shall establish an ATRR, as required, on a consolidated basis. For banks, consolidation should be in accordance with the procedures and tests of significance set forth in the instructions for preparation of *Consolidated Reports of Condition and Income* (FFIEC Nos. 031, 032, 033 and 034). For bank holding companies, the consolidation shall be in accordance with the principles set forth in the "Instructions to the Bank Holding Company Financial Supplement to Report F.R. Y–6" (Form F.R. Y–9). Edge and Agreement corporations engaged in banking shall report in accordance with instructions for preparation of the Report of Condition for Edge and Agreement Corporations (Form F.R. 2886b).

(4) *Alternative accounting treatment.* A banking institution need not establish an ATRR if it writes down in the period in which the ATRR is required, or has written down in prior periods, the value of the specified international assets in the requisite amount for each such asset. For purposes of this paragraph, international assets may be written down by a charge to the Allowance for Possible Loan Losses or a reduction in the principal amount of the asset by application of interest payments or other collections on the asset. However, the Allowance for Possible Loan Losses must be replenished in such amount necessary to restore it to a level which adequately provides for the estimated losses inherent in the banking institutions's loan portfolio.

(5) *Reduction of ATRR.* A banking institution may reduce an ATRR when

notified by the Board or, at any time, by writing down such amount of the international asset for which the ATRR was established.

Board of Governors of the Federal Reserve System, February 8, 1984.

William W. Wiles,

Secretary of the Board.

FEDERAL DEPOSIT INSURANCE CORPORATION

In consideration of the foregoing, the FDIC hereby adopts a new Part 351 to its rules and regulations (12 CFR Part 351).

PART 351—INTERNATIONAL OPERATIONS

Authority: Title IX, Pub. L. 98–181, 97 Stat. 1153.

§ 351.1 Allocated transfer risk reserve.

(a) *Definitions.* For the purposes of this subpart:

(1) "Banking institution" means an insured state nonmember bank.

(2) "Federal banking agencies" means the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation.

(3) "International assets" means those assets required to be included in banking institutions' "Country Exposure Report" forms (FFIEC No. 009).

(4) "Transfer risk" means the possibility that an asset cannot be serviced in the currency of payment because of a lack of, or restraints on the availability of, needed foreign exchange in the country of the obligor.

(b) *Allocated Transfer Risk Reserve*—(1) *Establishment of Allocated Transfer Risk Reserve.* A banking institution shall establish an allocated transfer risk reserve (ATRR) for specified international assets when required by the FDIC in accordance with this section.

(2) *Procedures and Standards.*—(i) *Joint agency determination.* At least annually, the Federal banking agencies shall determine jointly, based on the standards set forth in paragraph (b)(2)(ii) of this section, the following:

(A) Which international assets subject to transfer risk warrant establishment of an ATRR;

(B) The amount of the ATRR for the specified assets; and

(C) Whether an ATRR established for specified assets may be reduced.

(ii) *Standards for requiring ATRR.*—(A) *Evaluation of assets.* The Federal banking agencies shall apply the following criteria in determining whether an ATRR is required for particular international assets:

(*1*) Whether the quality of a banking institution's assets has been impaired by a protracted inability of public or private obligors in a foreign country to make payments on their external indebtedness as indicated by such factors, among others, as whether:

(*i*) Such obligors have failed to make full interest payments on external indebtedness;

(*ii*) Such obligors have failed to comply with the terms of any restructured indebtedness; or

(*iii*) A foreign country has failed to comply with any International Monetary Fund or other suitable adjustment program; or

(*2*) Whether no definite prospects exist for the orderly restoration of debt service.

(B) *Determination of amount of ATRR.* *(1)* In determining the amount of the ATRR, the Federal banking agencies shall consider:

(*i*) the length of time the quality of the asset has been impaired;

(*ii*) recent actions taken to restore debt service capability;

(*iii*) prospects for restored asset quality; and

(*iv*) such other factors as the Federal banking agencies may consider relevant to the quality of the asset.

(*2*) The initial year's provision for the ATRR shall be ten percent of the principal amount of each specified international asset, or such greater or lesser percentage determined by the Federal banking agencies. Additional provision, if any, for the ATRR in subsequent years shall be fifteen percent of the principal amount of each specified international asset, or such greater or lesser percentage determinined by the Federal banking agencies.

(iii) *FDIC notification.* Based on the joint agency determinations under paragraph (b)(2)(i) of this section, the FDIC shall notify each banking institution holding assets subject to an ATRR:

(A) Of the amount of the ATRR to be established by the institution for specified international assets; and

(B) That an ATRR established for specified assets may be reduced.

(3) *Accounting treatment of ATRR.*—(i) *Charge to current income.* A banking institution shall establish an ATRR by a charge to current income and the amounts so charged shall not be included in the banking institution's capital or surplus.

(ii) *Separate accounting.* A banking institution shall account for an ATRR separately from the Allowance for Possible Loan Losses, and shall deduct the ATRR from "gross loans and leases" to arrive at "net loans and leases." The ATRR must be established for each asset subject to the ATRR in the pertcentage amount specified.

(iii) *Consolidation.* A banking institution shall establish an ATRR, as required, on a consolidated basis. For banks, consolidation should be in accordance with the procedures and tests of significance set forth in the instructions for preparation of *Consolidated Reports of Condition and Income* (FFIEC Nos. 031, 032, 033 and 034).

(iv) *Alternative accounting treatment.* A banking institution need not establish an ATRR if it writes down in the period in which the ATRR is required, or has written down in prior periods, the value of the specified international assets in the requisite amount for each such asset. For purposes of this paragraph, international assets may be written down by a charge to the allowance for Possible Loan Losses or a reduction in the principal amount of the asset by application of interest payments or other collections on the asset. However, the Allowance for Possible Loan Losses must be replenished in such amount necessary to restore it to a level which adequately provides for the estimated losses inherent in the banking institution's loan portfolio.

(v) *Reduction of ATRR.* A banking institution may reduce an ATRR when notified by the FDIC or, at any time, by writing down such amount of the international asset for which the ATRR was established.

By Order of the Board of Directors.

February 6, 1984.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Deputy Executive Secretary.

[FR Doc. 84–3962 Filed 2–9–84; 2:40 pm]

BILLING CODE 6210–01–M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

FEDERAL RESERVE SYSTEM

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 20, 211, and 351

Accounting for International Loan Fees

AGENCIES: Comptroller of the Currency (Treasury), Board of Governors of the Federal Reserve System, and Federal Deposit Insurance Corporation.

ACTION: Joint notice of proposed rulemaking.

SUMMARY: This proposal would establish uniform requirements for the accounting for fees associated with restructuring of international lending arrangements and nonrefundable fees charged by banking institutions in connection with other international loans. This proposal would implement one aspect of the joint program of the Federal banking agencies to strengthen the supervisory and regulatory framework relating to foreign lending by U.S. banking institutions, incorporated in section 906 of the International Lending Supervision Act of 1983. Regulations implementing this provision of law are required to be issued by the agencies no later than March 29, 1984.

DATE: Wirtten comments must be submitted to the Comptroller of the Currency on or before March 5, 1984 and to Federal Reserve Board and the Federal Deposit Insurance Corporation on or before March 9, 1984.

ADDRESS: *Comptroller of the Currency:* Comments should be directed to Docket No. 84–5; Communications Division, 3rd Floor, Office of the Comptroller of the Currency, 490 East L'Enfant Plaza, SW., Washington, D.C. 20219, Attention: Lynette Carter. Comments will be available for public inspection and copying.

Federal Reserve System: All comments, which should refer to Docket No. R–0509, should be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or delivered to C Street entrance, 20th and Constitution Ave., NW., Washington, D.C. between the hours of 8:45 a.m. and 5:15 p.m. weekdays. All comments received will be available for inspection in Room B–1122 between 8:45 a.m. and 5:15 p.m. weekdays.

Federal Deposit Insurance Corporation: Comments should be directed to: Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th NW., Washington, D.C. 20429. Comments may be hand delivered to Room 6108 between the hours of 8:30 a.m. and 5:00 p.m. weekdays.

FOR FURTHER INFORMATION CONTACT: *Comptroller of the Currency:* Zane D. Blackburn, Director, Bank Accounting or Eugene Green, Senior Accountant, Bank Accounting (202/447–0471); Harold Schuler, Director, International Relations & Financial Evaluation (202/447–1747); Dorothy Sable, Senior Attorney (202/447–1880).

Federal Reserve System: Michael G. Martinson, Projects Manager, International Activities, Division of Banking Supervision and Regulation, (202/452–3621); or Stanley C. Weidman, Senior Accountant-Analyst, Division of Banking Supervision and Regulation (202/452–3502); or Nancy P. Jacklin, Assistant General Counsel (202/452–3428); Kathleen O'Day, Senior Counsel, Legal Division (202/452–3786).

Federal Deposit Insurance Corporation: Paul L. Sachtleben, Planning and Program Development Branch, Division of Bank Supervision (202/389–4761) or Peter M. Kravitz, Senior Attorney, Legal Division (202/389–4171).

SUPPLEMENTARY INFORMATION:

Purpose

The banking agencies are jointly proposing for public comment regulations which would specify the accounting for international loan fees in order to achieve uniformity among banking institutions in accounting for such fees and to assure that the appropriate portion of such fees is accrued in income over the effective life of the relevant loan. The proposed rules implement section 906 of the International Lending Supervision Act of 1983 (Title IX, Pub. L. 98–181, 97 Stat. 1153) ("Act"), directing the Federal banking agencies to promulgate regulations on the accounting for various fees received by banking institutions when restructuring and making international loans.

Background

In connection with international loan agreements, including agreements to restructure prior loans, banking institutions often receive various nonrefundable fees in addition to interest charges. These fees are identified by a variety of terms, and are intended for a variety of purposes: For example, a flat fee added specifically to increase the yield of the loan; a fee designed to cover costs associated with syndicating a loan (*e.g.*, for structuring and negotiating a loan package, underwriting a syndicated loan, advising the borrower); a fee to cover the costs of committing funds on the prescribed terms for a fixed period of time; or a fee for serving as agent in administering a syndicated loan. In addition, the loan agreement frequently provides that the managing bank(s) is (are) to be reimbursed for all out-of-pocket expenses incidental to the arrangement of a credit facility. Similar provision is made for the agent bank for loan collection or enforcement costs.

As discussed further below, the existing accounting literature provides only very general guidance on the accounting for such fees. As a result, there are differences in the manner in which banks have accounted for various fees associated with international loans. For example, some banks have deferred fees and amortized them to income over the life of the loan while others have recognized in income an amount equal to direct costs incurred and deferred the remainder. Still others have recognized such fees as current income when the loan is made.

General guidance as to the accounting recognition of loan fees is provided in the recent revision of the American Institute of Certified Public Accountants (AICPA) Industry Audit Guide, *Audits of Banks* ("Bank Audit Guide") (1983) at pages 52–55. As to commitment fees, the Bank Audit Guide in part states:

> Banks have recorded income from commitment fees in a variety of ways including recognition:
>
> (a) in full when received.
>
> (b) when the commitment period has expired or the loan has been drawn down.
>
> (c) ratably over the commitment period.
>
> (d) ratably over the combined commitment and loan period.
>
> The accounting for recognition of income from commitment fees should be based on the nature and substance of the transactions. However, a bank's method of accounting should ensure that any income that represents an adjustment to the interest yield is deferred until the loan is drawn down and then amortized over the expected life of the loan in relation to the outstanding balance.
>
> Fees representing compensation for a binding commitment or for rendering a service in issuing the commitment should be deferred and amortized over the commitment period using the straight-line method.

The Guide does not directly address questions of fees for international loans, but discusses "origination fees" as follows:

> Banks also receive fees for originating loans in-house. The normal origination fee (generally referred to as points) is essentially

a reimbursement for the expenses of the underwriting process, that is, processing the loan application, reviewing legal title to the collateral, obtaining appraisals, and other procedures. Origination fees, to the extent they are a reimbursement for such costs, should be recognized as income at the time of loan closing. Loan origination fees that are not reimbursements of such costs should be amortized to income over the expected loan period by application of the interest method.

Because existing generally accepted accounting principles (GAAP) do not provide explicit requirements for fees received in connection with a loan, the AICPA formed a task force to prepare an issues paper addressing the accounting for such fees. The issues paper was presented to and considered by the AICPA's Accounting Standards Executive Committee ("AcSEC"), which voted on the task force recommendations and forwarded this information on September 21, 1983 to the Financial Accounting Standards Board (FASB) for consideration. The FASB, which establishes GAAP, has not yet acted on these recommendations.

In the event either the FASB issues a final pronouncement or standard or the AICPA issues a Statement of Position on the subject, the banking agencies will reexamine their regulations to assess the need for modification.

The Federal banking agencies and the Congress have considered the lack of consistency among banking institutions in accounting for fees associated with international loans and determined that more explicit and uniform guidance is desirable. In particular, accounting practices should not result in artificial incentives for banking institutions to make international loans premised on the immediate recognition of all fee income. As a result of Congressional consideration of these matters, the Federal banking agencies are directed under section 906 of the Act to issue regulations to establish the accounting treatment of such fees and assure that an appropriate portion is accrued as income over the effective life of each such loan. Section 906(a) of the Act also prohibits certain fees in connection with international loan restructurings unless such fees are recognized as a yield adjustment over the effective life of the loan.

The effective life of the loan is generally meant to be the term of the loan. This may, however, differ from the stated loan period, where, for example, a short-term loan is expected to be rolled-over at maturity. The Federal banking agencies intend, through the examination process, to oversee good faith compliance with the Act and these regulations.

The proposed regulations are designed to carry out the objectives of section 906 and provide more specific and uniform accounting guidance relating to international loan fees.

Proposal

The Federal Financial Institutions Examination Council (FFIEC) recently has adopted revisions to banking institution Reports of Condition and Income (Call Reports) which include specific reporting requirements applicable to loan fees. The accounting rules contained in the proposed regulations are generally consistent with the existing requirements set forth in the Call Report Instructions (FFIEC Nos. 031, 032, 033 and 034). However, these instructions do not specifically address the appropriate accounting treatment for fees received in connection with international loans or loan restructurings. This proposal, therefore, specifies the required accounting treatment with respect to such fees.

In addition to the Call Report Instructions, the agencies considered the existing diversified practice of accounting for these fees; current accounting literature on the subject; and the recent recommendations of AcSEC and the AICPA task force referred to earlier.

The agencies also considered whether the accounting treatment for fees should vary depending on whether or not the fees are associated with a restructuring rather than any other international loan. It was decided that the rules should be identical for both loan situations. First, the fees are similar in substance and therefore, should be treated in the same fashion. Secondly, distinguishing between a restructuring, particularly one involving a "new money" component, and other international loans, including routine refinancings, would involve an undue regulatory burden on both banking institutions and the agencies. Accordingly, the proposed rules would apply to all international loans uniformly.

The proposed regulations apply to "banking institutions" which are defined to include banks, bank holding companies, and Edge and Agreement Corporations engaged in banking. The regulations apply to these institutions on a consolidated basis. In applying the rules to bank holding companies under section 910(a)(2) of the Act, the Board has deemed such action appropriate to promote uniform application of section 906 of the Act and to prevent evasions thereof.

The banking agencies, in issuing regulations implementing section 905(a) of the Act, have requested comment generally on whether and the extent to which any provision of the Act should apply to the U.S. branches, agencies and commerical lending company subsidiaries of foreign banks.

The significant provisions of the proposed regulations are:

1. No banking institution shall charge any fee in connection with the restructuring of an existing international obligation of the borrower unless all fees exceeding the banking institution's administrative cost of the restructuring are deferred and recognized over the term of the loan as an interest yield adjustment. In determining what costs should be regarded as administrative costs, reference should be made to the discussion below of administrative costs.

2. The accounting treatment of administrative costs associated with originating and processing international loans and loan fees related to the activity of generating such loans is as follows:

a. Fees on international loans that represent yield adjustments shall be recognized over the expected loan period using the interest method as an adjustment of the yield on the loan. However, to the extent these fees represent a reimbursement of the banking institution's identifiable administrative costs associated with the loan processing, a portion of the fee equal to these costs shall be recognized as income currently.

b. Administrative costs are defined as those costs which are specifically identified with processing and consummating a loan (excluding general and non-associated overhead-type costs). These costs include, but are not necessarily limited to: Legal fees; costs of preparing and processing loan documents; an allocable portion of salaries and related benefits of employees engaged in the international lending function; and directly allocable occupancy and other similar administrative costs.

3. For managing banking institutions in international syndicated loans, the proposed regulations establish a presumption that a portion of a managing banking institution's fees (other than commitment or agency fees for which accounting rules are otherwise set forth in the regulations) shall be considered an adjustment to yield. The interest yield portion is specified as equal to the proportion of fees in relation to loan principal received by the largest loan participant that is not a manager in the syndication. The remainder of the managing banking institution's fee shall be presumed to be

a loan syndication fee. This remaining portion may be recognized as revenue when received only to the extent it equals administrative costs directly identifiable with syndication processing, with the excess deferred and amortized over the term of the loan.

a. The portion of the syndication fee representing an adjustment of yield shall be accounted for as described in 2(a) above.

b. Administrative costs include those costs which are specifically identified with negotiating and consummating such lending arrangements (excluding general and non-associated overhead-type costs). These costs include, but are not necessarily limited to: legal fees; costs of preparing and processing loan documents; an allocable portion of salaries and related benefits of employees engaged in the international loan syndication function; and directly allocable occupancy and other similar administrative costs.

4. Consistent with the requirements of the Bank Audit Guide, the proposal takes the view that a loan commitment is a separate transaction that provides distinct services to customers for which the lending institution is entitled to compensation, and that a commitment fee may have two components: One relating to commitments and one related to lending money. In order to achieve uniformity in accounting practice and because the components generally cannot be separately identified, the banking institution should account for the commitment fee by recognizing the fee as revenue over the combined commitment and loan period.

Reimbursement of any direct processing costs will be recognized as income at closing. Then the straight line method, based on the combined life of the commitment and loan period, shall be applied to the remaining fee to recognize income during the commitment period. When the loan is disbursed, the interest method shall be applied to the balance of the fee to recognize income over the life of the loan. If the loan is not funded, unamortized commitment fees will be recognized as income at the end of the commitment period.

5. The proposed regulations provide that agency fees—normally as annual fee paid to an Agent Bank by the borrower to reimburse the bank for the performance of its administrative duties and out-of-pocket expenses (*e.g.*, telex, telephone, postage, printing and travel) incurred in the performance of such duties—shall be recorded as income at the time of loan closing or as the service is performed, if later.

The proposed rules differ in two respects from the accounting recommended in the AICPA issues paper submitted to the FASB for consideration.

First, the proposed rules would require that loan processing/origination costs be expensed as incurred with fees equal to the banking institution's directly identifiable administrative costs recognized in income in the same period. Both the AICPA Task Force and AcSEC believe that such costs should be capitalized and amortized over the loan period; however, the Task Force concluded (although AcSEC disagreed) that expensing all such administrative costs offset by an equal amount of revenue was an acceptable alternative.

The method proposed of immediately expensing all loan processing costs offset by an equal amount of revenue is a long established practice in the banking industry. Additionally, recognition of a portion of the fees gives the same income result as deferring administrative costs and amortizing them over the life of the loan, and thus would appear to be equally consistent with the objectives of section 906 of the Act.

The AICPA issues paper did not specify accounting treatment of syndication and similar fees. However, the presumption is that such fees should be deferred and recognized over the life of the loan. The proposed regulations are similar except for treatment of the associated syndication costs. The proposal treats syndication costs consistently with loan processing costs. In each case, the income result is the same as deferring both the costs and fee revenue and amortizing them over the life of the loan.

Secondly, AcSEC believes that a loan commitment is an integral part of lending money and therefore loan commitment fees should be deferred and recognized over the expected loan priod as a yield adjustment. However, the proposed rules would allow commitment fees to be recognized over the combined commitment and loan period. This proposal parallels the accounting prescribed in the Call Report Instruction and does not differ significantly from the requirements in the Bank Audit Guide. The AICPA Task Force endorses such treatment of commitment fees.

Comments are requested on the proposal and specifically on the following issues:

(1) Should the rules differentiate between fees related to restructured loans and other international loans, and if so, how should restructured loans be defined?

(2) Should all or certain costs be capitalized rather than expensed as incurred?

(3) Should commitment fees always be deferred and recognized over the combined commitment and expected loan period as adjustments to yield?

(4) How should banking institutions account for the costs of, and fee income attributable to, their merchant banking activities?

(5) Is any aspect of the proposed rules inconsistent with the accounting treatment for domestic loans?

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601 *et seq.*) the agencies have certified that the proposed regulations, if adopted, will not have a significant economic impact on a substantial number of small entities since small banks generally do not engage extensively in international lending and would not be affected by these regulations.

Executive Order 12291

The Comptroller of the Currency has determined that the proposed regulation does not constitute a "major rule" and therefore does not require a regulatory impact analysis.

List of Subjects in 12 CFR Parts 20, 211 and 351

Accounting for international loan fees, Banks, banking, Federal Reserve System, Foreign banking, investments, Reporting and recordkeeping requirements, Export trading companies, Allocated transfer risk reserve, National banks, International operations, Reserves on certain international assets, Reporting and disclosure of international assets, State nonmember banks.

Authority and Issuance

Pursuant to their respective authorities, the agencies propose to amend Title 12 of the Code of Federal Regulations, Parts 20, 211 and 351, as follows:

COMPTROLLER OF THE CURRENCY

[Docket No. 84-5]

PART 20—[AMENDED]

The Comptroller of the Currency proposes to amend 12 CFR Part 20 as follows:

1. The authority citation for 12 CFR PArt 20 reads as follows:

Authority: 12 U.S.C. 1 *et seq.* unless otherwise noted.

2. Part 20 is amended by redesignating paragraph (d) of § 20.7 as paragraph (f) and by adding new paragraphs (d) and (e) to read as follows:

§ 20.7 Definitions.

* * * * *

(d) "International loan" means a loan as defined in the instructions to the "Report of Condition and Income" for the respective banking institution (FFIEC Nos. 031, 032, 033 and 034) and made to a foreign government, or to an individual, a corporation, or other entity not a citizen of, resident in, or organized or incorporated in the United States.

(e) "International syndicated loan" means a loan characterized by the formation of a group of "managing" banking institutions, assumption by them of underwriting commitments, and in the usual case, participation in the loan by other banking institutions.

(f) "Transfer risk" * * *

3. Part 20 is amended by adding a new § 20.9 to read as follows:

§ 20.9 Accounting for fees on international loans.

(a) *Restrictions on certain fees for restructured international loans.* No banking institution shall charge any fee in connection with the restructuring of an existing obligation of the borrower unless all fees exceeding the banking institution's administrative costs of the restructuring are deferred and recognized over the term of the loan as an interest yield adjustment. Administrative costs are described in paragraph (b)(3)(ii) of this section.

(b) *Accounting treatment of international loan administrative costs and corresponding fees*—(1) *Amortizing fees.* Except as otherwise provided by this section, fees received on international loans shall be deferred and amortized over the term of the loan. The interest method should be used during the loan period to recognize the deferred fee revenue in relation to the outstanding loan balance.

(2) *Loan commitment fees.* Loan commitment fees shall be deferred and amortized over the term of the combined commitment and loan period. The straight-line method of amortization should be used during the commitment period to recognize fee revenue. The interest method should be used during the loan period to recognize the remaining fee revenue in relation to the outstanding balance. When any loan amounts are not funded during the commitment period, a portion of the fee income deferred may be recognized as income at the end of the commitment period.

(3) *Administrative costs and corresponding fees.* (i) Administrative costs for international loans shall be expensed as incurred. A portion of the fee income equal to the banking institution's administrative costs shall be recognized as income in the same period such costs are expensed.

(ii) The administrative costs of originating or restructuring an international loan include those costs which are specifically identified with processing and consummating the loan. These costs include, but are not necessarily limited to: legal fees; costs of preparing and processing loan documents; an allocable portion of salaries and related benefits of employees engaged in the international lending function; and an allocable portion of occupancy and other similar administrative costs.

(4) *Fees received by and administrative costs of managing banking institutions in an international syndicated loan.* (i) Fees received on international syndicated loans representing an adjustment of the yield on the loan shall be recognized over the loan period using the interest method. A portion of the syndication fee shall be recognized as revenue when received to the extent it equals administrative costs of the managing banking institution with the excess deferred and amortized over the term of the loan.

(ii) If the interest yield portion of a fee received on an international syndicated loan by a managing banking institution is unstated or differs materially from the pro rata portion of loan and commitment fees paid other participants in the syndication, an amount necessary for an interest yield adjustment shall be provided. This amount shall at least be equivalent (on a pro rata basis) to that received by the largest loan participant in the syndication that is not a managing banking institution.

(iii) The administrative costs of a managing banking institution in an international syndicated loan shall be expensed as incurred. Such costs are those which are specifically identified with negotiating and consummating such lending arrangements. These costs include, but are not necessarily limited to: Legal fees; costs of preparing and processing loan documents; an allocable portion of salaries and related benefits of employees engaged in the syndication function; and an allocable portion of occupancy and other similar administrative costs.

(5) *Accounting treatment of Agency fees.* Fees paid to an agent banking institution for administrative services in an international syndicated loan shall be recognized at the time of the loan closing or as the service is performed, if later.

Dated: February 8, 1984.

C. T. Conover,

Comptroller of the Currency.

FEDERAL RESERVE SYSTEM

[Regulation K; Docket No. R-0509]

PART 211—[AMENDED]

Pursuant to the Board's authority under sections 9, 25 and 25(a) of the Federal Reserve Act (12 U.S.C. 221 *et seq.*, 601–604a, and 611 *et seq.*), section 5 of the Bank Holding Company Act (12 U.S.C. 1844) and section 906 of the International Lending Supervision Act of 1983 (Pub. L. 98–181, Title IX, 97 Stat. 1153), the Board proposes to amend 12 CFR Part 211, Subpart D, as follows:

1. Section 211.42 is amended by redesignating paragraph (d) as paragraph (f) and by adding new paragraphs (d) and (e), to read as follows:

211.42 Definitions.

* * * * *

(d) "International loan" means a loan as defined in the instructions to the "Report of Condition and Income" for the respective banking institution (FFIEC Nos. 031, 032, 033 and 034) and made to a foreign government, or to an individual, a corporation, or other entity not a citizen of, resident in, or organized or incorporated in the United States.

(e) "International syndicated loan" means a loan characterized by the formation of a group of "managing" banking institutions, assumption by them of underwriting commitments, and in the usual case, participation in the loan by other banking institutions.

* * * * *

2. By adding a new § 211.45, to read as follows:

§ 211.45 Accounting for fees on international loans.

(a) *Restrictions on certain fees for restructured international loans.* No banking institution shall charge any fee in connection with the restructuring of an existing obligation of the borrower unless all fees exceeding the banking institution's administrative costs of the restructuring are deferred and recognized over the term of the loan as an interest yield adjustment. Administrative costs are described in paragraph (b)(3)(ii) of this section.

(b) *Accounting treatment of international loan administrative costs and corresponding fees*—(1) *Amortizing fees.* Except as otherwise provided by this section, fees received on

international loans shall be deferred and amortized over the term of the loan. The interest method should be used during the loan period to recognize the deferred fee revenue in relation to the outstanding loan balance.

(2) *Loan commitment fees.* Loan commitment fees shall be deferred and amortized over the term of the combined commitment and loan period. The straight-line method of amortization should be used during the commitment period to recognize fee revenue. The interest method should be used during the loan period to recognize the remaining fee revenue in relation to the outstanding balance. When any loan amounts are not funded during the commitment period, a portion of the fee income deferred may be recognized as income at the end of the commitment period.

(3) *Administrative costs and corresponding fees.* (i) Administrative costs for international loans shall be expensed as incurred. A portion of the fee income equal to the banking institution's administrative costs shall be recognized as income in the same period such costs are expensed.

(ii) The administrative costs of originating or restructuring an international loan include those costs which are specifically identified with processing and consummating the loan. These costs include, but are not necessarily limited to: legal fees; costs of preparing and processing loan documents; an allocable portion of salaries and related benefits of employees engaged in the international lending function; and an allocable portion of occupancy and other similar administrative costs.

(4) *Fees received by and administrative costs of managing banking institutions in an international syndicated loan.* (i) Fees received on international syndicated loans representing an adjustment of the yield on the loan shall be recognized over the loan period using the interest method. A portion of the syndication fee shall be recognized as revenue when received to the extent it equals administrative costs of the managing banking institution with the excess deferred and amortized over the term of the loan.

(ii) If the interest yield portion of a fee received on an international syndicated loan by a managing banking institution is unstated or differs materially from the pro rata portion of loan and commitment fees paid other participants in the syndication, an amount necessary for an interest yield adjustment shall be provided. This amount shall at least be equivalent (on a pro rata basis) to that received by the largest loan participant in the syndication that is not a managing banking institution.

(iii) The administrative costs of a managing banking institution in an international syndicated loan shall be expensed as incurred. Such costs are those which are specifically identified with negotiating and consummating such lending arrangements. These costs include, but are not necessarily limited to: Legal fees; costs of preparing and processing loan documents; an allocable portion of salaries and related benefits of employees engaged in the syndication function; and an allocable portion of occupancy and other similar administrative costs.

(5) *Accounting treatment of Agency fees.* Fees paid to an agent banking institution for administrative services in an international syndicated loan shall be recognized at the time of the loan closing or as the service is performed, if later.

Dated: February 8, 1984.

William W. Wiles,

Secretary, Board of Governors of the Federal Reserve System.

FEDERAL DEPOSIT INSURANCE CORPORATION

PART 351—[AMENDED]

1. The authority citation for 12 CFR Part 351 is as follows:

Authority: Title IX, Pub. L. 98-181, 97 Stat. 1153.

2. The FDIC proposes to amend Part 351 by adding a new § 351.2 to read as follows:

§ 351.2 Accounting for international loans fees.

(a) *Definitions.* (1) "International loan" means a loan as defined in the instructions to the "Report of Condition and Income" for the respective banking institution (FFIEC Nos. 031, 032, 033 and 034) and made to a foreign government, or to an individual, a corporation, or other entity not a citizen of, resident in, or organized or incorporated in the United States.

(2) "International syndicated loan" means a loan characterized by the formation of a group of "managing" banking institutions, assumption by them of underwriting commitments, and in the usual case, participation in the loan by other banking institutions.

(b) *Restrictions on certain fees for restructured international loans.* No banking institution shall charge any fee in connection with the restructuring of an existing obligation of the borrower unless all fees exceeding the banking institution's administrative costs of the restructuring are deferred and recognized over the term of the loan as an interest yield adjustment. Administrative costs are described in paragraph (c)(3)(ii) of this section.

(c) *Accounting treatment of international loan administrative costs and corresponding fees.*—(1) *Amortizing fees.* Except as otherwise provided by this section, fees received on international loans shall be deferred and amortized over the term of the loan. The interest method should be used during the loan period to recognize the deferred fee revenue in relation to the outstanding loan balance.

(2) *Loan commitment fees.* Loan commitment fees shall be deferred and amortized over the term of the combined commitment and loan period. The straight-line method of amortization should be used during the commitment period to recognize fee revenue. The interest method should be used during the loan period to recognize the remaining fee revenue in relation to the outstanding balance. When any loan amounts are not funded during the commitment period, a portion of the fee income deferred may be recognized as income at the end of the commitment period.

(3) *Administrative costs and corresponding fees.* (i) Administrative costs for international loans shall be expensed as incurred. A portion of the fee income equal to the banking institution's administrative costs shall be recognized as income in the same period such costs are expensed.

(ii) The administrative costs of originating or restructuring an international loan include those costs which are specifically identified with processing and consummating the loan. These costs include, but are not necessarily limited to: legal fees; costs of preparing and processing loan documents; an allocable portion of salaries and related benefits of employees engaged in the international lending function; and an allocable portion of occupancy and other similar administrative costs.

(4) *Fees received by and administrative costs of managing banking institutions in an international syndicated loan.* (i) Fees received on international syndicated loans representing an adjustment of the yield on the loan shall be recognized over the loan period using the interest method. A portion of the syndication fee shall be recognized as revenue when received to the extent it equals administrative costs of the managing banking institution with the excess deferred and amortized over the term of the loan.

(ii) If the interest yield portion of a fee received on an internationl syndicated loan by a managing banking institution is unstated or differs materially from the pro rata portion of loan and commitment fees paid other participants in the syndication, an amount necessary for an interest yield adjustment shall be provided. This amount shall at least be equivalent (on a pro rata basis) to that received by the largest loan participant in the syndication that is not a managing banking institution.

(iii) The administrative costs of a managing banking institution in an international syndicated loan shall be expensed as incurred. Such costs are those which are specifically identified with negotiating and consummating such lending arrangements. These costs include, but are not necessarily limited to: Legal fees; costs of preparing and processing loan documents; an allocable portion of salaries and related benefits of employees engaged in the syndication function; and an allocable portion of occupancy and other similar administrative costs.

(5) *Accounting Treatment of Agency fees.* Fees paid to an agent banking institution for administrative services in an international syndicated loan shall be recognized at the time of the loan closing or as the service is performed, if later.

Dated: February 6, 1984.

By Order of the Board of Directors.

Alan J. Kaplan,

Deputy Executive Secretary, Federal Deposit Insurance Corporation.

[FR Doc. 84-3963 Filed 2-9-84; 2:40 pm]

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Last List December 19, 1983.

CFR CHECKLIST

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An asterisk (*) precedes each entry that has been changed since last week.

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1, 2 (2 Reserved)	$6.00	Jan. 1, 1983
3 (1982 Compilation and Parts 100 and 101)	6.00	Jan. 1, 1983
4	7.50	Jan. 1, 1983
5 Parts:		
1-1199	8.50	Jan. 1, 1983
1200-End, 6 (6 Reserved)	6.00	Jan. 1, 1983
7 Parts:		
0-45	9.00	Jan. 1, 1983
46-51	7.50	Jan. 1, 1983
52	9.00	Jan. 1, 1983
53-209	7.50	Jan. 1, 1983
210-299	7.00	Jan. 1, 1983
300-399	5.50	Jan. 1, 1983
400-699	6.50	Jan. 1, 1983
700-899	6.50	Jan. 1, 1983
900-999	8.50	Jan. 1, 1983
1000-1059	7.50	Jan. 1, 1983
1060-1119	6.50	Jan. 1, 1983
1120-1199	7.00	Jan. 1, 1983
1200-1499	7.00	Jan. 1, 1983
1500-1899	6.50	Jan. 1, 1983
1900-1944	8.00	Jan. 1, 1983
1945-End	7.00	Jan. 1, 1983
8	6.50	Jan. 1, 1983
9 Parts:		
1-199	7.50	Jan. 1, 1983
200-End	7.50	Jan. 1, 1983
10 Parts:		
0-199	9.00	Jan. 1, 1983
200-399	7.50	Jan. 1, 1983
400-499	6.50	Jan. 1, 1983
500-End	7.00	Jan. 1, 1983
11	5.50	July 1, 1983
12 Parts:		
1-199	7.00	Jan. 1, 1983
200-299	8.00	Jan. 1, 1983
300-499	7.00	Jan. 1, 1983
500-End	8.00	Jan. 1, 1983
13	8.00	Jan. 1, 1983
14 Parts:		
1-59	7.00	Jan. 1, 1983
60-139	7.00	Jan. 1, 1983
140-199	5.50	Jan. 1, 1983
200-1199	7.00	Jan. 1, 1983
1200-End	6.50	Jan. 1, 1983
15 Parts:		
0-299	6.50	Jan. 1, 1983
300-399	7.00	Jan. 1, 1983
400-End	7.50	Jan. 1, 1983

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16 Parts:		
0-149	7.00	Jan. 1, 1983
150-999	7.00	Jan. 1, 1983
1000-End	7.00	Jan. 1, 1983
17 Parts:		
1-239	8.00	Apr. 1, 1983
240-End	7.00	Apr. 1, 1983
18 Parts:		
1-149	7.00	Apr. 1, 1983
150-399	8.00	Apr. 1, 1983
400-End	6.50	Apr. 1, 1983
19	8.50	Apr. 1, 1983
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1-399	5.50	Apr. 1, 1983
400-499	7.00	Apr. 1, 1983
500-End	7.50	Apr. 1, 1983
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100-169	6.50	Apr. 1, 1983
170-199	6.50	Apr. 1, 1983
200-299	4.75	Apr. 1, 1983
300-499	8.00	Apr. 1, 1983
500-599	6.50	Apr. 1, 1983
600-799	5.00	Apr. 1, 1983
800-1299	6.00	Apr. 1, 1983
1300-End	5.00	Apr. 1, 1983
22	8.50	Apr. 1, 1983
23	7.00	Apr. 1, 1983
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200-End	6.50	Apr. 1, 1983
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35	5.50	July 1, 1983
36 Parts:		
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200–End	12.00	July 1, 1983
37	6.00	July 1, 1983
38 Parts:		
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