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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 84-345]

Citrus Canker

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document amends the "Domestic Quarantine Notices" by adding a new "Subpart Citrus Canker." This new subpart prohibits the interstate movement from anywhere in Florida of articles designated as regulated articles except under certain conditions. This action is necessary as an emergency measure to prevent the artificial spread of citrus canker into noninfested areas of the United States.

DATES: Effective date of this amendment September 14, 1984. Written comments concerning this interim rule must be received on or before November 19, 1984.

ADDRESSES: Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, 6505 Belcrest Road, Room 728 Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: B. Glenn Lee, Emergency Programs Coordinator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 611 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-6365.

SUPPLEMENTARY INFORMATION:

Emergency Action

Harvey L. Ford, Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, has determined that an emergency situation exists which warrants publication without prior opportunity for a public comment period on this interim rule. Due to the possibility that citrus canker could be spread artificially to certain noninfested areas of the United States, a situation exists requiring immediate action to better control the spread of this pest.

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

Background

This document amends the "Domestic Quarantine Notices" in 7 CFR Part 301 by adding Federal regulations captioned "Subpart Citrus Canker".

Citrus canker, *Xanthomonas campestris* pv *citri* (Hasse) Dawson, is a devastating bacterial disease which is known to infect plants and plant parts of citrus and citrus relatives (Family Rutaceae). Strains of citrus canker can cause defoliation and other serious damage to the leaves, twigs, and fruit of such plants. It can be a very aggressive disease. It can rapidily infect plants and plant parts, and can cause the destruction of entire citrus growing areas. The establishment of citrus canker in the United States would present a severe threat to citrus producing industries in the United States and pose a burden to interstate and international commerce.

An infestation of citrus canker was found in plants in a nursery in Polk County, Florida on August 27, 1984. As a result of investigations and surveys by inspectors of Plant Protection and Quarantine (PPQ), a unit within the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, and officials of the Florida Division of Plant Industry (FDPI), a unit within the Florida Department of Agriculture and Consumer Services, it has been determined that plant cuttings from infested nursery stock and plants exposed to infected nursery stock have been sent to over 40 other nurseries and numerous commercial citrus groves for planting in at least 17 counties in Florida. These surveys and investigations are continuing, but complete identification of all areas in Florida to which the citrus canker infestation has spread are not yet determined.

Further, the strain of the bacterial pathogen which causes the form of citrus canker now in Florida has not previously been described. However, intensive pathological studies are underway to determine the full host range, possible effect on fruit, and other pathological characteristics of this particular strain.

Officials of PPQ and FDPI have begun an intensive citrus canker eradication program in the infested areas in Florida. However, since this disease could have spread throughout the State, it is necessary to designate the entire State of Florida as a quarantined area and regulate the interstate movement of certain articles from any place in Florida in order to prevent the artificial spread of the citrus canker to noninfested areas in other States. Accordingly, this document, as an emergency measure, establishes "Subpart—Citrus Canker" for the purpose of preventing the artificial spread of the citrus canker.

Prohibition

Section 301.75 provides that no common carrier or other person shall move interstate from any quarantined area any regulated article except in accordance with conditions explained below.

Definitions

Section 301.75-1 contains, for informational purposes, definitions of the following terms: "Citrus Canker," "Deputy Administrator," "Infestation," "Inspector," "Interstate," "Limited Permit," "Moved," "Movement or Move," "Person," "Plant Protection and Quarantine," "Quarantined Area," "Regulated article", and "State." These terms are defined in accordance with definitions and authority set forth in the Federal Plant Pest Act (7 U.S.C. 150dd,

150ee) and the Plant Quarantine Act (7 U.S.C. 161, 162).

Regulated Articles

Section 301.75–2 designates the following articles as regulated articles:

(a) Plants and any plant parts, including fruit and seeds, of any of the following:
Calamondin orange (*Citrus mitis*)
Citrus citron (*Citrus medica*)
Grapefruit (*Citrus paradisi*)
Kumquat (*Fortunella japonica*)
Lemon (*Citrus limon*)
Lime (*Citrus aurantifolia*)
Mandarin orange (tangerine) (*Citrus reticulata*)
Pummelo (*Shaddock*) (*Citrus maxima*)
Sour orange (*Citrus aurantium*)
Sweet orange (*Citrus sinensis*)
Tangelo (*paradisi x. c. reticulata*)
Temple orange (*reticulata x. c. sinensis*)
Trifoliata orange (*Poncirus trifoliata*)

(b) Any other product, article, or means of conveyance, of any character whatsoever, not covered by paragraph (a) when it is determined by an inspector that it presents a risk of spread of the citrus canker and the person in possession thereof has actual notice that the product, article, or means of conveyance is subject to the provisions of this Subpart.

Based on research and experience, the articles listed in § 301.75–2(a) as regulated articles are articles that are likely to cause the artificial spread of the citrus canker. In addition, since other products, articles, or means of conveyance could, under certain circumstances, be found to present a risk of spreading the citrus canker, these articles are regulated by paragraph (b). These articles would have to be determined to present a risk of spread of the citrus canker by an inspector on a case-by-case basis since it cannot be anticipated specifically which other products, articles, or means of conveyance, if any would present such a risk. There is authority to regulate nonlisted products, articles, or means of conveyance as set forth in § 301.75(b) on an emergency basis in sections 105 and 106 of the Federal Plant Pest Act. If it appears that these additional products, articles, or means of conveyance generally present a risk of spreading citrus canker, an amendment to this rule to include such items in the list of regulated articles will be considered.

Quarantined Areas

Section 301.75–3(a) designates the entire State of Florida as a quarantined area. Also § 301.75–3(b) provides that:

(b) The Deputy Administrator or an inspector may temporarily designate any nonquarantined area as a quarantined area upon a determination that an infestation of citrus canker exists. Written notice of such designation shall be given to the owner or person in possession of such nonquarantined area, and, thereafter, the interstate movement of any regulated article from such area shall be subject to the applicable provisions of this Subpart. As soon as practicable, such area shall be added to the list in paragraph (a) of this section or such designation shall be terminated by the Deputy Administrator or an inspector, and notice thereof shall be given to the owner or person in possession of the area.

It is necessary to designate all of Florida as a quarantined area because as explained above, citrus canker could have spread throughout the State. Also, it is necessary to establish the criteria in paragraph (b) for adding areas as quarantined areas on a temporary basis in order to advise persons of action that will be taken if the citrus canker is found to have spread to other areas.

Movement of Regulated Articles for Experimental or Scientific Purposes

Section 301.75–4 provides that:

A regulated article may be moved interstate from a quarantined area if:
(a) Moved by the United States Department of Agriculture for experimental or scientific purposes;
(b) Moved pursuant to a Departmental permit issued for such article by the Deputy Administrator;
(c) Moved in accordance with conditions specified on the Departmental permit and found by the Deputy Administrator to be adequate to prevent the spread of citrus canker i.e., conditions of treatment, processing, growing, shipment, disposal; and
(d) Moved with a Departmental tag or label securely attached to the outside of the container containing the article or securely attached to the article itself if not in a container, and with such tag or label bearing a Departmental permit number corresponding to the number of the Departmental permit issued for such article.

These requirements are in accord with the intent of the Federal Plant Pest Act and the Plant Quarantine Act to allow special provisions for movement of articles for experimental or scientific purposes. The conditions for movement are required to be specified on the permit in order to assure that they will be understood and followed.

Movement of Certain Regulated Articles Under Limited Permit

Section 301.75–5 provides that:

(a) Fruit designated as a regulated article may be moved interstate from a quarantined area to any State of Territory other than American Samoa, Arizona, California, Hawaii, Louisiana, Puerto Rico, or Texas if moved pursuant to a limited permit issued pursuant to paragraph (b) of this section and attached in accordance with § 301.75–7 and if not unloaded in any of the jurisdictions listed in the paragraph without permission from an inspector.

(b) A limited permit shall be issued by an inspector for the movement of a regulated article if such inspector:
(1) Determines that the fruit originated in an area found to be free of citrus canker disease based on surveys conducted by inspectors appointed by the Deputy Administrator,
(2) Determines that the fruit is free of leaves, litter, and stems other than stems less than one inch in length attached to the fruit, and
(3) Determines that the fruit has been treated by a thorough wetting with a solution containing 200 parts per million active chlorine for a period of at least two minutes.

Fruit is being harvested and there is a need to establish provisions allowing the interstate movement of such fruit if it can be moved without causing a significant risk of spreading citrus canker. Compliance with the provisions in § 301.75–5 would be adequate to allow the movement of fruit without a significant risk of causing the spread of citrus canker. The survey provisions are designed to ensure that the fruit originates in an area where citrus canker does not exist. The other provisions in Section 301.75–5 are precautionary measures designed to help ensure the citrus canker is not spread to commercial citrus producing areas. The destination and unloading requirements are designed to ensure that the fruit will not be shipped to States or Territories where commercials citrus is grown. The provisions concerning leaves, litter, and stems are added because there is no need for such leaves, litter and stems to accompany the fruit. The chlorine provisions are added to ensure that any surface bacteria that might be present on the fruit would be destroyed.

Section 301.75–6 provides that any person who desires a limited permit to move regulated articles should request services from an inspector as far in advance as possible (no less than 48 hours before the desired movement). A footnote is added for informational purposes to indicate how to contact the inspectors and how to obtain additional information from offices of Plant Protection and Quarantine.

Section 301.75–7 requires the limited permit issued for the movement of the regulated article to be attached to the regulated article, or to a container carrying the regulated article, or to the accompanying waybill or other shipping document during the interstate movement. These provisions are necessary for enforcement purposes and to ensure that persons desiring services of an inspector can obtain them before the intended movement date.

Section 301.75–8 explains the Department's policy that services of an inspector needed in order for a person to comply with the provisions of the regulations are provided without cost during normal business hours but that any other incidental costs or charges shall not be the responsibility of the Department.

Executive Order and Regulatory Flexibility Act

The emergency nature of this action makes it impracticable for the Agency to follow the procedures of Executive Order 12291 with respect to his interim rule. In order to help prevent the spread of citrus canker, immediate action is warranted to regulate the movement of regulated articles.

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

Paperwork Reduction Act

The regulations in this subpart contain no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507 *et seq.*).

List of Subjects in 7 CFR Part 301

Agricultural Commodities, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation, Citrus Canker.

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, 7 CFR Part 301 is amended by adding a new "Subpart—Citrus Canker" to read as follows:

Subpart—Citrus Canker

Sec.

301.75 Prohibition.
301.75–1 Definitions.
301.75–2 Regulated articles.
301.75–3 Quarantined areas.
301.75–4 Movements of certain regulated articles for experimental or scientific purposes.
301.75–5 Movements of regulated articles under limited permit.
301.75–6 Assembly and inspection of regulated articles.
301.75–7 Attachment and disposition of limited permits.
301.75–8 Costs and charges.

Authority: Secs. 8 and 9, 37 Stat. 318, as amended, secs. 105 and 106, 71 Stat. 32 71 Stat. 33 (7 U.S.C. 161, 162, 150dd, 150ee); 7 CFR 2.17, 2.51, and 371.2(c).

Subpart—Citrus Canker

§ 301.75 Prohibition.[1]

No common carrier or other person shall move interstate from any quarantined area any regulated article except in accordance with the conditions prescribed in this Subpart.

§ 301.75–1 Definitions.

Terms used in the singular form in this subpart shall be construed as the plural and vice versa, as the case may demand. The following terms, when used in this Subpart, shall be construed respectively to mean:

Citrus canker. The plant disease caused by the bacteria, *Xanthomonas campestris* pv. *citri* (Hasse) Dawson, in any stage of development.

Deputy Administrator. The Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, or any officer or employer of the Department to whom authority to act in his/her stead has been or may hereafter be delegated.

Infestation. The presence of the Citrus canker or the existence of circumstances that make it reasonable to believe that the citrus canker is present.

Inspector. Any employee of Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or other person, authorized by the Deputy Administrator in accordance with law to enforce the provisions of this Subpart.

Interstate. From any State into or through any other State.

Limited Permit. A document which is issued for a regulated article by an inspector which represents that such regulated article is eligible for interstate movement in accordance with § 301.75–5.

Moved. Shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved by any means.

Movement or move. The act of shipping, offering for shipment to a common carrier, receiving for transportation or transporting by a common carrier, or carrying, transporting, moving, or allowing to be moved by any means.

Person. Any individual, partnership, corporation, company, society, association, or other organized group.

Quarantined area. Any State, or any portion thereof, listed in § 301.75–3(a) or otherwise designated as a quarantined area in accordance with § 301.75–3(b).

Regulated article. Any article specified in § 301.75–2(a) or otherwise designated as a regulated article in accordance with § 301.75–2(b).

State. Each of the several States of the United States, the District of Columbia, Guam, Northern Mariana Islands, Puerto Rico, the Virgin Islands of the United States, and all other Territories and Possessions of the United States.

§ 301.75–2 Regulated articles.

The following are designated as regulated articles:

(a) Plants and any plant parts, including fruit and seeds, of any of the following:

Calamondin orange (*Citrus mitis*)
Citrus citron (*Citrus medica*)
Grapefruit (*Citrus paradisi*)
Kumquat (*Fortunella japonica*)
Lemon (*Citrus limon*)
Lime (*Citrus aurantifolia*)
Mandarin orange (tangerine) (*Citrus reticulata*)
Pummelo (*Shaddock*) (*Citrus maxima*)
Sour orange (*Citrus aurantium*)
Sweet orange (*Citrus sinensis*)
Tangelo (*paradisi x. c. reticulata*)
Temple orange (*reticulata x. c. sinensis*)
Trifoliata orange (*Poncirus trifoliata*)

(b) Any other product, article, or means of conveyance, of any character whatsoever, not covered by paragraph (a) of this section, when it is determined by an inspector that it presents a risk of spread of the citrus canker and the person in possession thereof has actual notice that the product, article or means of conveyance is subject to the provision of this Subpart.

§ 301.75–3 Quarantined areas.

(a) The entire State of Florida.

(b) The Deputy Administrator or an inspector may temporarily designate any nonquarantined area as a quarantined area upon a determination that an infestation of citrus canker exists. Written notice of such designation shall be given to the owner or person in possession of such nonquarantined area, and, thereafter, the interstate movement of any regulated article from such area shall be subject to the applicable provisions of this Subpart. As soon as practicable,

[1] Any properly identified inspector is authorized to stop and inspect persons and means of conveyance, and to seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of regulated articles as provided in sections 105 and 107 of the Federal Plant Pest Act (7 U.S.C. 150dd, 150ff) and section 10 of the Plant Quarantine Act (7 U.S.C. 164a).

such area shall be added to the list in paragraph (a) of this section or such designation shall be terminated by the Deputy Administrator or an inspector, and notice thereof shall be given to the owner or person in possession of the area.

§ 301.75-4 Movements of certain regulated articles for experimental or scientific purposes.

A regulated article may be moved interstate from a quarantined area if—

(a) Moved by the United States Department of Agriculture for experimental or scientific purposes;

(b) Moved pursuant to a Departmental permit issued for such article by the Deputy Administrator;

(c) Moved in accordance with conditions specified on the Departmental permit and found by the Deputy Administrator to be adequate to prevent the spread of citrus canker, i.e., conditions of treatment, processing, growing, shipment, disposal; and

(d) Moved with a Departmental tag or label securely attached to the outside of the container containing the article or securely attached to the article itself if not in a container, and with such tag or label bearing a Departmental permit number corresponding to the number of the Departmental permit issued for such article.

§ 301.75-5 Movements of regulated articles under limited permit.

(a) Fruit designated as a regulated article may be moved interstate from a quarantined area to any State or Territory other than American Samoa, Arizona, California, Hawaii, Louisiana, Puerto Rico, or Texas, if moved pursuant to a limited permit issued pursuant to paragraph (b) of this section and attached in accordance with § 301.75-7, and if not unloaded in any of the States or Territories listed in this paragraph without permission from an inspector.

(b) A limited permit shall be issued by an inspector for the movement of a regulated article if such inspector:

(1) Determines that the fruit originated in an area found to be free of citrus canker disease based on surveys conducted by inspectors appointed by the Deputy Administrator;

(2) Determines that the fruit is free of leaves, litter, and stems other than stems less than one inch in length attached to the fruit, and

(3) Determines that the fruit has been treated by a thorough wetting with a solution containing 200 parts per million active chlorine for a period of at least two minutes.

§ 301.75-6 Assembly and inspection of regulated articles.

(a) Any person who desires to move interstate a regulated article accompanied by a limited permit shall, as far in advance as possible (should be no less than 48 hours before the desired movement), request an inspector [2] to take any necessary action under this Subpart prior to movement of the regulated article.

(b) Such article shall be assembled at such point and in such manner as the inspector designates as necessary to comply with the requirements of this subpart.

§ 301.75-7 Attachment and disposition of limited permit.

(a) A limited permit required for the interstate movement of a regulated article, at the times during such movement, shall be securely attached to the outside of the containers containing the regulated article, securely attached to the article itself if not in a container, or securely attached to the consignee's copy of the accompanying waybill or other shipping document: *Provided however,* that the requirements of this section may be met by attaching the limited permit to the consignee's copy of the waybill or other shipping documents only if the regulated article is sufficiently described on the limited permit or shipping document to identify such article.

(b) The limited permit for the movement of a regulated article shall be furnished by the carrier to the consignee at the destination of the shipment.

§ 301.75-8 Costs and charges.

The service of the inspector shall be furnished without cost. The U.S. Department of Agriculture will not be responsible for any costs or charges incident to inspections or compliance with the provisions in this subpart, other than for the services of the inspector.

Done at Washington, D.C., this 14th day of September, 1984.

H.L. Ford,

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

[FR Doc. 84-24832 Filed 9-18-84; 8:45 am]

BILLING CODE 3410-34-M

[2] Inspectors are assigned to local offices of Plant Protection and Quarantine which are listed in telephone directories. Information concerning such local offices may also be obtained from the Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, Federal Building, Hyattsville, MD 20782.

Agricultural Marketing Service

7 CFR Part 929

Cranberries Grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York; Amendment of Rules and Regulations

AGENCY: Agricultural Marketing Service; USDA.

ACTION: Final rule.

SUMMARY: The final rule would increase the reserve base quantity for the 1984-85 fiscal period to 2.38 percent of the total base quantities currently issued to cranberry producers. This rule is designed to update and expand base quantities for the benefit of producers. It is also intended to facilitate the appropriate and equitable operation of the cranberry marketing order with the establishment in the future of any marketable quantity and annual allotment.

EFFECTIVE DATE: September 19, 1984..

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

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

Notice of the proposal to revise § 929.153 was published in August 16, 1984 **Federal Register** (49 FR 32771). The proposal provided interested persons the opportunity to comment on the proposal. No such comments were received.

The final rule is issued under amended marketing agreement and Order No. 929, as amended (7 CFR Part 929). The order regulates the handling of cranberries grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The action was recommended by the Cranberry Marketing Committee.

Each year prior to May 1, the committee considers its marketing

policy for the coming season and estimates the marketable quantity. If the Secretary finds from such recommendation of the committee or from other available information that limiting the quantity of cranberries that may be purchased or handled on behalf of growers would tend to effectuate the declared policy of the act, the Secretary shall determine and establish the marketable quantity for that crop year. The marketable quantity shall be apportioned among growers by applying the allotment percentage to each grower's base quantity pursuant to § 929.48.

Such base quantity is issued to growers: (a) Based on their production during the period 1968–69 through 1973–74; (b) as result of transfers of base quantities from other growers; or (c) as part of an annual reserve of at least two percent of the total base quantities. Such reserve shall be used for the issuance of base quantities to new producers and adjustments in base quantities for existing producers with 25 percent being made available for new producers and 75 percent available for adjustments for existing producers. Any unallocated portion of the 25 percent available to new producers may at the discretion of the committee be prorated among eligible existing producers on an equitable basis. Section 929.48 also provides that a condition for the continuing validity of a producer's base quantity is the production of cranberries thereunder in a proprietary capacity. If no bona fide effort is made to produce and sell cranberries thereunder for five consecutive seasons, commencing with the 1978–79 season, the base quantity may be reduced or declared invalid due to lack of use and cancelled at the end of the fifth season of nonproduction. The committee shall establish criteria, subject to approval by the Secretary, whereby the committee may determine whether a bona fide effort has been made to produce and sell cranberries produced on the producer's own acreage.

Section 929.153 implements § 929.48 of the order. It prescribes procedures governing the allocation of reserve base quantity to cranberry producers and establishes an annual base quantity reserve equal to two percent of the aggregate base quantities. Also § 929.153 provides that the base quantity of a grower who has made no bona fide effort to producer and sell cranberries for five consecutive seasons, commencing with the 1978–79 season, may be declared invalid and cancelled at the end of the fifth season.

On February 22, 1984, the Cranberry Marketing Committee held its annual winter meeting to formulate its marketing policy for the 1984–85 crop. It determined that since demand exceeded supply, implementation of § 929.49 (i.e. the establishment of a marketable quantity and annual allotment) was not recommended. In order to update its base quantities in preparation for any future recommendation for such a marketable quantity, however, the committee also determined that 12,133 barrels of base quantity were held by growers who had not produced cranberries on the corresponding acreage for the requisite five years and should be redistributed to growers requesting base from the annual base quantity reserve. Also, the committee recommended that an additional two percent of the total base be issued to qualified new and existing growers who applied for it pursuant to § 929.153. All qualified new growers who applied for base quantities were granted them by the committee since such applications represented less than 25 percent of the two percent reserve. The committee recommended that the remainder of that reserve, and the reclaimed bases of 12,133 barrels, be redistributed to qualified existing growers who applied for additional bases.

Section 929.48(b)(1) specifies that the reserve shall include any base quantity that becomes available due to any reduction or invalidation because of non-use of base quantity. Thus, the net effect of the several committee recommendations is that there should be a total increase of base of 2.38 percent. Therefore, the final rule would increase the annual reserve applicable to the 1984–85 crop year to 2.38 percent. Such increase makes additional quantities of base quantity available to new and existing growers, and insures that base remain only with growers who are making a bona fide effort to produce cranberries. By so doing, the change would provide the appropriate updating of base quantities necessary for any future establishment of a marketable quantity and annual allotment.

Accordingly, the Secretary finds that upon good cause shown it is impracticable, unnecessary, and contrary to the public interest to postpone the effective date of this final rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because it is appropriate that this final rule be established as soon as possible in order that base quantities may be issued to growers prior to harvest which is expected to begin about September 15, 1984. Also, this would insure timely issuance of allotment bases and, thus, would provide for the proper administration of the order. The provisions in the final rule are the same as those in a proposed rule which was published in the **Federal Register**, and which provided a 10-day comment period. It is found that this final rule will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 929

Marketing agreements and orders, Cranberries, Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, New York.

PART 929—[AMENDED]

This final rule amends § 929.153 (7 CFR Part 929) by revising paragraph (a) to read as follows:

§ 929.153 Base quantity reserve.

(a) *Establishment.* An annual reserve base quantity equal to 2 percent of total base quantities is hereby established: *Provided,* That, for the 1984–85 crop year, the reserve base quantity shall be 2.38 percent.

* * * * *

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

Dated: September 14, 1984.

Thomas R. Clark,

Deputy Director,

Fruit and Vegetable Division.

[FR Doc. 84-24831 Filed 9-18-84; 8:45 am]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Part 1942

Community Facilities Loans and Grants

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: Farmers Home Administration (FmHA) amends its regulations regarding loans and grants for Community Facility Projects. The action is being taken to include the incomes of single-person house-holds in determining interest rates and the amount of grant funds an applicant can receive. Also, this action eliminates the term "nonfarm family" in order to accurately describe the source of the poverty line as prescribe by the Office of Management and Budget. The intended effect of this action is to more effectively serve the needs of rural

communites participating in FmHA's Community Facility programs.

EFFECTIVE DATE: October 3, 1984. All loans and grants where the notice of approval has not been mailed to the applicant before the effective date must comply with these regulations.

FOR FURTHER INFORMATION CONTACT: Jerry W. Cooper, Loan Specialist, Water and Waste Disposal Division, Farmers Home Administration, USDA, South Agriculture Building, Room 6328, Washington, D.C. 20250, telephone: (202) 382–9589.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Departmental Regulation 1512–1 which implements Executive Order 12291, and has been determined to be "nonmajor" since the annual effect on the economy is less than $100 million and there will be no significant increase in cost or prices for consumers, individual industries, organizations, government agencies, or geographic regions. There will be no adverse affects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. This action is not expected to substantially affect budget outlay or to affect more than one agency. Additional efforts to administer the changes are expected to be minimal. Increased program costs are, therefore, not anticipated. The net result is expected to provide better service to rural communities.

The FmHA programs and projects which are affected by this Instruction are subject to State and local review under Section 401 of the Intergovernmental Cooperation Act and Section 204 of the Demonstration Cities and Metropolitan Development Act. The Catalog of Federal Domestic Assistance programs affected are No. 10.418, Water and Waste Disposal Systems for Rural Communities and No. 10.423, Community Facilities Loans. This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G, "Environmental Programs." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

Charles W. Shuman, Administrator, has determined that the action will not have a significant economic impact on a substantial number of small entities because the action will only affect a small number of rural communities.

This action requires no change in recordkeeping or reporting requirements imposed upon the public.

This action amends FmHA's policies for making loans and development grants. These loans and grants assist in financing the development cost of community facilities and domestic water and waste disposal systems to rural communities and other associations of farmers, ranchers, rural residents, and other rural users.

Comments: A proposed rule was published in the **Federal Register** (49 CFR Part 9190) on March 12, 1984. That proposal provided for a 30-day comment period through April 11, 1984. Twenty-six comments were received within the comment period.

Twenty-four out of the twenty-six comments received were in favor of the proposed rule. Two comments stated that a State's total median income be used in lieu of a State's nonmetropolitan median income. The FmHA is only authorized to finance projects in rural areas. The use of nonmetropolitan median income more realistically represents the median income of rural areas.

Another comment stated that median household income in several counties would be higher than the median family income figure. FmHA recognizes that there will be some areas where this will be true. However, the other comments received stated that in most cases the proposed change would be more representative of the incomes in rural areas. Therefore, the changes are being finalized as proposed and incorporate a final rule published in the **Federal Register** (49 FR, No. 69, Pages 13862 to 13863) on April 9, 1984.

FmHA amends Subpart A of Part 1942 as follows:

1. Section 1942.5(b)(1)(ii)(D) is revised to change the number and title of Form FmHA 442–51, "Water and Waste Disposal Development Grant Summary" to Form FmHA 1942–51, "Water and Waste Disposal Grant Determination."

2. Section 1942.17 (c)(2)(iii)(C)(*2*) and (c)(2)(iii)(C)(*3*) to make the selection priorities criteria consistent with the use of median household income in other sections.

3. Section 1942.17(f)(2) is renumbered.

4. Section 1942.17(f)(2)(ii) is revised to reference median household income and take out the word "nonfarm".

5. Section 1942.17(f)(3) is revised and renumbered to reference median household income.

6. Section 1942.17(f)(4) is renumbered and revised.

7. Section 1942.17(f)(6) is revised.

FmHA amends Subpart H of Part 1942 as follows:

1. Section 1942.355(a)(12) is revised to reference median household income.

2. In Section 1942.356(a), the title of Form FmHA 1942–51 is changed from "Water and Waste Disposal Development Grant Summary" to "Water and Waste Disposal Grant Determination."

3. Section 1942.356(b) is revised to incorporate the use of median household income.

4. Section 1942.356(b)(2) is revised by eliminating reference to median family income.

5. Section 1942.356(b)(2)(i) is revised to take out the word "nonfarm".

6. Section 1942.356 (b)(2)(i), (b)(2)(ii) and (b)(2)(iii) are revised to reference median household income.

7. Section 1942.356(b)(3) is revised to reference median household income.

8. Sections 1942.356 (b)(4)(i) and (b)(4)(ii) are revised to reference median household income.

9. Section 1942.356(b)(7) is revised to reference median household income.

List of Subjects in 7 CFR Part 1942

Community development Grant programs—Housing and community development, Rural areas, Waste treatment and disposal—Domestic Water supply—Domestic.

Accordingly, FmHA amends Subparts A and H of Part 1942, Chapter XVIII, Title 7, Code of Federal Regulations, as follows:

PART 1942—ASSOCIATIONS

Subpart A—Community Facility Loans

§ 1942.5 [Amended]

1. In § 1942.5(b)(1)(ii)(D), change "Form FmHA 442–51, "Water and Waste Disposal Development Grant Summary" to "Form FmHA 1942–51, "Water and Waste Disposal Grant Determination."

2. § 1942.17 is amended by revising paragraphs (c)(2)(iii)(C)(*2*) and (c)(2)(iii)(C)(*3*) and redesignating paragraphs (f)(2) as (f)(4), (f)(3) as (f)(2), (f)(4) as (f)(3) and by revising new paragraphs (f)(2)(ii), (f)(3), (f)(4), and (f)(6) to read as follows:

§ 1942.17 Appendix A—Community Facilities.

* * * * *

(c) * * *

(2) * * *

(iii) * * *

(C) * * *

(*2*) More than the poverty line but less than 85% of the State's nonmetropolitan median household income—20 points.

(3) Between 85% and 100%, inclusive, of State's nonmetropolitan median household income—15 points.

* * * * *

(f) * * *

(2) * * *

(ii) The median household income of the service area is below the poverty line for a family of four as prescribed by the Office of Management and Budget (OMB) as adjusted under section 624 of the Economic Opportunity Act of 1964 (42 U.S.C. 2971d).

(3) *Intermediate rate.* The intermediate interest rate will be set at the poverty line rate plus one-half of the difference between the poverty line rate and the market rate. It will apply to loans that do not meet the requirements for the poverty line rate and for which the median household income of the service area is not more than 85 percent of the nonmetropolitan median household income of the State.

(4) *Market rate.* The market interest rate will be set using as guidance the average of the Bond Buyer Index for the four weeks prior to the first Friday of the last month before the beginning of the quarter. The market rate will apply to all loans that do not qualify for a different rate under paragraphs (f)(2) or (3) of this section. It may be adjusted as provided in paragraph (f)(5) of this section.

* * * * *

(6) *Income determination.* The income data used to determine median household income should be that which most accurately reflects the income of the service area. The service area is that area reasonably expected to be served by the facility being financed by FmHA. The median household income of the service area and the nonmetropolitan median household income for the State will be determined from income data from the most recent decennial census of the U.S. This data will normally be published or unpublished Bureau of the Census data and may be updated on a national basis by the FmHA National Office based on data provided by the Bureau of the Census, or other reliable sources. If there is reason to believe that the census data is not an accurate representation of the median household income within the area to be served, the reason will be documented and the applicant may furnish, or FmHA may obtain, additional information regarding such median household income. Such information will consist of reliable data from local, regional, State or Federal sources or from a survey conducted by a reliable impartial source. The nonmetropolitan median household income of the State may be updated on a national basis by the FmHA National Office based on data provided by the Bureau of the Census, or other reliable sources. Updating income data for the median household income of the service area and the nonmetropolitan median household income of the State should be done concurrently, using data from the same year.

* * * * *

Subpart H—Development Grants for Community Domestic Water and Waste Disposal Systems

3. Section 1942.355 is amended by revising paragraph (a)(12) to read as follows:

§ 1942.355 Grant limitations.

(a) * * *

(12) Pay any costs of a project when the median household income of the service area is more than 85 percent of the nonmetropolitan median household income of the State.

* * * * *

4. Section 1942.356(a) is amended by changing the title of Form FmHA 1942–51 from "Water and Waste Disposal Development Grant Summary" to "Water and Waste Disposal Grant Determination."

5. Section 1942.356 is amended by revising the introductory paragraph of paragraph (b), paragraph (b)(2), (b)(3), (b)(4)(i) and (b)(4)(ii), and (b)(7) to read as follows:

§ 1942.356 Determining the need for development grants.

* * * * *

(b) Grants will be used for water and waste disposal projecets serving the most financially needy communities to reduce user costs to be reasonable level for farmers, ranchers, and rural residents. Other rural users whose needs are met or, if there is no meter, could be met by a single residential-size water meter may also be considered eligible. For example, a user on a water system may be considered for a grant when the water needs of the waste user are met or could be met by such residential-size meter. This method of computing grants will be used for all water and waste disposal projects. Reasonable user rate is defined as that which is not less than existing prevailing rates in communities being served by an established system constructed at similar cost per user and having similar economic conditions. User costs shall include charges, taxes, and assessments attributable to the project. An exception to the reasonable user rate may be granted by the FmHA National Office in justifiable cases for areas of extremely low income when it is necessary to meet the needs of a particular community. Such an exception will only be considered when comparable systems are not available or the user rates from the comparable systems appear to be too high for the average user for the applicant, and the median household income in the applicant service area is less than $4,000. When it is determined that such an exception should be considered, the FmHA State Director will submit information household income of the service area, and user rate and median household incomes of other like or most similar communities in the region, employment conditions, and any other information to justify the recommendation for the exception.

* * * * *

(2) Ordinarily, an applicant will be considered for grant assistance only when the debt service portion of the average annual user cost for either water or waste service, for only those users in the applicant service area, exceeds the following percentages:

(i) .5 percent when the median household income of the service area is below the poverty line. The poverty line will be that income prescribed by the Office of Management and Budget for a nonfarm family of four, as adjusted under Section 624 of the Economic Opportunity Act of 1964 (42 U.S.C. 2971d).

(ii) 1.0 percent when the median household income of the service area is not more than 85 percent of the nonmetropolitan median household income of the State.

(iii) No FmHA grant funds will be used in any project when the median household income of the service area is more than 85 percent of nonmetropolitan median household income of the State.

(3) The median household income of the service area and the State's nonmetropolitian median household income will be determined in accordance with paragraph (b)(7) of this section. Except as provided for in paragraphs (b), (b), (5), and (6) of this section, the grant will not exceed an amount necessary to reduce the debt service portion of the average annual user not be used to result in a rate below that deemed to be reasonable as defined in paragraph (b) of this section. However, an exception to the reasonable user rate may be authorized by the FmHA National Office in accordance with paragraph (b) of this section.

(4) * * *

(i) Be considered as part of the total

by averaging the median household incomes of the systems involved and averaging the debt service portion for the particular service of the other system; or

(ii) Consider the median household income and the debt service portion for the particular service for each entity separately.

* * * * *

(7) The income data used to determine median household income should be that which most accurately reflects the income of the service area. The service area is that area reasonably expected to be served by the facility being financed by FmHA. The median household income of the service area or those reference communities used in comparing the proposed system with similar systems, and the nonmetropolitan median household income for the State will be determined from income data from the most recent decennial census of the U.S. This data will normally be published or unpublished Bureau of the Census data and may be updated on a national basis by the FmHA National Office based on data provided by the Bureau of Census, or other reliable sources. If there is reason to believe that the census data is not an accurate representation of the media household income within the area to be served, the reasons will be documented and the applicant may furnish, or FmHA may obtain, additional information regarding such median household income. Such information will consist of reliable data from local, regional, State or Federal sources or from a survey conducted by a reliable impartial source. The nonmetropolitian median household income of the State may be updated on a national basis by the FmHA National Office based on data provided by the Bureau of the Census, or other reliable sources. Updating income data for the median household income of the service area and the nonmetropolitian median household income of the State should be done concurrently, using data from the same year.

* * * * *

Authorities: (7 U.S.C. 1989; 7 CFR 2.23; 7 CFR 2.70).

Dated: May 17, 1984.

Michael E. Brunner,

Acting Administrator, Farmers Home Administration.

[FR Doc. 84-24835 Filed 9-18-84; 8:45 am]

BILLING CODE 3410-07-M

Animal and Plant Health Inspection Service

9 CFR Part 81

[Docket No. 84-085]

Lethal Avian Influenza

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document amends the Lethal Avian Influenza interim rule by deleting from the list of quarantined areas the area in Virginia that was designated as a quarantined area. This action is necessary because it has been determined that lethal avian influenza no longer exists in Virginia. The effect of this action is to delete unnecessary prohibitions and restrictions on the interstate movement of live poultry and certain other items from the previously quarantined area in Virginia.

DATES: Effective date is September 14, 1984. Written comments must be received on or before November 19, 1984.

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

FOR FURTHER INFORMATION CONTACT: Dr. H. A. McDaniel, Chief Staff Officer, Technical Support Staff, VS, APHIS, USDA, Room 757, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8087.

SUPPLEMENTARY INFORMATION:

Background

This document amends the "Lethal Avian Influenza" interim rule which is set forth in 9 CFR Part 81 (48 FR 51422-51423, 51798, 52420-52427, 52885-52887, 53586, 53678-53679, 53679-53681, 53997, 54574-54575, 55402-55405, 55722, 57474-57475, 49 FR 368-369, 2742-2744, 3494, 3839-3845, 5723-5724, 7978-7979, 8412-8415, 8582-8583, 13863-13864, 19288-19289, 19500-19501, 24011-24013, 31055-31057, 34804-34806).

Lethal avian influenza is defined as a disease of poultry caused by any form of H5 influenza virus that is determined by the Deputy Administrator to have spread from the 1983 outbreak in poultry in Pennsylvania.

Effect of designation as a Quarantined Area

With certain exceptions, the interim rule provides that the following articles designated as prohibited articles are prohibited from being moved interstate from a quarantined area:

(1) Live poultry,

(2) Manure from poultry, and

(3) Litter that has been used by poultry.

The interim rule also provides, with certain exceptions, that the following articles designated as restricted articles are allowed to be moved interstate from a quarantined area only in accordance with certain conditions:

(1) Poultry carcasses or parts thereof,

(2) Eggs from poultry, and

(3) Coops, containers, troughs or other accessories that have been used in the handling of poultry or poultry eggs.

Prior to the effective date of this document, an area in Albermarle, Augusta, Frederick, Greene, Madison, Page, Rappahannock, Rockingham, Shenandoah, and Warren Counties in Virginia was designated as a quarantined area. This document amends the interim rule by deleting this area in Virginia from the list of quarantined areas. With this action there is no longer any area in Virginia designated as a quarantined area. Extensive surveys have been conducted on commercial and noncommercial poultry premises in the previously quarantined area in Virginia. These surveys indicate that there are no lethal avian influenza virus or antibodies in poultry within the previously quarantined area and that lethal avian influenza no longer exists in Virginia. Under the circumstances there is no longer a basis for imposing prohibitions or restrictions on the movement of live poultry or other items from any area in Virginia because of lethal avian influenza.

With the deletion of the area in Virginia from the list of quarantined areas, an area in Berks, Chester, Dauphin, Lancaster, Lebanon, and Schuylkill Counties in Pennsylvania is the only area that remains designated as a quarantined area because of lethal avian influenza.

Emergency Action

Dr. John K. Atwell, Deputy Administrator of the Animal and Plant Health Inspection Service for Veterinary Services, has determined that an emergency situation exists which warrants publication of this interim rule without prior opportunity for public comment. Immediate action is

warranted in order to delete unnecessary restrictions on the movement of live poultry and certain other items from Virginia, and to benefit Virginia by declaring that lethal avian influenza no longer exists in Virginia.

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

Executive Order and Regulatory Flexibility Act

This action has been reviewed in accordance with Executive Order 12291 and has been determined to be not a major rule. The Department has determined that this action will not have a significant effect on the economy and will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This action relieves restrictions on the movement of live poultry and certain other items from portions of Albermarle, Augusta, Frederick, Greene, Madison, Page, Rappahannock, Rockingham, Shenandoah, and Warren Counties in Virginia. The poultry industry in the area in Virginia released from quarantined area status represents less than 1 percent of the poultry industry in the United States.

For this rulemaking action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

Under the circumstances explained above, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 9 CFR Part 81

Animal diseases, Poultry and poultry products, Transportation.

PART 81—LETHAL AVIAN INFLUENZA

Under the circumstances referred to above, § 81.4 of 9 CFR Part 81 is amended by removing paragraph (b).

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

Done at Washington, D.C. this 14th day of September 1984.

J.K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 84-24834 Filed 9-18-84; 8:45 am]

BILLING CODE 3410-34-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 2 and 50

Elimination of Review of Financial Qualifications of Electric Utilities in Operating License Review and Hearings for Nuclear Power Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule eliminating financial qualification review and findings for electric utilities that are applying for operating licenses for utilization facilities if the utility is a regulated public utility or is authorized to set its own rates. The final rule also restates a requirement for financial qualification review and findings for electric utilities that are applying for construction permits.

FOR FURTHER INFORMATION CONTACT: Carole F. Kagan, (202–634–1493).

SUPPLEMENTARY INFORMATION: In FR Doc. 84–24084 appearing on page 35747 in the issue of Wednesday, September 12, 1984, make the following correction:

The effective date should read October 12, 1984.

Approved: September 12, 1984.

John C. Hoyle,

Assistant Secretary.

[FR Doc. 84-24791 Filed 9-18-84; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 545

[No. 84-510]

Federal Savings and Loan System; Status and Priority of Accounts and Deposits in Federal Associations

September 13, 1984

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board ("Board") is amending its regulations to clarify that accounts and deposits in a Federal association are debts of the association having the same priority as claims of general creditors of the association.

EFFECTIVE DATE: September 19, 1984.

FOR FURTHER INFORMATION CONTACT: Judith K. Gunderson, Attorney, Office of General Counsel (202) 377–6442), Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: The Regulations of the Federal Savings and Loan System ("Federal Regulations") formerly included, at § 545.1–2(c) (12 CFR 545.1–2(c)), a provision establishing accounts and deposits in a federal association as debts of the association, having the same priority as claims of general creditors of the association. When the Board amended Part 545 of the Federal Regulations to implement the new powers granted federal associations by the Garn-St Germain Depository Institutions Act of 1982, former § 545.1–2(c) was inadvertently deleted. Board Resolution No. 83–241 (April 26, 1983), 48 FR 23032 (May 23, 1983).

As expressed in the preamble to the revision of Part 545, with respect to savings accounts issued by federal associations, the Board intended to delete only those provisions of Part 545 which addressed matters within a federal association's discretion as an account-issuing institution. The status and priority to be accorded accounts in federal associations is not a matter within an association's discretion but is, rather, one that the Board has addressed elsewhere in the Federal Regulations: § 552.8(d) (12 CFR 552.8(d)) provides that accounts in a federal stock association are debts of the association having the same priority as claims of general creditors, and the Federal Mutual Charter set forth in § 544.1 of the Federal Regulations (12 CFR 544.1) includes a parallel provision. Therefore, in order to clarify that accounts in all

federal associations have the same status and priority as debts of federal associations, the Board has determined it necessary to amend Part 545 of the Federal Regulations by reinstating former § 545.1–2(c) with minor changes in language to parallel § 552.8(d) and the similar provision contained in the Federal Mutual Charter.

The Board finds that observance of the notice and comment procedure prescribed by 5 U.S.C. 553(b) (1982), and 12 CFR 508.12 and 508.13 (1984), and the delay of the effective date pursuant to 5 U.S.C. 553(d) (1982) and 12 CFR 508.14 (1984) is unnecessary since the amendment simply clarifies the Board's existing regulations.

List of Subjects in 12 CFR Part 545

Savings and loan associations.

Accordingly, the Federal Home Loan Bank Board hereby amends Part 545, Subchapter C, Chapter V of Title 12 of the Code of Federal Regulations, as set forth below.

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 545—OPERATIONS

Amend § 545.11 by designating the present text of § 545.11 as paragraph (a) and adding a new paragraph (b) as follows:

§ 545.11 Insured accounts.

* * * * *

(b) *Status and priority of savings deposits and accounts.* In the event of voluntary or involuntary liquidation, dissolution, or winding up of the association, or in the event of any other situation in which the priority of savings deposits and accounts is in controversy, such savings deposits and accounts shall, to the extent of their withdrawable value, be debts of the association having the same priority as debts of general creditors who have no priority, other than from consensual subordination, over other general general creditors. Savings deposits of mutual associations shall have the same right to share in the remaining assets of the association that savings share accounts would have.

(Sec. 5, 48 Stat 132, as amended; 12 U.S.C. 1464, Reorg. Plan No. 3 of 1947; 3 CFR, 1943–1948 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J.J. Finn,

Secretary.

[FR Doc. 84–24771 Filed 9–18–84; 8:45 am]

BILLING CODE 6720–01–M

12 CFR Part 564

[No. 84–509]

Federal Savings and Loan Insurance Corporation; Settlement of Insurance

September 13, 1984.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board ("Board"), as operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC" or "Corporation"), is amending the regulations of the FSLIC concerning the settlement of insurance on accounts in insured institutions in default, in order to provide a procedure whereby the holder of such an account can obtain agency reconsideration of a determination that all or a portion of such account is uninsured.

DATES: Effective September 19, 1984. Comments due by November 19, 1984.

ADDRESS: Send comments to Director, Information Services Section, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Judith K. Gunderson, Attorney, Office of General Counsel (202–377–6442), or Mary A. Creedon, Director, Insurance Division, Office of the FSLIC (202–377–6620), Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C., 20552.

SUPPLEMENTARY INFORMATION: Section 405(b) of the National Housing Act directs the Corporation, in the event of a default by an institution the accounts of which are insured by the FSLIC ("insured institution"), to make payment of insurance on accounts and permits the Corporation to requiring the filing of proofs of claims prior to paying insurance. 12 U.S.C. 1728(b) (1982). Section 564.1 of the Regulations of the FSLIC ("Insurance Regulations") provides that, in the event of a default by an insured institution, the Corporation shall determine from the books and records of the institution or otherwise the insured members of the institution and the amount of each insured member's account(s), and shall give each insured member notice of the time and place of payment of insurance on accounts. 12 CFR 564.1(a)(1984). The Board, as operating head of the FSLIC, has delegated on a case-by-case basis the authority to settle and pay insurance, in accordance with section 405 of the National Housing Act and its implementing regulations, to the Director, Deputy Director, an Associate Director, or the Director of the Insurance Division, Office of the FSLIC.

In their present forms, section 405(b) of the National Housing Act and § 564.1 of the Insurance Regulations neither preclude reconsideration by the agency of insurance determinations nor provide a formal mechanism for such reconsideration. The recent increase in the number of inquiries by accountholders as to the availability of administrative review of insurance determinations indicates the desirability of adopting a formal appeals procedure. The Board is therefore amending § 564.1 to provide a two-step process to be followed by the FSLIC in making determinations on the extent of insurance on accounts.

New paragraph (d) of § 564.1 delegates authority to the Director or Acting Director of the Insurance Division, Office of the FSLIC ("Director of the Insurance Division"), to notify accountholders in an insured institution in default of the time and place of the FSLIC's payment of insurance on accounts, and to make initital determinations regarding the extent of insurance in accordance with the principles for determining insurance coverage set forth in Part 564 of the Insurance Regulations. The determination by the Director of the Insurance Division will specify the bases on which the determination was made and will be provided to the accountholder in writing. An accountholder who disagrees with the determination by the Director of the Insurance Division may request reconsideration of that determination by the Director or Acting Director of the Office of the FSLIC ("Director"). The Director will reconsider only those determinations as to which a request for reconsideration is substantial, *i.e.*, is in writing, seasonably filed, sets forth an issue of law or fact which was not addressed, or in the Director's opinion was not adequately addressed in the prior determination, and is consistent with one of the regulatory bases in Part 564 for entitlement to insurance. The Director's determination regarding the substantiality of a request for reconsideration, as well as the Director's determination of the extent of FSLIC insurance in those cases in which the request for reconsideration is found to be substantial, will be provided to the accountholder in writing. In the event the Director determines that a request for reconsideration presents a significant issue of agency policy, that issue will be referred to the Board for decision. Pursuant to the Board's

authority under section 17(a) of the Federal Home Loan Bank Act, as amended (12 U.S.C. 1437(a) (1982)), as operating head of the FSLIC, to authorize the performance of functions of the FSLIC by the Board's officers, employees, agents, or administrative units, the determination by the Director or Acting Director of the Insurance Division in the absence of a request for reconsideration, and the Director's determinations as to the substantiality of a request for reconsideration and the existence of a significant issue of agency policy, and on reconsideration of a determination by the Director of the Insurance Division, shall constitute final action by the FSLIC.

Due to the number of requests by uninsured accountholders for administrative review of insurance determinations made as a result of previous payments of insurance, the Board has determined to make the appeal process established by new paragraph (d) of § 564.1 available to any uninsured accountholder in an insured institution placed into receivership after September 19, 1981. This period corresponds to the three-year statute of limitations set forth in section 405(c) of the National Housing Act (12 U.S.C. 1728(c) (1982)) on actions brought against the FSLIC to enforce claims to insurance and to the three-year period during which accountholders are required to present their claims for insurance under §§ 549.5 and 549.5–1 of the Regulations for the Federal Savings and Loan System (12 CFR 549.5, 549.5–1 (1984)) and § 563a.9 of the Insurance Regulations (12 CFR 569a.9 (1984)). Neither the adoption of this regulation nor the Director's decision to consider a request for reconsideration shall waive, extend or toll any of these statutes of limitations.

The Board finds that observance of the notice and comment procedures prescribed by 5 U.S.C. 553(b) (1982), and 12 CFR 508.12 and 508.13 (1984), and delay of the effective date pursuant to 5 U.S.C. 553(d) and 12 CFR 508.14 (1984), is unnecessary for the following reasons: (1) the amendment is liberalizing and it is in the public interest for it to take effect at the earliest feasible time in order to accommodate the interests of accountholders who have requested agency reconsideration of prior insurance determinations; and (2) the amendment relates to internal agency procedures regarding the settlement of FSLIC insurance. The Board is, however, soliciting public comments on the amendment so that it will have the benefit of these views in considering whether revision of the amendment is necessary or appropriate.

List of Subjects in 12 CFR Part 564

Savings and loan associations.

Accordingly, the Federal Home Loan Bank Board hereby amends Part 564, Subchapter D, Chapter V of Title 12 of the Code of Federal Regulations, as set forth below.

SUBCHAPTER D—FEDERAL SAVINGS AND LOANS INSURANCE CORPORATION

PART 564—SETTLEMENT OF INSURANCE

Amend § 564.1 by adding a new paragraph (d), as follows:

§ 564.1 Settlement of insurance upon default.

* * * * *

(d) *Processing of insurance claims. (1) Delegations of authority.* The Director or Acting Director of the Insurance Division of the Office of the Federal Savings and Loan Insurance Corporation ("Director of the Insurance Division") or his or her designee is authorized to give written notice to each insured member of the time and place of settlement of insurance, as required by paragraph (a) of this section, and to make determinations with respect to insurance claims pursuant to the principles set forth in this Part. The Director or the Acting Director of the Office of the Federal Savings and Loan Insurance Corporation ("Director") is authorized to reconsider determinations by the Director of the Insurance Division and to make determinations on reconsideration with respect to insurance claims pursuant to the principles set forth in this part. Pursuant to the authority granted the Board by 12 U.S.C. 1437(a), such determinations, to the extent specified in this section, shall constitute the final action of the Corporation.

(2) *Determination by the Director of the Insurance Division.* In the event the Director of the Insurance Division shall determine that all or a portion of an accountholder's account is uninsured, the Director of the Insurance Division shall so notify the accountholder in writing, stating the reason(s) for such determination, and shall provide the accountholder with a certificate of claim in liquidation in the amount of the uninsured account from the Corporation, in its capacity as receiver for the insured institution in default, to enable the accountholder to share in the proceeds of the liquidation of the institution, if any, up to the amount of the uninsured account. Unless the accountholder requests reconsideration of the determination in the manner provided in paragraph (d)(3) of this section, such determination shall be final.

(3) *Request for reconsideration.* (i) Within 60 days after receipt of a determination by the Director of the Insurance Division that all or a portion of an accountholder's account is uninsured, such accountholder may obtain reconsideration of the initial determination by filing with the Director a written request for reconsideration: *Provided,* that with respect to determinations made in connection with payments of insurance by the Corporation on accounts in insured institutions in default before September 19, 1984, but after September 19, 1981, the 60-day period for requesting reconsideration by the Director shall commence on September 19, 1984.

(ii) Within 30 days of receipt of a request for reconsideration, the Director shall notify the accountholder, in writing, whether the request is considered to be substantial.

(iii) A request will be considered substantial only in those instances where the request is in writing; timely filed; sets forth an issue of law or fact which was not addressed or, in the opinion of the Director, was not adequately addressed in the determination by the Director of the Insurance Division; and which is consistent with one of the regulatory bases set forth in this Part for entitlement to insurance; and includes all of the following:

(*a*) A statement of the facts on which the claim for insurance is based;

(*b*) The specific reason(s) for the determination to which the accountholder objects, and the basis for the objection(s), including citations to applicable statutes and regulations; and

(*c*) Copies of the records of the accountholder maintained in good faith and in the regular course of business which support the accountholder's claim to insurance and which have not previously been submitted to the Corporation.

(iv) The Director's determination whether a request for reconsideration is "substantial" shall be final. If the Director determines that a request for reconsideration is not substantial, then the determination by the Director of the Insurance Division shall constitute the final determination with respect to the extent of insurance effective as of the date of the Director's determination regarding the substantiality of the request for reconsideration.

(4) *Reconsideration by the Director.* (i) Upon determining that a request for reconsideration is substantial, the

Director shall so notify the accountholder in writing. Within 90 days of the date of such notice, the Director shall determine the extent of the accountholder's insurance pursuant to the principles set forth in this Part, or if the Director determines that a request for reconsideration presents a significant policy issue, the Director shall refer that issue to the Board for decision, and shall notify the accountholder that an issue has been referred to the Board. The Board's decision on the issue shall be applied by the Director in determining the extent of insurance. The determination by the Director on reconsideration shall be final, and shall be provided to the accountholder in writing, stating the reason(s) for the determination. If the Director determines that the accountholder is entitled to the amount of insurance claimed or a portion thereof, upon payment of insurance the accountholder shall promptly surrender to the Corporation the certificate of claim in liquidation provided to the accountholder in connection with the initial determination.

(ii) The Corporation shall, from time to time, make available a digest of its final determinations with respect to insurance claims.

(Sec. 308, Pub. L. 96-221; secs. 401, 402, 403, 405, 48 Stat. 1255, 1256, 1257, 1259, as amended; 12 U.S.C. 1724, 1725, 1726, 1728; Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071)

By the Federal Home Loan Bank Board

J. J. Finn,

Secretary.

[FR Doc. 84-24770 Filed 9-18-84; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 84-ANE-12; Amdt. 39-4921]

Lycoming Reciprocating Engines; Airworthiness Directives

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

ACTION: Final rule, request for comments.

SUMMARY: This amendment revises an existing Airworthiness Directive (AD) applicable to certain Lycoming reciprocating engines which requires replacement of existing cylinders with a new engine cylinder assembly. The AD is necessary to prevent cracking of cylinder heads which could lead to cylinder burn through, engine failure and potential engine fire. In order to reduce these risks, cylinders are to be replaced with cylinders which have improved fatigue properties. This revision lists applicable engine S/Ns, adds applicable aircraft, makes minor editorial changes, and provides for approval of equivalent means of compliance.

DATES: Effective—September 20, 1984.

Compliance is required as set forth in the AD.

Comments related to the amendment must be received on or before October 9, 1984.

ADDRESSES: Comments on the proposal may be mailed in duplicate to Office of Regional Counsel, Attn: Rules Docket No. 84-ANE-12, FAA, 12 New England Executive Park, Burlington, Massachusetts 01803.

Comments may be inspected weekdays, except federal holidays, between 8:00 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Irving Mankuta, ANE-174, New York Aircraft Certification Office, FAA, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581, telephone (516) 791-7421.

SUPPLEMENTARY INFORMATION: Inspection of cylinder assemblies of an Avco Lycoming LTIO/TIO-540-V2AD engine in an airplane with 442 hours total time uncovered cracks in all intake valve seat areas. This inspection was prompted by findings of cylinder head cracks in the area of the intake valve seat during the 150-hour endurance test of a new series engine which was being tested with the same cylinder assemblies as the LTIO/TIO-540-V2AD. A second engine from the same airplane referenced above was removed and subjected to test stand operation. Total time on this engine at present is 700 hours without failure.

The inspection of the LTIO/TIO-54-V2AD engine was a precautionary measure unrelated to any service failure. Furthermore, this engine successfully passed a 150 hour endurance test during its certification. In addition, uncovering the cracks requires destructive testing since they are not detectable visually. Nevertheless, crack propagation could lead to cylinder burn through, engine failure and potential fire damage.

Since the situation existed that might result in loss of an aircraft, immediate adoption of this regulation was required. The amendment was published in the **Federal Register** on Thursday, September 6, 1984 at 49 FR 35083. After publication of the AD, the agency determined that certain minor editorial changes should be made to the AD to clarify its applicability, and to provide for approval of an equivalent means of compliance with the AD.

For the reasons stated in the preamble to the original Airworthiness Directive at 49 FR 35083 it is found that notice and public procedures hereon are impractical and good cause exists for making this revision effective in less that 30 days.

Request for Comments on the Rule

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

When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the AD and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. Send comments to Federal Aviation Administration, Office of Regional Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803.

List of Subjects in 14 CFR Part 39

Engine, Aircraft, Aviation safety.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by revising Amendment 39-4907 to read as follows:

AVCO LYCOMING: Applies to Avco Lycoming model TIO-540-V2AD engines Serial Numbers L-8620-61A and below and model LTIO-540-V2AD Serial Numbers L-2820-68A and below, having P/N LW-18852 cylinder assemblies. These engines are installed in Piper PA-31P-350 "Mojave" aircraft.

Compliance is required as indicated, unless already accomplished. Cracks have occurred in the area of the intake valve seat of the cylinder head in the above engine models.

To prevent possible failure of the engine cylinder assembly, P/N LW-18852, accomplish the following:

(a) Within the next 50 hours of time-in-service after the effective date of this AD, or prior to accumulating 550 hours time-in-

service, whichever occurs later, replace all P/N LW-18852 cylinder assemblies with P/N LW-19281 cylinder assemblies which are included in kit P/N LW-19297-S. Cylinder part number identification is located on the cylinder head casting in the rocker box area.

(b) In accordance with FAR 21.197 and 21.199, the aircraft may be flown to a location where the inspections or alterations required by this AD can be performed.

(c) An equivalent means of compliance with the requirements of this AD may be approved by the Manager, New York Aircraft Certification Office.

This amendment becomes effective on September 20, 1984.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); (49 U.S.C. 106(g) revised, Pub. L. 97-449, January 12, 1983); 14 CFR 11.89.)

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

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

Issued in Burlington, Massachusetts, on September 12, 1984.

Jack A Sain,

Acting Director, New England Region.

[FR Doc. 84-24724 Filed 9-18-84; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 177

[Docket No. 83F-0006]

Indirect Food Additives: Polymers; Acrylonitrile/Styrene Copolymers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of certain acrylonitrile/styrene copolymers to fabricate beverage bottles. This action responds to a petition filed on behalf of the Monsanto Co.

DATES: Effective September 19, 1984; objections by October 19, 1984. The Director of the Federal Register approves the incorporation by reference of certain publications in 21 CFR 177.1040 effective on September 19, 1984.

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

FOR FURTHER INFORMATION CONTACT: Terry C. Troxell, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of March 4, 1983 (48 FR 9376), FDA announced that a petition (FAP 3B3690) had been filed on behalf of Monsanto Co., 800 North Lindberg Blvd., St. Louis, MO 63167, proposing that § 177.1040 (21 CFR 177.1040) of the food additive regulations be amended to provide for the safe use of beverage containers fabricated from certain acrylonitrile/styrene copolymers.

I. Regulatory History

Acrylonitrile is a chemical which is polymerized in the presence of other chemicals, such as butadiene and styrene, to form copolymers which may be used as articles or components of articles intended to contact food. Acrylonitrile-butadiene, acrylonitrile-styrene, and acrylonitrile-butadiene-styrene copolymers were used as components of food packaging prior to the passage of the Food Additives Amendment of 1958. The Copolymers given clearance by FDA prior to 1958 are considered to be "prior-sanctioned" food ingredients and are listed under § 181.32 *Acrylonitrile copolymers and resins* (21 CFR 181.32).

Following enactment of the Food Additives Amendment of 1958, acrylonitrile copolymers were regulated under numerous food additive regulations. In 1973, FDA received a food additive petition for use of acrylonitrile as a packaging material that disclosed a previously unknown problem concerning migration of the acrylonitrile monomer. Data in the petition derived from analytical procedures with greatly enhanced sensitivity showed migration of acrylonitrile monomer to foods packaged in acrylonitrile copolymers. At the time, the primary toxicity information on acrylonitrile monomer was an unpublished chronic rat feeding study entitled "The Pharmacology and Toxicity of Acrylonitrile and Acrylon" by P.E. Tullar, George Washington University, November 1947. This study was, however, inadequate to define accurately a no-effect level for acrylonitrile monomer because of the use of animals of one sex (male) and the small number of animals fed. The possibility, raised by the investigator, that acrylonitrile monomer might be a carcinogen could not be confirmed because of the inadequacies of the study and a lack of an apparent dose response. The only other pertinent studies known at that time were chronic feeding studies utilizing the dog and the rat, carried out by the U.S. Public Health Service (PHS). These studies were completed, but no final reports were written. There were, however, inadequate raw data available from the PHS studies to confirm the Tullar conclusion that acrylonitrile monomer might be a carcinogen.

FDA decided to obtain additional data concerning the migration and toxicity of acrylonitrile monomer. In the **Federal Register** of November 4, 1974 (39 FR 38907), FDA proposed (1) to list prior-sanctioned acrylonitrile copolymers and (2) to interim list acrylonitrile copolymers pending receipt of additional data concerning migration of acrylonitrile monomers and the results of new toxicology tests.

In the **Federal Register** of June 14, 1976 (41 FR 23940), FDA published final § 180.22 (21 CFR 180.22) that interim listed acrylonitrile copolymers as articles or components of articles for use in contact with food. As a provision of the continued listing of acrylonitrile copolymers, the following toxicological data were required (§ 180.22(e)):

(1) Lifetime feeding studies with a mammalian species, preferably with animals exposed in utero to the chemical, (2) studies of multigeneration reproduction with oral adminstration of the test material, (3) assessment of teratogenic and mutagenic potentials, (4) subchronic oral administration in a nonrodent mammal, (5) tests to determine any synergistic toxic effects between acrylonitrile monomer and cyanide ion, and (6) a literature search on the effects of chronic ingestion of hydrogen cyanide.

In response to the interim regulations, the required toxicological tests were undertaken. On November 9, 1976, the Manufacturing Chemists Association, now the Chemical Manufacturers Association, submitted to FDA a final report of its testing of acrylonitrile monomer for teratogenic effects. The Manufacturing Chemists Association's test was performed by gavage administration of acrylonitrile monomer

into four groups of rats at dosages of 0, 10, 25, and 65 milligrams per kilogram of body weight. FDA concluded that this test showed some teratogenic responses at dose levels of 25 and 65 milligrams per kilogram of body weight of the test animals. The dose level of 10 milligrams per kilogram showed no evidence of teratogenicity.

On January 14, 1977, the Manufacturing Chemists Association submitted to FDA a 13-month interim report on an ongoing 2-year study in which acrylonitrile monomer was incorporated into the drinking water of rats at concentrations of 0, 35, 100, and 300 parts per million. The report of the study at 13 months indicated significantly lowered body weight, pathologic changes in the gastric epithelium, increased incidence of masses in the ear duct, and proliferative lesions of the central nervous system of rats. The report also showed a higher incidence of subcutaneous masses in the mammary region of the test animals.

FDA evaluated the teratology study and the 13-month interim report of the 2-year feeding study in rats. The agency concluded that the amount of acrylonitrile monomer permitted to migrate to food should be reduced for all acrylonitrile copolymers in food-contact situations and that use of the copolymer as a beverage bottle should be stayed in the interest of public safety. In the **Federal Register** of March 11, 1977 (48 FR 13562), FDA proposed to reduce the maximum acrylonitrile monomer migration from acrylonitrile copolymers to food to a level of 50 parts per billion. In the same issue of the **Federal Register** (48 FR 13546), the agency published a stay of the regulations permitting use of acrylonitrile copolymers as beverage bottles based in part on the objections by the Natural Resources Defense Council (NRDC). The Monsanto Co., a manufacturer of acrylonitrile copolymer bottles, objected to the stay and sought judicial review before the United States Court of Appeals for the District of Columbia (*Monsanto Co.* v. *Gardner*, C.A. No. 77–1245 (D.C. Cir. 1977)).

The court found that the Commissioner of Food and Drugs could not stay the regulations on the basis of the objections filed by NRDC (June 14, 1977; 41 FR 23940). The court ordered a prompt hearing on the Monsanto objections, and set a date, later extended to September 19, 1977, for issuance of a final decision. This proceeding was held, and a decision issued, pursuant to the court's order.

In the **Federal Register** of April 1, 1977 (42 FR 17529), the Commissioner issued a notice of hearing on this matter. The participants in the hearing were FDA's Bureau of Foods (now the Center for Food Safety and Applied Nutrition), NRDC, and, for the manufacturers of acrylonitrile bottles, Monsanto Co., Borg-Warner Corp., and Vistron Corp. Following a formal evidentiary public hearing, the Administrative Law Judge issued an Initial Decision on August 4, 1977, finding that acrylonitrile copolymers used to fabricate beverage containers are food additives that have not been shown to be safe. The manufacturers excepted to the Initial Decision and appealed it to the Commissioner. In their replies, the Bureau of Foods and NRDC requested that the Commissioner affirm the Initial Decision with clarifications or additional findings.

In the **Federal Register** of September 23, 1977 (42 FR 48528), FDA published its Final Decision on acrylonitrile copolymers used to fabricate beverage containers. That document discussed at length the pertinent data from the formal evidentiary public hearing and that document is incorporated by reference in this final rule. In that document, the agency affirmed generally the decision of the Administrative Law Judge. As a result of this decision, the agency revoked all beverage container uses of acrylonitrile copolymers, effective December 22, 1977.

In November 1977, the various groups that were affected by the agency's final decision of September 23, 1977, appealed the decision to the U.S. Court of Appeals for the District of Columbia Circuit (*Monsanto Company, et al.* v. *Kennedy, et al.*, Court of Appeals No. 77–2023 and Consolidated Case Nos. 77–2024, 77–2026, and 77–2032). The appellants requested that the decision be remanded to FDA on the basis of a "new" Monsanto bottle from which Monsanto said there was no migration of acrylonitrile monomer.

On November 6, 1979, the United States Court of Appeals for the District of Columbia Circuit upheld the agency's decision that the "old" Monsanto bottle was a food additive. See *Monsanto* v. *Kennedy*, 613 F.2d 947 (D.C. Cir. 1979).

With respect to the "new" bottle, the Court of Appeals stated that "If these assertions [concerning no migration at very low residual acrylonitrile monomer (RAN) levels] can be demonstrated to the satisfaction of the Commissioner, a modification of the current regulation is a likely corollary." 613 F.2d at 953. The court further stated that "the Commissioner would have latitude to issue a statement of policy based upon the results of the proceeding or remand that would specify what in his review (sic) was an acceptable RAN level. This would serve a technology-forcing objective." 613 F.2d at 954. The court also held that "there is latitude inherent in the statutory scheme to avoid literal application of the statutory definition of 'food additive' in those *de minimis* situations that, in the informed judgement of the Commissioner, clearly present no public health or safety concerns." 613 F.2d at 954.

Following the court decision, Monsanto Co. requested a formal advisory opinion that the "new" acrylonitrile/styrene copolymer bottles "* * * are not food additives because there is *no* migration from such containers * * *." The agency evaluated the initial submission and additional scientific data and arguments in a second submission. FDA concluded that the scientific evidence did not demonstrate that there was no migration of acrylonitrile monomer from the new bottles.

The agency found that the new bottle is a food additive because there is a reasonable expectation of the migration of acrylonitrile monomer and other constituents from the acrylonitrile/styrene copolymer bottle. The agency also stated that "[t]his conclusion should not be interpreted as precluding the approval of a food additive regulation for the beverage container use of the new Cycle-Safe bottle based upon a risk assessment approach." Finally, the agency stated that "a food additive petition is the appropriate way to assemble the needed information and to obtain an amendment to § 177.1040 to provide for the safe use of the new Cycle-Safe bottle." (See Docket No. 80A–0109, Dockets Management Branch.)

Monsanto chose to accept FDA's recommendation concerning the filing of a food additive petition for the new Cycle-Safe bottle and submitted a petition for use of the new bottle on November 30, 1982. The new petition is the subject of this final rule.

A. Description of Acrylonitrile Copolymer Beverage Bottles

The acrylonitrile/styrene copolymer beverage bottles (acrylonitrile/styrene bottles) described in the petition are fabricated from copolymer resins consisting of approximately 70 parts by weight acrylonitrile units and approximately 30 parts by weight styrene units. These copolymer resins are formed by chemically reacting acrylonitrile monomer and styrene monomer under controlled conditions in the presence of appropriate catalysts. Subsequent processing reduces the levels of unreacted constituents. After

compounding with adjuvants, such as colorants, the bottles are molded.

These high nitrile polymers have application for packaging carbonated beverages, in part, because they are an excellent barrier to permeation of carbon dioxide gas out of the bottle (and permeation of oxygen into the bottle). The same molecular properties of the high nitrile polymers that are responsible for the barrier properties also result in relatively slow diffusion rates for residual impurities, as compared to low nitrile polymers and some other common types of food-contact polymers, such as polyethylene.

Residual amounts of reactants, impurities in the reactants, side reaction products, decomposition products, and manufacturing aids are commonly found as contaminants in all chemical products, even in highly purified reagent grade chemicals. This high nitrile (acrylonitrile/styrene) copolymer contains residual amounts of impurities such as acrylonitrile monomer, styrene monomer, hydrogen cyanide, catalyst residues, and the recently found impurities acetonitrile, propionitrile, and isobutyronitrile. Although levels of these impurities do not exceed the low part per million range, these impurities are likely migrants because of their small molecular size. Consequently, Monsanto submitted extraction experiments on these constituents as part of this petition and an earlier petition (FAP 5B3056), which resulted in the current regulation of this polymer at § 177.1040(c)(1). As previously explained, the agency revoked the beverage container use of the polymer regulated in § 177.1040(c)(1) as part of the Final Decision in the acrylonitrile copolymer beverage bottle hearing, effective December 22, 1977.

Subsequent to the issuance of the 1977 Final Decision, the petitioner changed the polymer manufacturing process to reduce the level of residual acrylonitrile monomer in the bottle wall. This change reduced the migration potential of acrylonitrile monomer which, as discussed below, is considered to be a carcinogen. Currently, § 177.1040(c)(1) limits to 80 parts per million the amount of residual acrylonitrile monomer in the finished bottle. Acrylonitrile bottles manufactured between May 1975 and February 1977 contained an average of 15.3 parts per million of residual acrylonitrile monomer. Process improvements have lowered the residual acrylonitrile monomer to less than 0.1 part per million. Monsanto's current petition proposes a specification of 0.1 part per million maximum residual acrylonitrile monomer in the finished bottle. The process improvements have also significantly reduced the level of residual styrene.

In general, Monsanto has reported that it has not detected the migration of impurity constituents under test conditions. The limit of reliable measurement of the analytical methods used in these tests was usually in the range of 5 to 50 parts per billion. For most impurities, the limit of reliable measurement of the analytical method for the new bottle was about the same as for the old bottle. The old bottle was considered safe except for the concern for acrylonitrile monomer migration into beverages.

Monsanto did not submit extraction experiments on styrene for the new bottle, but extraction is expected to be lower as a result of significantly reduced residual styrene. The nitriles, acetonitrile, propionitrile, and isobutyronitrile, were only recently discoverd in the bottle wall. Short-term extraction experiments demonstrated that migration of these substances did not exceed the low part per billion range.

The substantial lowering of the residual acrylonitrile monomer level in the bottle wall has resulted in a large reduction in the potential exposure to acrylonitrile monomer by migration from the bottle wall into the beverage. As part of the earlier formal advisory opinion request, Monsanto submitted migration study results covering a wide range of residual acrylonitrile monomer levels that demonstrate the relationship between the level of residual acrylonitrile monomer and the migration of acrylonitrile monomer. The results show that extraction levels, after 6 months at 73 °F with 3 percent acetic acid, drop from approximately 24 parts per billion acrylonitrile monomer for 11.5 parts per million residual acrylonitrile monomer in the bottle wall to approximately 3 parts per billion acrylonitrile monomer for 3.3 parts per million acrylonitrile monomer in the bottle wall. A second series of 6 month, 3 percent acetic acid extraction experiments done at 90 °F showed that migration dropped from approximately 4.4 parts per billion acrylonitrile monomer for 0.67 part per million residual acrylonitrile monomer in the bottle wall to approximately 0.3 part per billion acrylonitrile monomer for 0.12 part per million residual acrylonitrile monomer in the bottle wall. Monsanto reported an acrylonitrile monomer extraction level of <0.1 part per billion for residual acrylonitrile monomer of <0.1 part per million based on a claimed analytical method sensitivity of <0.1 part per billion.

The agency concludes that Monsanto's data demonstrate that acrylonitrile/styrene bottles with residual acrylonitrile monomer <0.1 part per million yield not more than 0.16 part per billion acrylonitrile monomer migration under these extraction conditions. As compared to the bottles Monsanto was producing in 1976 which contained 15 parts per million residual acrylonitrile, Monsanto has achieved substantially more than a hundredfold reduction in acrylonitrile monomer extraction by reducing residual acrylonitrile monomer to <0.1 part per million in the bottle wall.

B. Evaluation of the Safety of Acrylonitrile/Styrene Copolymer Beverage Bottle

1. Statutory Safety Requirements

Under section 409(c)(3)(A) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 348(c)(3)(A)), the so-called "general safety clause" of the statute, a food additive cannot be approved for a particular use unless the data presented to FDA establish that the food additive is safe for that use. The concept of safety embodied in this requirement was explained in the legislative history of the Food Additives Amendment of 1958. "Safety requires proof beyond a reasonable certainty that no harm will result from a proposed use of an additive. It does not—and cannot—require proof beyond any possible doubt that no harm will result under any conceivable circumstance." (S. Rep. No. 2284, 85th Cong., 2d Sess. 1 (1958.) This definition of safety is incorporated in FDA's food additive regulations (21 CFR 170.3(i)). The Delaney anticancer clause of the Food Additives Amendment of 1958 (section 409(c)(3)(A) of the act), provides further that no food additive can be deemed to be safe if it is found to induce cancer when ingested by man or animal.

2. Prior Action by FDA

In the past, FDA has often refused to list a use of a food additive or color additive that contained or was suspected to contain minor amounts of a carcinogenic chemical, even if the additive as a whole had not been shown to cause cancer. The agency now believes, however, that developments in scientific technology and experience with risk assessment procedures make it possible for FDA to establish the safety of additives that contain a carcinogenic chemical, but that have not themselves been shown to cause cancer.

In the preamble to the final rule permanently listing D&C Green No. 6

published in the Federal Register of April 2, 1982 (47 FR 14138), FDA explained the basis for approving the use of a color additive that had not been shown to cause cancer, even though it contains a carcinogenic constituent.

Since that decision, FDA has approved the use of various color additives including D&C Green No. 5 (47 FR 24278; June 4, 1982), and D&C Red No. 6 and D&C Red No. 7 (47 FR 57681; December 28, 1982), on the same basis. FDA has also approved the use of three food additives that contain or might contain trace amounts of carcinogenic chemicals as a byproduct impurity or as a result of the use of the chemical in the manufacture of the food additives: Polyamide-epichlorohydrin resin (49 FR 13021, April 2, 1984; 48 FR 37617, August 19, 1983); ethylene oxide adduct of 2,4,7,9-tetramethyl-5-decyn-4,7-diol (48 FR 44203, September 28, 1983); and 2,-2'oxamidobis[ethyl 3-(3,5-di-*tert*-butyl-4-hydroxyphenyl)-propionate] (49 FR 13018, April 2, 1984; 49 FR 37615, August 19, 1983).

In brief, the agency believes that the Delaney anticancer clause is not triggered unless the food additive as a whole is found to cause cancer. An additive that has not been shown to cause cancer but that contains a carcinogenic constituent may properly be evaluated under the general safety clause of the statute, using risk assessment procedures, to determine whether there is a reasonable certainty that no harm will result from the proposed use of the additive. This approach to regulating carcinogenic constituents of additives that are not themselves shown to cause cancer was recently upheld in the case of *Scott* v. *FDA*, 728 F.2d 322 (6th Cir. 1984). The *Scott* case involved a challenge to FDA's decision to approve the use of D&C Green No. 5, which, as explained above, contains a carcinogenic chemical but has not itself been shown to cause cancer. Relying heavily on the reasoning in the agency's decision to list this color additive, the United States Court of Appeals for the Sixth Circuit rejected the challenge to FDA's action and affirmed the listing regulation.

The agency's approach to regulating carcinogenic constituents is also consistent with the decision in *Monsanto* v. *Kennedy*, 613 F.2d 947, 954 (D.C. Cir. 1979). In *Monsanto*, the court held that FDA has discretion to find that low-level migration into food of substances from food-packaging materials is so insignificant as to present no public health or safety concern. *Id.* This holding supports the agency's conclusion that, in appropriate circumstances, it can make a similar finding about a carcinogenic constituent or impurity.

The agency is confident that it possesses the capacity (through the use of extrapolation procedures) to assess adequately the upper limit or risk presented by the use of a food additive that has not been shown to be a carcinogen but that does contain a carcinogenic impurity. The estimate of the risk is likely to be exaggerated because the extrapolation models used are designed to estimate the maximum risk consistent with the data. For this reason, the estimate can be used with confidence to conclude that a substance is safe under specific conditions of use. (FDA has also explained the basis for this approach in the advance notice of proposed rulemaking on its policy for regulating carcinogenic chemicals in food and color additives published in the Federal Register of April 2, 1982 (47 FR 14464).)

At issue here is the potential exposure to acrylonitrile monomer, which has been found to be a carcinogen. Acrylonitrile monomer is an impurity present in the acrylonitrile/styrene copolymer resin as a result of its intended use as a reactant in the manufacture of the food-contact copolymer. The acrylonitrile/styrene copolymer resin cannot be produced without some residual acrylonitrile monomer remaining in the bottle wall. This unreacted byproduct is one of numerous low-level impurities in the acrylonitrile/styrene copolymer resin, all of which are an integral part of the copolymer resin and are typical of the chemical impurities resulting from the chemical reactions used to produce many packaging materials. Not only would it be contrary to the language of the statute to attempt to regulate each of these numerous impurities as food additives, but it would also be impractical. Although the number of constituents that are detectable are continually increasing with advances in analytical methodology, it is not currently possible to identify completely all of the constituents that become components of food as a result of the use of an indirect additive. The agency does not believe that Congress intended that every chemical impurity with no intended use or function in the finished packaging material, such as the acrylonitrile monomer, be regulated as a separate food additive. Rather, it is far more likely that Congress intended that the finished packaging material, i.e., the acrylonitrile/styrene copolymer resin, be regulated as a food additive, and impurities, such as the acrylonitrile monomer, be regulated as constituents of the additive.

The Delaney anticancer clause does not apply in this case because there are no data to indicate the finished acrylonitrile/styrene copolymer resin induces cancer (although the acrylonitrile/styrene copolymer has not been tested for carcinogenic potential). In the current petition, Monsanto submitted nitrogen analyses on the total nonvolatile residue of 3 percent acetic acid bottle extracts to detect migration of acrylonitrile/styrene oligomers and higher acrylonitrile/styrene copolymers (which would have a slower rate or migration that the acrylonitrile/styrene oligomers). Nitrogen, an element present in acrylonitrile, was not detected in these extracts at a sensitivity of 4 parts per billion. Oligomers/polymers, such as these, that are unlikely to decompose on ingestion, usually display a low order of toxicity. Thus, at the low part per billion level of potential migration demonstrated here for acrylonitrile/styrene oligomers and polymers, the agency does not ordinarily require chronic toxicity studies, particularly studies for carcinogenic potential (Kokoski, C.J., "Regulatory Food Additive Toxicology" presented at the Second International Conference on Safety Evaluation and Regulation of Chemicals, October 24, 1983, Cambridge, MA.) The agency has no reason to suspect this acrylonitrile/styrene copolymer resin to be a carcinogen; therefore, no carcinogenicity testing of it is necessary.

C. Toxic Properties of Acrylonitrile

The interim acrylonitrile copolymer regulation (§ 180.22) required performance of a number of toxicity studies on acrylonitrile as discussed above. Based on these and other available studies, acrylonitrile was found to result in a multiplicity of toxic effects including mutagenicity, teratogenicity, and carcinogenicity. Of the observed toxic effects, carcinogenesis yields the lowest acceptable exposure level.

Acrylonitrile has been reported to be carcinogenic in six recent rat bioassays, in four of which the acrylonitrile was administered in the drinking water. In one 2-year drinking water study performed by Dow Chemical Co. (sponsored by the Chemical Manufacturers Association), acrylonitrile was studied in Sprague-Dawley rats at 35 parts per million, 100 parts per million, and 300 parts per million. The Center's Cancer Assessment Committee's (the committee) review of the data from the

study concluded that the astrocytomas of the central nervous system, carcinoma of the Zymbal's gland (ear canal), papillomas and carcinomas of the stomach, and papillomas and carcinomas of the tongue were clearly associated with the acrylonitrile treatment in both male and female animals. Carcinomas of the small intestine and carcinomas of the mammary gland were also significantly increased in female animals. Treatment-related effects were observed at all dose levels. In a 2-year drinking water study performed by Bio/dynamics, Inc. (sponsored by Monsanto), acrylonitrile was studied in Fischer 344 rats at 1 part per million, 3 parts per million, 10 parts per million, 30 parts per million, and 100 parts per million. The Center's committee found that there were significant acrylonitrile treatment-related increases in tumor incidence for astrocytomas of the central nervous system and papillomas and carcinomas of Zymbal's gland in male and female animals. Statistically significant tumorigenic effects were observed at 10 parts per million, 30 parts per million, and 100 parts per million dose levels. In another 2-year drinking water study sponsored by Monsanto at Bio/dynamics, Inc., acrylonitrile was studied in Spartan Sprague-Dawley rats at 1 part per million and 100 parts per million. The study was terminated early (19 months for females and 22 months for males due to low survival rates). The per 100 parts million acrylonitrile treatment was associated with a significantly higher incidence of tumors in the brain, Zymbal's gland, and stomach. The fourth drinking water study where acrylonitrile administration was found to induce cancer was a three-generation reproduction study performed at Litton Bionetics for the Chemical Manufacturers Association. In this study on Charles River rats, a significant increase in astrocytoma (brain) and Zymbal's gland carcinoma was observed after approximately 45 weeks acrylonitrile treatment at 500 parts per million.

Monsanto also sponsored a 2-year gavage (stomach tube) study in rats at Bio/dynamics, Inc. Acryloitrile was administered to Spartan Sprague-Dawley rats at 0.1 milligram per kilogram per day and 10.0 milligrams per kilogram per day, 5 days per week. Due to poor survival in the high-dose group, the study was terminated at 20 months. Acrylonitrile treatment significantly increased tumor incidence at the 10.0 milligrams per kilogram per day dose level at the following tissue sites: central nervous system, ear canal, stomach, intestine, and mammary gland.

Finally, the Chemical Manufacturers Association sponsored a 2-year acrylonitrile inhalation study on Spartan Sprague-Dawley rats at Dow Chemical Co. Treatment groups were exposed to 20 parts per million and 80 parts per million of acrylonitrile for 6 hours per day, 5 days per week. At the 80 parts per million dose level, acrylonitrile exposure significantly increased tumor incidence in the brain, ear canal, small intestine, tongue, and mammary gland.

In summary, acrylonitrile is a potent carcinogen inducing tumors at a number of sites in the rat. Similar carinogenic responses have been observed in numerous studies, including acrylonitrile administered by ingestion and inhalation, and in several strains of the rat. The carcinogenic effects of acrylonitrile are consistently reproduced.

Numerous epidemiology studies have been done on workers exposed to acrylonitrile. None of these studies, however, definitively establishes acrylonitrile to be a human carcinogen. Many of these studies suffer from one or more of the following problems: small cohort size, short period of exposure, uncertainties about the duration and severity of the exposure, and confounding factors such as potential exposure to other carcinogens, such as vinyl chloride and β-naphthylamine, and cigarette smoke. The Environmental Protection Agency (EPA) has done a comprehensive review of 10 epidemiology studies. ("Health Assessment Document for Acrylonitrile," EPA–600/8–82–007F, October 1983, pp. 13–118.) EPA found six studies to be inconclusive. EPA found the data in the remaining four studies to "consistently demonstrate a statistically significant risk of lung cancer in various subgroups of the populations studies." But the problems were sufficient in three of the four studies "to cast doubt on the finding of significantly elevated risks of lung cancer found in each study." The remaining study, where an elevated lung cancer rate was reported, is the O'Berg study of Dupont acrylonitrile workers. (O'Berg, M.T., "Epidemiologic Study of Workers Exposed to Acrylonitrile," *Journal of Occupational Medicine*, 22:245, 1980.) Since respiratory cancer is at issue here, the effect of smoking behavior on the cancer incidence is important. Subsequent to publication of the O'Berg paper, EPA's Cancer Assessment Group assessed the effect of smoking on expected respiratory cancer rates. EPA found that possible differences in smoking behavior between acrylonitrile workers and the control cohort could not account for the significantly higher cancer rate found by O'Berg in the acrylonitrile workers. EPA concluded that O'Berg's observations "constitute significant evidence that acrylonitrile is likely to be a human carcinogen."

D. Application of Risk Assessment in This Rulemaking

Because acrylonitrile monomer in present in minor amounts as a residual impurity in this acrylonitrile/styrene copolymer resin, use of this resin in beverage containers may result in exposure to very small amounts of acrylonitrile monomer. The agency concludes, as in the D&C Green No. 6, D&C Green No. 5, and 2,2'-oxamidobis[ethyl 3-(3,5-di-*tert*-butyl-4-hydroxyphenyl)-propionate] rulemaking proceedings, that it can use risk assessment procedures to provide a basis for deciding whether there is a reasonable certainty of no harm from exposure to acrylonitrile from the use of Monsanto's acrylonitrile/styrene copolymer resin to fabricate beverage bottles.

The risk evaluation of acrylonitrile consists of two parts: (1) Assessment of probable exposure to acrylonitrile monomer from the beverage bottle use of acrylonitrile/styrene copolymer resin, and (2) extrapolation of the risk from acrylonitrile monomer observed in bioassays to the conditions of probable exposure to humans.

1. Exposure to acrylonitrile

The calculation of estimated exposure to acrylonitrile monomer from use of the acrylonitrile/styrene bottle can be divided into two parts: (1) potential acrylonitrile monomer concentration in beverages and (2) beverage consumption.

a. *Potential Acrylonitrile Monomer Concentration in Beverages.* As discussed above, Monsanto submitted data concerning the migration of acrylonitrile monomer from the acrylonitrile bottle into 3 percent acetic acid (a carbonated soft drink simulant). These data indicate that after storage for 6 months at 90 °F acrylonitrile migration does not exceed 0.16 part per billion. The 0.16 part per billion level does not represent analytically observed acrylonitrile, but rather it represents the lowest level at which acrylonitrile, could be detected by Monsanto's analytical method based on the extraction data submitted by Monsanto.

Although storage for 6 months at 90 °F facilitates measurement of extracted acrylonitrile monomer, it exaggerates

actual use conditions. The average storage time and temperature conditions are expected to be considerably lower, particularly for high beverage consumers who would have the greatest potential acrylonitrile monomer exposure. For example, the average distribution time, to the consumer, for soft drinks is 1 month (in summer 87.9 percent less than 1 month old and in winter 61.6 percent less than 1 month old). (Labuza, T.P., "Shelf-Life Dating of Foods," Food and Nutrition Press, Inc., Westport, CT, 1982, pp. 480–482.) Daily home storage temperature generally is considerably less than 90 °F. Most grocery stores are air conditioned in the summer and at least in the south many warehouses are also cooled. (Labuza, *ibid.*)

The agency has concluded that some adjustment in the acrylonitrile monomer migration figure is necessary because of the difference between the test extraction conditions and actual use conditions. Because no acrylonitrile extraction experiments were conducted under actual use conditions, the agency has made an extrapolation of the potential migration of acrylonitrile at shorter storage times from the data submitted by Monsanto involving storage for 6 months at 90 °F. This extrapolation was based on all of the extraction data submitted by Monsanto and the known migration behavior of small molecules. This extrapolation yields a potential acrylonitrile monomer concentration in the beverage of 0.055 part per billion. (Memorandum dated January 18, 1982, Michael Flood, Food Additive Evaluation Branch, FDA.) The agency believes that this estimate more accurately reflects the potential migration of the acrylonitrile monomer under actual storage conditions.

b. *Beverage Consumption.* The second part of the exposure estimate involves beverage consumption. The agency has estimated that average high user consumption is not likely to exceed three 12-ounce soft drinks per day, i.e., 1,060 grams per day. The following was among the data considered in arriving at this estimate.

Based on 1977–1978 surveys, the Market Research Corp. of America (MRCA) calculated a 90th percentile consumption of nonalcoholic beverage (food category number 23) of 419 grams per day for users. MRCA's value is based on a 14-day menu census of almost 9,000 consumers of soft drinks, 2 years of age and older.

In 1977–1978, the U.S. Department of Agriculture (USDA) also performed a food consumption survey. USDA computed a 90th percentile consumption of 556 grams per day for carbonated soft drinks based on consumption over a 3-day period by more than 19,000 users.

Industry sales information also provides beverage consumption data. The National Soft Drink Association (NSDA) reported estimated 1980 per capita soft drink consumption (based on sales) of 409.6 12-ounce containers (about 382 grams per day per capita). The industry analyst, John Maxwell of the trade journal *Beverage Industry* (April 1984, p. 17), has estimated 1983 per capita soft drink consumption as 41.6 gallons (about 414 grams per day per capita). *Beverage Digest* (Vol. 4, No. 8, April 27, 1984) projected 1990 per capita consumption as 54.7 gallons (about 544 grams per day per capita).

The MRCA and USDA surveys indicate that the ratio of 90th percentile to mean consumption is in the range of 2.0 to 2.5. Using this range, 90th percentile soft drink consumption would be in the range 764 to 955 grams per day using the NSDA 1980 per capita consumption, 828 to 1,035 grams per day using John Maxwell's (1983) per capita estimate, and 1,088 to 1,360 grams per day using *Beverage Digest's* projection for 1990. Considering such consumption estimates and allowing for growth in soft drink consumption, the agency estimates that high users are unlikely to exceed 1,060 grams per day.

While a high consumer of soft drinks might average 1,060 grams per day over extended periods, it is unlikely for individuals to average 1,060 grams per day consumption of soft drinks from these acrylonitrile/styrene copolymer bottles through at least 1990 due to market considerations. In 1982, the soft drink market was divided among the following broad package types (in percent of fluid ounces sold): Glass (34.9 percent), cans (26.9 percent), bulk (22.6 percent), and polyethylene terephthalate plastic (15.6 percent) (*Beverage Industry*, March 1984, p. 33). Thus, soft drinks are available in a variety of containers in addition to any that might eventually be packaged in the acrylonitrile/styrene copolymer bottles. For individuals to average 1,060 grams per day soft drink consumption over a lifetime from acrylonitrile/styrene copolymer bottles, they must not only be a long-term high user of these beverages, but acrylonitrile/styrene copolymer plastic bottles would probaby need to package a substantial fraction of the soft drinks produced.

Polymer production can provide another measure of exposure. In the petition, Monsanto estimates worldwide use of this bottle resin as 30 million pounds per year by about 1990. Thirty million pounds of resin is sufficient to bottle 150 to 225 million liters of soft drinks depending on bottle size (assuming the container is not a laminate structure and is for single-service use). This amount of soft drink constitutes less than two-thirds of 1 percent of the 1983 U.S. soft drink production and would be much less on a worldwide basis. Based on these data, FDA estimates that the individual lifetime-averaged consumption of soft drinks in acrylonitrile/styrene bottles would not exceed 25 grams per day. This estimate assumes that the soft drinks packaged in these acrylonitrile/styrene bottles are consumed uniformly by 10 percent of the U.S. population (10 percent population estimate), and that the same individuals consume these soft drinks every year.

The validity of this estimate depends primarily on the assumption that production of the acrylonitrile/styrene bottle in the United States will not substantially exceed 30 million pounds per year. Specialization of the market, e.g., narrow geographical localization of the acrylonitrile/styrene bottle market, might also affect this estimate. The "25 gram per day" estimate could therefore possibly underestimate consumption. However, as discussed above, the agency has made a consumption estimate of 1,060 grams per day of soft drink for high use consumers of soft drinks in all containers. This beverage consumption estimate provides for a substantial margin of error, including the possibility that acrylonitrile/styrene bottles will be used to package a large fraction of soft drinks at some time in the future.

The "1,060 grams per day" estimate is equivalent to assuming that an average of approximately one-third of a 3,000-gram daily diet is packaged in these acrylonitrile/styrene bottles. Because this estimate assumes that the acrylonitrile bottle will capture at least a substantial fraction of the beverage market, it must be viewed as a worst-case estimate for the foreseeable furture.

c. *Dietary Exposure to Acrylonitrile.* An estimate of the dietary exposure to the acrylonitrile monomer resulting from approval of the acrylonitrile/styrene bottle involves consideration of the level of acrylonitrile monomer in the beverage and the amount of beverage consumed over a given time period. Based on the potential level of 0.055 part per billion acrylonitrile monomer in beverages and the worst-case estimate (1,060 grams per day) of beverage consumption from this bottle, the potential lifetime-average individual dietary exposure to acrylonitrile monomer is 0.058 microgram per day. For the 10 ercent population estimate (25 grams per day)

of beverage consumed from this bottle, the potential lifetime-average individual dietary exposure to acrylonitrile monomer is 0.0014 microgram per day.

2. Extrapolation of Risk for Acrylonitrile Monomer

The second part of the evaluation of risk presented by the potential migration of acrylonitrile monomer from the acrylonitrile/styrene bottle is an extrapolation from the actual compound-related incidence of cancer (risk) found in appropriate cancer studies to risk under the conditions of probable exposure for humans. The Center's committee chose the Chemical Manufacturers Association/Dow drinking water and the Monsanto/Biodynamics multidose drinking water studies in rats as appropriate studies for assessing the carcinogenic potency of acrylonitrile monomer and risk extrapolation. (Cancer Assessment Committee Meeting Report dated November 24, 1981.) Both these studies provide several dose levels with increasing tumor incidence. These studies also involved the lowest level test doses in which carcinogenic effects were observed. The Center's committee considered these two studies to contain the best available animal data for assessing low exposure risk from ingestion of acrylonitrile monomer. The available epidemiology data on acrylonitrile workers are not appropriate for quantitative risk assessment due, in part, to the large uncertainty in the worker exposure (concentration in air and duration).

The Center's committee used a quantitative risk assessment procedure (linear proportional model) to extrapolate from the dose used in the animal experiment to the very low potential doses that might be encountered under the proposed conditions of use. This procedure is not likely to underestimate the actual risk from very low doses and is likely, in fact, to exaggerate it because the extrapolation models used are designed to estimate the maximum risk consistent with the data.

For each study, the committee determined the significant acrylonitrile monomer treatment-related tumors. In the Monsanto/Biodynamics study, there are astrocytomas of the central nervous system and papillomas and carcinomas of Zymbal's gland of the ear canal. In the Chemical Manufacturers Association/Dow study the acrylonitrile monomer treatment-related tumors are astrocytomas of the central nervous system, carcinomas of the Zymbal's gland, papillomas and carcinomas of the tongue, papillomas and carcinomas of the stomach, carcinomas of the small intestine (female only), and carcinomas of the mammary gland (female only). For each dose/sex group of animals, the committee computed the number of animals bearing these significant tumors. The incidences were corrected for missing tissues and early death. Linear extrapolation to low dose was performed for each sex in each study. The calculations were also performed by combining risks determined for each tumor site. Both approaches yielded similar results. Although the Monsanto/Biodynamics study used a dose level 35-fold lower than the Chemical Manufacturers Association/Dow study and these studies were on different strains of rats, the cancer potencies calcuated from these two studies are within a factor of two. The committee concluded from its quantitative risk assessment that acrylonitrile monomer exposure corresponding to an upper limit individual lifetime risk of 10^{-6}, i.e., 1 in 1 million, is about 0.5 to 1.0 microgram per day.

From this risk assessment and using linear extrapolation, FDA calculated the upper limit individual lifetime risk for the acrylonitrile monomer exposure estimated to result from use of the acrylonitrile/styrene bottle. The agency calculated an upper limit risk for the worst-case estimated exposure to acrylonitrile monomer discussed above, i.e., 1,060 grams per day of soft drink for acrylonitrile/styrene bottles containing 0.058 microgram per day acrylonitrile monomer. The upper limit individual lifetime risk from the "worst-case" potential exposure is about 5.8×10^{-8} to $1.2\times^{-7}$, or less than 1 in 8 million. The upper limit individual lifetime risk is about 1.4×10^{-9} to 2.8×10^{-9}, or less than 1 in 360 million, for the "10 percent population" estimate, i.e., 25 grams per day soft drink (from acrylonitrile bottles) containing 0.0014 microgram per day acrylonitrile monomer based on 30 million pounds per year resin production. Because of the numerous conservatisms in the worst-case exposure estimate, lifetime-averaged individual exposure to acrylonitrile monomer is expected to be substantially less than the estimated daily intake (0.058 microgram per day acrylonitrile monomer), and, therefore, the calculated upper bound risk would be less. The agency concludes that there is a reasonable certainty of no harm from exposure to acrylonitrile monomer that might result from the proposed use of this acrylonitrile/styrene copolymer beverage bottle.

In concluding that potential exposure to acrylonitrile monomer from use of the acrylonitrile/styrene bottle is safe, FDA considered the possibility of exposure to minor amounts of acrylonitrile monomer as a result of current food-contact uses of acrylonitrile copolymers other than the use in beverage bottles. As discussed previously, a variety of acrylonitrile copolymers are regulated under numerous food additive regulations or are considered prior sanctioned. Acrylonitrile copolymers have been interim listed since 1976.

Acrylonitrile copolymers have never been a major food-packaging material. Probably the largest food-packing use of acrylonitrile copolymers was the use of acrylonitrile-butadiene-styrene containers as one-half pound margarine tubs. Acrylonitrile migration from these tubs also was relatively high, e.g., 25 parts per billion acrylonitrile monomer under typical use conditions. (Memorandum dated April 29, 1980, Charles Breder, Indirect Additives Laboratory, FDA.) However, acrylonitrile-butadiene-styrene margarine tubs were abandoned several years ago according to the National Association of Margarine Manufacturers. (Letter dated November 29, 1983, S. Riepma, President, National Association of Margarine Manufacturers, to R. Williams, FDA.) Acrylonitrile-butadiene-styrene has apparently not been used to package margarine for the past 3 years according to recent information from members of the Society of the Plastics Industry, Inc. (Letter dated November 11, 1983, Jerome Heckman, Keller & Heckman, to Terry Troxell, FDA.) These members also stated that no company is known to be planning to reintroduce acrylonitrile-butadiene-styrene or other acrylonitrile copolymer containers into this market. A limited 1983 FDA sampling of retail stores in the Washington, DC, area supports these statements. (Memorandum dated January 20, 1983, Charles Breder, Indirect Additives Laboratory, FDA.)

Currently the major food packaging use of acrylonitrile copolymers appears to be the use of an acrylonitrile copolymer barrier resin for blister-type luncheon meat packages. (Letter dated May 26, 1983, Jerome Heckman, Keller & Heckman, to Gerad McCowin, FDA, and attached survey.) The Canadian Food and Drug Directorate tested luncheon meat packaged in a laminate consisting of an acrylonitrile-based copolymer layer and a food-contact polyethylene layer. No detectable acrylonitrile monomer was found in the slice of meat in contact with the acrylonitrile resin package using analytical methodology sensitive to a level of 2 parts per billion.

(Page, B. D. and Charbonneau, C. F., "Improved Procedure for the Determination of Acrylonitrile in Foods—Application to Meat," 1984 preprint.) Thus, the agency expects migration of residual acrylonitrile monomer into the meat to be relatively low. In a recent limited FDA sampling of Washington, DC, area retail stores, only 1 of 16 different manufacturer's blister-pack meat products was packaged in an acrylonitrile copolymer package. (Memorandum dated April 23, 1984, Charles Breder, Indirect Additives Laboratory, FDA.) In this case, the acrylonitrile copolymer was separated from direct food contact by another polymer layer.

A preliminary review of the current use of acrylonitrile copolymers for food packaging and other food-contact uses, including those permitted by this final rule, gives no reason to expect dietary exposure to acrylonitrile to be unsafe. The agency is reviewing the regulated uses of acrylonitrile copolymers and is developing a proposal to amend the acrylonitrile copolymer regulations to ensure that dietary acrylonitrile monomer exposure from probable use of all acrylonitrile copolymers under the food additive regulations, including those permitted by this final rule, will remain safe in the future.

The agency found the upper limit individual lifetime risk from potential acrylonitrile monomer exposure from the acrylonitrile/styrene bottle to be less than 1 in 8 million for the worst-case assumption where about one-third of the average daily diet is packaged in this bottle. This translates to a risk estimate of about 1 in 3 million for total dietary exposure, i.e. assuming that acrylonitrile packages all foods in a 3,000-gram per day diet and that the level of acrylonitrile monomer in food is 0.055 part per billion. This "1 in 3 million" risk is also considered safe by the agency.

3. Safety of Other Possible Migrants

The safety of the potential exposure to the other possible migrants from the acrylonitrile/styrene copolymer bottle was established prior to issuance of the existing regulation (§ 177.1040(c)(1)) for this polymer. The agency has again evaluated the available toxicity data on the other possible migrants, including the recently found nitriles: Acetonitrile, propionitrile, and isobutyronitrile. The agency has determined that the relatively low potential exposure to these other possible migrants does not pose a hazard to the public health.

The agency, therefore, concludes that the proposed nonalcoholic beverage use of the acrylonitrile/styrene copolymer is safe and that the food additive regulations should be amended as set forth below.

E. Specifications

The agency is establishing specifications to ensure that acrylonitrile monomer migration does not exceed the levels considered in determining that it could be safely used. Although research analytical methods have demonstrated that acrylonitrile monomer migration does not exceed 0.16 part per billion (6 month extraction at 90 °F) from these bottles, compliance analytical methods are not available at this time to determine acrylonitrile monomer in food simulating solvents (or beverages) at sub-part per billion levels. Monsanto, however, submitted data establishing the relationship between acrylonitrile monomer extraction levels and residual acrylonitrile monomer levels in its acrylonitrile bottles. The agency has analyzed beverage bottles supplied by Monsanto and has confirmed that these bottles contain residual acrylonitrile monomer at no greater than 0.1 part per million. The agency has concluded that the maximum 0.1 part per million acrylonitrile in this acrylonitrile/styrene barrier resin correlates with potential migration of acrylonitrile monomer of 0.055 part per billion. This level of potential migration was used in the risk assessment discussed above. Therefore, the agency is establishing, as a specification, 0.10 part per million maximum residual acrylonitrile monomer in the acrylonitrile/styrene copolymer in finished containers.

To ensure that the barrier properties, and, therefore, the low rate of acrylonitrile monomer migration demonstrated in the petition, are maintained when formulated with optional adjuvants and/or other polymeric resins, the agency is establishing a maximum carbon dioxide permeability specification.

In addition, the agency is correcting a printing error in § 177.1040(c)(1) that occurred in the 1977 edition in the Code of Federal Regulations (CFR). As originally published, the specification for styrene content in the polymer described in § 177.1040(c)(1) was 28–34 parts by weight of styrene. In the 1977 CFR and subsequent editions of the CFR, the styrene content was listed as 23–34 parts by weight of styrene. FDA is also updating the regulations to incorporate dual metric and English measurements.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h)(2), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

II. Environmental Impact

The environmental impact of approval of acrylonitrile copolymer carbonated beverage and beer bottles was thoroughly considered in FDA's 1976 final environmental impact statement on plastic bottles for carbonated beverages and beer. FDA's final environmental impact statement covered the environmental impacts of marketing both acrylonitrile copolymer and polyethylene terephthalate beverage bottles, although FDA's 1977 environmental impact determination (42 FR 9227) addressed the continued use of only nonacrylonitrile beverage bottles. The determination was not applicable to acrylonitrile copolymer beverage bottles because the Commissioner decided to stay the food additive regulations permitting their use due to questions about whether safe conditions of use existed. Consequently, the use of the acrylonitrile/styrene bottles requested in this petition cannot be approved without a decision on the environmental consequences of such approval.

To determine whether to prepare a supplemental environmental impact statement or a finding of no significant impact for the approval of the acrylonitrile/styrene bottle, FDA must determine if (1) there are substantial changes in the proposed action that are relevant to environmental concerns, or (2) there are significant new circumstances or information that are relevant to environmental concerns and that bear on the proposed action or its impacts (40 CFR 1502.9(c)(1) (i) and (ii)).

The agency has prepared an environmental assessment, which evaluates the potential environmental effects of approval of the acrylonitrile/styrene bottle. In preparing the environmental assessment, FDA considered the new information that might bear on the conclusions in the final environmental impact statement.

The environmental assessment identifies two beneficial environmental effects that would result from approval of the acrylonitrile/styrene bottle. One beneficial effect is increased energy conservation. To the extent that the acrylonitrile/styrene bottle replaces refillable glass bottles, energy use will

increase. However, as the acrylonitrile/styrene bottle is expected to replace primarily nonrefillable glass bottles, which require more energy to produce and market, this increase in energy use will be offset. Additional energy savings are likely because the acrylonitrile/styrene bottle will provide energy recovery from incineration. Overall, a net savings in energy is expected. The second beneficial effect is increased safety, as the number of injuries resulting from breakage of glass beverage bottles will be reduced.

The environmental assessment identifies four adverse environmental effects that would result from approval of the acrylonitrile/styrene bottle. These adverse effects include increased manufacturing effluents and emissions, increased litter, increased volume of solid waste, and the risk of exposure to toxic combustion gases from improperly operating incinerators and possibly small fires and open dumps. The extent of the increase in manufacturing effluents and emissions, litter, and volume of solid waste will depend on the extent to which the acrylonitrile/styrene bottle replaces aluminum cans, which have a higher recycle rate, and refillable glass bottles. The magnitude of this increase is not expected to be large because, as noted above, the acrylonitrile/styrene bottle is expected to replace primarily nonrefillable glass bottles.

With regard to combustion, the frequency of exposure to toxic gases in dangerous concentrations would be slight. Ten percent or less of municipal solid waste is incinerated, and indiscriminate burning of plastic bottles is probably not common practice.

However, independent of the extent to which the acrylonitrile/styrene bottle replaces other container types, there will be increased air emissions of acrylonitrile associated with manufacture. A risk assessment done by the U.S. Environmental Protection Agency for FDA has, however, demonstrated that the maximum individual cancer risk now presented by the highest risk acrylonitrile monomer and resin facilities would not be significantly increased as a result of FDA approval of the acrylonitrile/styrene bottle. The U.S. Environmental Protection Agency plans to deal with areas in which a risk is created by the presence of an acrylonitrile-emitting facility by working with all States with such facilities to establish State regulations that will lower exposure to and risk from acrylonitrile to acceptable levels. Technology requirements under new source review programs for volatile organic chemicals would ensure that acrylonitrile air emissions and risks from these emissions for any new acrylonitrile monomer or acrylonitrile/styrene copolymer resin plants would be reduced to acceptable levels before the plant begins operations. Moreover, to mitigate adverse impacts from manufacture, the petitioner has stated that emissions will be controlled.

Regardless of whether the acrylonitrile/styrene bottle replaces refillables or only other throwaways, the acrylonitrile/styrene bottle will be noticeably present in litter, including the litter in National parks, recreation areas, and public lands.

FDA expects the magnitude of all environmental effects, adverse and beneficial, to be less now than would have occurred at the time of the 1976 final environmental impact statement because the currently estimated market volume of the acrylonitrile/styrene copolymer resin for bottle use is substantially less than estimated at that time. In addition, adverse effects from manufacturing would be less because specific standards have been adopted since 1976 to control release of chemicals into the environment and workplace, and further controls are expected. Adverse effects from combustion would also be less because many incinerators operating improperly in the mid-1970's have been shut down due to difficulties and/or expenses associated with meeting air emission requirements, there have been improvements in incineration technology since the mid-1970's and burning in open dumps has been reduced since 1976.

FDA has carefully evaluated new information bearing on the conclusions in the 1976 final environmental impact statement. Based on the considerations listed above, FDA concludes that approval of the acrylonitrile/styrene bottle will not have a significant impact on the quality of the human environment and that a supplemental environmental impact statement is not required. FDA will reexamine this conclusion if the market volume estimates prove to be inaccurate, if air emission regulations are not adopted, or if new information becomes available suggesting that this action will have significant environmental impacts.

The agency's finding of no significant impact and the environmental assessment supporting that finding may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 177

Food additives, Polymeric food packaging, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 177 is amended in § 177.1040 by revising the introductory text of paragraph (b)(2) and by revising paragraphs (c) and (e), to read as follows:

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

§ 177.1040 Acrylonitrile/styrene copolymer.

* * * * *

(b) * * *

(2) The optional adjuvants for the acrylonitrile/styrene copolymer identified in paragraph (c) (1) and (3) of this section are as follows:

* * * * *

(c) *Specifications.*

Acrylonitrile/styrene copolymers	Maximum residual acrylonitrile monomer content of finished article	Nitrogen content of copolymer	Maximum extractable fractions at specified temperatures and times	Conformance with certain specifications
1. Acrylonitrile/styrene copolymer consisting of the copolymer produced by polymerization of 66–72 parts by weight of acrylonitrile and 28–34 parts by weight of styrene; for use with food of type VI–B identified in table 1 of sec. 176.170(c) of this chapter under conditions of use C, D, E, F, G described in table 2 of sec. 176.170(c) of this chapter.	80 ppm[1]	17.4 to 19 pct	Total nonvolatile extractives not to exceed 0.01 mg/in² surface area of the food contact article when exposed to distilled water and 3 pct acetic acid for 10 d at 66 °C (150 °F). The extracted copolymer shall not exceed 0.001 mg/in² surface area of the food contact article when exposed to distilled water and 3 pct acetic acid for 10 d at 66 °C (150 °F) [1]	Minimum number average molecular weight is 30,000.[1]

Acrylonitrile/styrene copolymers	Maximum residual acrylonitrile monomer content of finished article	Nitrogen content of copolymer	Maximum extractable fractions at specified temperatures and times	Conformance with certain specifications
2. Acrylonitrile/styrene copolymer consisting of the copolymer produced by polymerization of 45–65 parts by weight of acrylonitrile and 35–55 parts by weigth of styrene; for use with food of types, I, II, III, IV, V, VI (except bottles), VII, VIII, and IX identified in table 1 of sec. 176.170(c) of this chapter under conditions B (not to exceed 93 °C (200 °F)), C, D, E, F, G described in table 2 of sec. 176.170(c) of this chapter.	50 ppm[1]	12.2 to 17.2 pct	Extracted copolymer not to exceed 2.0 ppm in aqueous extract or *n*-heptane extract obtained when 100 g sample of the basic copolymer in the form of particles of a size that will pass through a U.S. Standard Sieve No. 6 and that will be held on a U.S. Standard Sieve No. 10 is extracted with 250 mil of deionized water or reagent grade *n*-heptane at reflux temperature for 2 h.[1]	Minimum 10 pct solution viscosity at 25 °C (77 °F) is 10cP.[1]
3. Acrylonitrile/styrene copolymer consisting of the copolymer produced by polymerization of 66–72 parts by weight of acrylonitrile and 28–34 parts by weight of styrene; for use with food of type VI–B identified in table 1 of sec. 176.170(c) of this chapter under conditions of use C, D, E, F, G described in table 2 of sec. 176.170(c) of this chapter.	0.10 ppm (calculated on the basis of the weight of the acrylonitrile copolymer resin in the finished articles).[2]	17.4 to 19 pct	Total nonvolatile extractives not to exceed 0.01 mg/in² surface area of the food contact article when exposed to distilled water and 3 pct acetic acid for 10 d at 66 °C (150 °F). The extracted copolymer shall not exceed 0.001 mg/in² surface area of the food contact article when exposed to distilled water and 3 pct acetic acid for 10 d at 66 °C (150 ° F).[1]	Maximum carbon dioxide permeability at 23 °C (73 °F) for the finished article is 0.04 barrer.[3]

[1] Use methods for determination of residual acrylonitrile monomer content, maximum extractable fraction, number average molecular weight, and solution viscosity, titled: "Determination of Residual Acrylonitrile and Styrene Monomers-Gas Chromatographic Internal Standard Method"; "Infrared Spectrophotometric Determination of Polymer Extracted from Barex 210 Resin Pellets"; "Procedure for the Determination of Molecular Weights of Acrylonitrile/Styrene Copolymers," and "Analytical Method for 10% Solution Viscosity of Tyril," which are incorproated by reference. Copies are available from the Division of Food and Color Additives, Center for Food Safety and Applied Nutrition (HFF–330), 200 C Street SW., Washington, DC 20204, or may be examined at the Office of the Federal Register, 1100 L Street NW., Washington, DC 20408.

[2] As determined by the method titled "Headspace Sampling and Gas-Solid Chromatographic Determination of Residual Acrylonitrile in Acrylonitrile Copolyemr Solutions," which is incorporated by reference. Copies are available from the Division of Food and Color Additives, Center for Food Safety and Applied Nutrition (HFF–330), 200 C Street SW., Washington, DC 20204, or may be examined at the Office of the Federal Register, 1100 L Street NW., Washington, DC 20408.

[3] As determined on appropriately shaped test samples of the article or acrylonitrile copolymer layer in a multilayer construction by ASTM method D–1434–82, "Standard Method for Determining Gas Permeability Characteristics of Plastic Film and Sheeting," which is incorporated by reference. Copies are available from the Division of Food and Color Additives, Center for Food Safety and Applied Nutrition (HFF–330), 200 C Street SW., Washington, DC 20204, and the American Society for Testing Materials, 1916 Race Street, Philadelphia, PA 19103, or may be examined at the Office of the Federal Register, 1100 L Street NW., Washington, DC 20408.

* * * * *

(e) Acrylonitrile copolymer identified in this section may be used to fabricate beverage containers only if they comply with the specifications of item 3 in paragraph (c) of this section.

Any person who will be adversely affected by the foregoing regulation may at any time on or before October 19, 1984 submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation is effective September 19, 1984.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: September 6, 1984.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 84–24702 Filed 9–14–84; 12:00 pm]

BILLING CODE 4160–01–M

21 CFR Parts 600, 803, 1002, and 1003

[Docket No. 79N–0182]

Medical Device Reporting

Correction

In FR Doc. 84–23910 beginning on page 36326 in the issue of Friday, September 14, 1984, make the following corrections:

1. On page 36326, first column, in the third line of the **DATES** section, "November 13, 1984" should read "December 13, 1984".

2. On page 36348, second column, in the second line from the top of the page, "November 13, 1984" should read "December 13, 1984".

3. On page 36351, third column, in the effective date paragraph, "November 13, 1984" should read "December 13, 1984".

BILLING CODE 1505–01–M

21 CFR Part 1240

[Docket No. 81N–0204C]

Notice of Public Hearing To Receive Information on Whether Milk and Milk Products Sold for Human Consumption Should Be Pasteurized; Public Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice of public hearing.

SUMMARY: The Food and Drug Administration (FDA) is rescheduling the September 28, 1984, informal public hearing for the presentation of information, data, and views on whether there is a need to require pasteurization of milk and milk products sold for human consumption. FDA scheduled the informal public hearing on September 28, 1984, by a notice published in the **Federal Register** of August 3, 1984. Because of the large number of requests for appearance, FDA will hold the informal public hearing on October 11 and 12, 1984.

DATES: Oral notice of participation, except for those notices of appearance already received by FDA, for the October 11 and 12, 1984, hearing must be telephoned to the contact person listed below no later than October 3, 1984. The informal public hearing will commence at 11 a.m. on October 11, 1984, and continue at 8 a.m. on October 12, 1984. A written statement for the record by individuals who will not be able to attend in person, and additional comments, data, or other information may be submitted by October 29, 1984.

ADDRESSES: The October 11 and 12, 1984, hearing will be held in the Hubert Humphrey Bldg., 1st Floor Auditorium, 200 Independence Ave. SW., Washington, DC 20201. Written statements for the record, written comments, data, or other information to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: C. K. Gund, Regulations Policy Staff (HFC-10), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3480.

SUPPLEMENTARY INFORMATION: In the Federal Register of August 3, 1984 (49 FR 31065), FDA announced that it would hold on September 28, 1984, an informal legislative-type hearing under 21 CFR Part 15 to provide interested persons an opportunity to present information, data, and views on the following issues:

1. Whether the consumption of raw milk, including certified raw milk, and raw milk products is of public health concern; and

2. If the answer to issue 1 is yes, whether requiring pasteurization of raw milk, including certified raw milk, and raw milk products is the most reasonable regulatory option.

A large number of requests for participation have been submitted. Two requests for participation have asked that the hearing be extended an additional day. One request asked that the hearing be held on a different day because September 28 is a religious holiday. In light of these requests, FDA has concluded that it should reschedule the hearing to allow the appropriate time for all participants to attend on consecutive days. One request not only asked the agency to extend the hearing an additional day but also to hold the hearing at other locations across the country. Regrettably, FDA must deny this particular request because of limited resources. However, the agency encourages all interested persons to submit written statements and views on the issues.

Interested persons who have already submitted a request to appear on the previously scheduled day, September 28, need not telephone the contact person listed above unless he or she cannot attend on either October 11 or 12, 1984.

Because of the shortness of time between the publication of this Federal Register notice and October 11, 1984, interested persons who want to appear at the informal hearing should call the contact person listed above no later than October 3, 1984. They should provide the contact person with the approximate amount of time they need to present his or her views. FDA will prepare a hearing schedule showing the time allotted to each participant, file the schedule with the Dockets Management Branch, and mail a copy to each participant.

For other procedural and related information regarding the informal hearing on the issues of pasteurization of milk, see the notice published in the Federal Register of August 3, 1984 (49 FR 31065).

Dated: September 13, 1984.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-24864 Filed 9-17-84; 10:49 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7965]

Income Taxes; Sanctions on Issuers and Holders of Registration-Required Obligations Not in Registered Form

Correction

In FR Doc. 84-22291 beginning on page 33228 in the issue of Wednesday, August 22, 1984, make the following corrections:

§ 1.163-5 [Corrected]

1. On page 33233, in § 1.163-5(c)(2)(v)(A), third column, seventh line, "of" should have read "for".

2. In the same column, in § 1.163-5(c)(2)(v)(B), sixth line, "of" should have read "if".

3. Also in § 1.163-5(c)(2), on page 33234, first column, the first complete paragraph now designated as "(v)" should have been designated as "(vi)".

BILLING CODE 1505-01-M

26 CFR Part 35a

[T.D. 7967]

Employment Taxes; Application of the Repeal of 30 Percent Withholding by the Tax Reform Act of 1984 and of Information Reporting and Backup Withholding in Light of Such Repeal

Correction

In FR Doc. 84-22292 beginning on page 33239 in the issue of Wednesday, August 22, 1984, make the following corrections.

1. On page 33239, third column, six lines from the bottom, "lending" should have read "legending".

§ 35a.9999-5 [Corrected]

2. On page 33240, in § 35a.9999-5(a), A-2., second column, fourth line, "of" should have read "or".

3. On page 33241, in § 35a.9999-5(a), A-3., first column, eighth line, "of" should have read "or".

BILLING CODE 1505-01-M

26 CFR Part 1

[T.D. 7973]

Income Tax; Treatment of Transfer of Property Between Spouses, Tax Treatment of Alimony and Separate Maintenance Payments, and Dependency Exemption in the Case of Child of Divorced Parents.

Correction

In FR Doc. 84-23129 beginning on page 34451 in the issue of Friday, August 31, 1984, make the following corrections:

1. On page 34451, second column, twelfth line, "on" should have read "or".

§ 1.71-IT [Corrected]

2. On page 34455, in § 1.71-IT(a) A-2(f), first column, in the fifth line, insert "6" between "the" and "post".

3. On page 34457, in § 1.71-IT(d) Q-21, second column, first line, "you" should have read "the".

4. On page 34458, in § 1.71-IT(d) A-24, first column, thirtieth line, "required" should have read "reduced".

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA Docket Nos. AM600MD/AM601MD/AM602MD [1]; A-3-FRL-2673-5]

Revision of Maryland State Implementation Plan; 1982 Ozone and Carbon Monoxide Attainment Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is today approving the 1982 Maryland State Implementation Plan (SIP) revision for Ozone and Carbon Monoxide. This revision meets all the requirements of the Clean Air Act and EPA policy. The Ozone (O_3) and Carbon Monoxide (CO) SIP revision provides for attainment and maintenance of the primary National Ambient Air Quality Standards (NAAQS) for O_3 and CO as required

[1] Due to a recent reorganization at the EPA Region III Office, the prefix to the docket numbers has changed from the previous "AW" designation to "AM".

under Part D of the Clean Air Act Amendments of 1977. Also, EPA is no longer taking action to impose on Maryland funding limitations and a construction moratorium as proposed in the August 3, 1983 **Federal Register** Notice (48 FR 35312).

EFFECTIVE DATE: This action is effective September 19, 1984.

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

U.S. Environmental Protection Agency, Region III, Air Programs Branch, Curtis Building, Sixth & Walnut Streets, Philadelphia, PA 19106. ATTN: James B. Topsale, P.E. (3AM13)

Maryland Air Management Administration, Maryland Department of Health and Mental Hygiene, 201 West Preston Street, Baltimore, MD 21201

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460

The Office of the Federal Register, 100 L Street NW., Room 8401, Washington, DC 20480.

FOR FURTHER INFORMATION CONTACT: Mr. James B. Topsale, P.E. (3AM13) at the EPA address indicated above or by phone at 215/597-4553. Please reference the EPA docket numbers in all correspondence.

SUPPLEMENTARY INFORMATION:

Background

On March 8, 1984, EPA published a Notice in the **Federal Register** (49 FR 8610) with a determination that both the Maryland portion of the National Capital Interstate (AM601MD) and the Metropolitan Baltimore Intrastate (AM600MD) Air Quality Control Regions (AQCRs) had met the Part D requirements of the Clean Air Act (CAA) for Ozone (O_3) and Carbon Monoxide (CO). The Notice was a final rulemaking action which approved all of Maryland's 1982 State Implementation Plan (SIP) revisions except for the Inspection and Maintenance (I/M) program and the revised schedule for the adoption of additional controls measures for sources of Volatile Organic Compounds (VOC).

A second March 8, 1984, notice (49 FR 8634) proposed approval of proposed I/M regulations submitted to EPA on May 4, June 13, and June 16, 1983, by the State. The Agency also proposed approval of the I/M program's enforcement mechanism, based on the proposed regulations and the State's commitment to additional enforcement procedures in an August 23, 1983, letter from the Maryland Department of Transportation (DOT). The notice also proposed approval of a December 23, 1983, revised schedule for the adoption of additional control measures for sources of VOCs. EPA's proposal was based on a procedure known as "parallel processing," under which a SIP revision not yet adopted by a State is proposed for approval by EPA on the basis that the final revision adopted by the State is not substantially different from that initially submitted by the State. No comments were received on the proposed rulemaking.

In an August 3, 1983, **Federal Register** notice (48 FR 35312), EPA proposed to impose Clean Air Act funding limitations and a construction moratorium in Maryland based on the State's failure to meet its approved I/M schedule. The Maryland I/M program subsequently became operational on February 1, 1984.

EPA Actions

Funding Limitations and Construction Moratorium

Because the State has now fully implemented its I/M program, EPA will take no further action to impose the funding limitations and construction moratorium proposed in the August 3, 1983, notice.

Ozone and Carbon Monoxide SIP Evaluation/Approval

On September 16 and November 25, 1983, the Maryland DOT announced the adoption of final I/M regulations. On September 30, 1983, the Maryland Department of Health and Mental Hygiene (DHMH) also announced the adoption of final I/M regulations. These final regulations were submitted to EPA as SIP revisions on October 14, 1983, and August 13, 1984. In addition, on August 25, 1983, the Maryland DHMH submitted final I/M enforcement procedures. Since these regulations and procedures are substantially the same as those proposed for approval by EPA on March 8, 1984, and because the I/M program is now fully implemented, the Agency is today taking final action to approve the I/M program. EPA is also taking final action to approve the revised VOC additional control schedule, as proposed. Because all other portions of Maryland's 1982 SIP revisions have previously been approved, EPA is therefore today approving the State's 1982 ozone and carbon monoxide SIPs in their entirety.

Conclusion

This approval is based on EPA's determination that the plan meets the requriements of sections 110(a)(2) (A)-(K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51. Under Executive Order 12291, today's action is not "Major". 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).) The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

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

Authority: Sections 110(a), 172 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410(a), 7502 and 7601(a)).

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

Dated: September 13, 1984.

William D. Ruckelshaus,

Administrator.

PART 52—[AMENDED]

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

Subpart V—Maryland

Section 52.1070 is amended by adding the following sentence to the end of paragraph (c)(71).

§ 52.1070 Identification for plan.

* * * * *

(c) * * *

(71) * * * On May 4, 1983, and June 13 and 16, 1983, the State submitted amended I/M regulations. A revised schedule for the adoption of controls for VOC sources was submitted on December 23, 1983.

[FR Doc. 84-24756 Filed 9-18-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 81

[A-5-FRL-26 73-6]

Designations of Areas for Air Quality Planning Process; Attainment Status Designations; Wisconsin

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

ACTION: Notice of final rulemaking.

SUMMARY: This final rulemaking action revises the Total Suspended Particulates (TSP) attainment status designation for the City of Marinette, Wisconsin from unclassified to attainment. This revision is based on a redesignation request from the Wisconsin Department of Natural Resources (WDNR), dated June 21, 1983, and on supporting technical data submitted by the Department. Under the Clean Air Act, an attainment status designation can be changed if warranted by the available data. In today's action, USEPA is approving the redesignation as requested by the State of Wisconsin.

EFFECTIVE DATE: This final rulemaking becomes effective on October 19, 1984.

ADDRESSES: Copies of the redesignation request, the technical support documents, public comments, and the supporting air quality data are available at the following addresses:

Environmental Protection Agency, Region V, Air and Radiation Branch (5AR–26), 230 S. Dearborn Street, Chicago, Illinois 60604

Wisconsin Department of Natural Resources, Bureau of Air Management (AIR/3), 101 South Webster, Madison, Wisconsin 53707.

FOR FURTHER INFORMATION CONTACT: Colleen W. Comerford, (312) 886–6034.

SUPPLEMENTARY INFORMATION: In the March 1, 1984, **Federal Register** (49 FR 7608), USEPA proposed to revise the attainment status designation of Marinette, Wisconsin, from unclassified to attainment for Total Suspended Particulates (TSP). This revision is based on two factors: (1) A June 21, 1983, request from the WDNR to revise the Section 107 attainment status designation for Marinette; and (2) a technical support document containing a summary of the most recent 8 consecutive quarters of TSP ambient air quality data collected from five monitoring sites in Marinette. Additional technical information was provided by the WDNR on October 7, 1983, and January 25, 1984. A detailed discusssion of USEPA's proposed approval, and the reasoning behind it, can be found in the March 1, 1984, notice of proposed rulemaking (49 FR 7608).

Public Comments

During the public comment period two organizations, the ANSUL Company and the Marinette Area Chamber of Commerce (MACC), submitted comments to USEPA. These comments, and USEPA's responses to these comments, are summarized below.

Comment: MACC and ANSUL both supported the redesignation to attainment. MACC also noted that six additional months of monitoring data (through the end of 1983), showing no violoations, are now available from all three monitoring sites located within the City. Thus, there are 11 consecutive quarters of ambient air quality data available from two monitoring sites and 7 nonconsecutive (6 consecutive) quarters available from the third site.

Response: USEPA acknowledges the additional data and agrees that it further supports the redesignation to attainment.

Comment: ANSUL claimed that its 1977–1978 monitoring program was specifically designed to monitor potential emissions from removal of the salt pile and, thus, was inadequate to monitor TSP concentrations for Marinette as a whole.

Response: USEPA maintains that these data adequately reflect valid ambient TSP concentrations for a portion of the Marinette area. Therefore, they should be considered in evaluating the attainment/nonattainment status of Marinette.

Comment: ANSUL claimed that none of the TSP recorded at the monitors could be attributed to fugitive emissions resulting from removal of the salt pile, based on the results of filter analyses conducted during 1977–1978.

Response: The issue at hand is whether the TSP NAAQS are currently being attained, and whether they will continue to be maintained. Based on the available data, USEPA has determined that the City of Marinette is now in attainment of the TSP NAAQS. To explain the improvement in TSP ambient concentrations, it is necessary to know the causes behind the exceedances that occurred previously. The exceedances report prepared by WDNR (see Table 2 of USEPA's February 6, 1984, Technical Support Document) identifies ANSUL's fugitive emissions, among other sources, as being responsible for the previous exceedances. Based on the source-monitor geometry and the wind direction, as well as the filter analyses, USEPA believes that fugitive emissions from the ANSUL salt pile did contribute to the previously monitored TSP concentrations. It should be noted that the ANSUL salt pile has been removed, and is no longer a source of fugitive emissions.

Conclusion

The available ambient air quality data show that no violations of the TSP standards have occurred since 1978. Eleven consecutive quarters of recent data (April 1981–December 1983), showing no violations, are available from two sites in Marinette, and 7 nonconsecutive quarters of recent data (April–August 1981, and July 1982–December 1983), showing no violations, are available from a third site in Marinette. In addition, emission reductions resulting from implemented control measures ensure that the NAAQS will continue to be maintained. Therefore, USEPA is revising the designation of the City of Marinette, Wisconsin, defined at 40 CFR 81.350, from unclassified to "better than the national standards" (attainment) for TSP.

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

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).)

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

(Sec. 107(d) of the Act, as amended (42 U.S.C. 7407))

Dated: September 13, 1984.

William D. Ruckelshaus,

Administrator.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

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

1. Section 81.350—Wisconsin, the attainment status designation table for Total Suspended Particulates (TSP) is amended by revising the designation for Marinette County, as follows:

§ 81.350 [Amended]

* * * * *

WISCONSIN—TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
* * *	*	*	*	*
AQCR 237:				
* * *	*	*	*	*
Marinette County				X
* * *	*	*	*	*

[FR Doc. 84-24755 Filed 9-18-84; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 761

[OPTS-62037A; FRL-2672-6]

Polychlorinated Biphenyls Incorporation by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA has incorporated by reference certain American Society for Testing and Materials (ASTM) test methods in the Polychlorinated Biphenyl (PCB) regulations. The test method designated "ASTM D 1796-68" has been revised by ASTM. EPA, having offered opportunity for public comment is now amending §§ 761.19 and 761.20 to reflect this revision.

DATE: This final rule is effective September 19, 1984.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, D.C. 20460, Toll free: (800-424-9065), In Washington, D.C.: (554-1404), Oustside the USA: (Operator—202-554-1404).

SUPPLEMENTARY INFORMATION: In the Federal Register of June 1, 1984 (49 FR 22836), EPA announced that the test method "ASTM D 1796-68 Standard Test Methods for Water and Sediment in Crude Oils and Fuel Oils by Centrifuge" had been revised. The new designation for the test method is "ASTM D 1796-83 Standard Test Methods for Water and Sediment in Crude Oils and Fuel Oils by Centrifuge." The public was given 30 days to comment. The comment period ended on July 2, 1984. No comments were received.

List of Subjects in 40 CFR Part 761

Environmental protection, Hazardous materials, Labeling, Polychlorinated biphenyls, Recordkeeping and reporting requirements, Incorporation by reference.

(Sec. 6, 90 Stat. 2020 (15 U.S.C. 2065))

Dated: September 10, 1984.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

PART 761—[AMENDED]

Therefore, Part 761 of Title 40 of Chapter I is amended as follows:

§ 761.19 [Amended]

1. In § 761.19(b), the entry for "ASTM D 1796-68" is changed to read "ASTM D 1796-83."

§ 761.60 [Amended]

2. In § 761.60(a)(3)(iii)(B)(*6*), the reference "ASTM D 1796-68" is changed to read "ASTM D 1796-83."

[FR Doc. 84-24830 Filed 9-18-84; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6621]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fourth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 457, Lanham, Maryland 20706, Phone: (800) 638-7418.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration (202) 287-0222, 500 C Street, Southwest, FEMA—Room 509, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the Community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. In the communites listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance."

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 64

Flood insurance, Flood plains.

PART 64—[AMENDED]

Section 64.6 is amended by adding in alphabetical sequence new entires to the table.

In each entry, a complete chronology of effective dates appears for each listed community. The entry read as follows:

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Idaho, Power	Unincorporated areas	160219	Aug. 1, 1984, Emerg	
Missouri, Jasper	Carterville, city of	290180B	Jan. 17, 1977, Emerg., July 16, 1984, Reg., July 16, 1984, Susp., July 26, 1984, Rein.	Dec. 28, 1973 and Feb. 6, 1976.
New York:				
Essex	St. Armand, town of	361157A	Aug. 10, 1984, Emerg	Oct. 25, 1974 and July 2, 1976.
Fulton	Northampton, town of	361400A	do	Jan. 31, 1975 and Aug. 6, 1976.
Texas, Fayette	Unincorporated areas	480815A	Aug. 13, 1984, Emerg	Jan. 31, 1978.
Georgia, Pierce	do	130151	do	Aug. 13, 1976.
Texas:				
Denton	The Colony, city of	481581	Aug 16, 1984, Emerg	
Refugio	Bayside, town of	481586	do	
Georgia, Rabun	Claytoh, city of	130157A	Aug. 13, 1984, Withdrawn	May 24, 1974 and Jan. 16, 1976.
Utah, Utah	Lindon, city of	490210	Aug. 14, 1984, Emerg	June 21, 1978.
Idaho, Lewis	Craigmont, city of	160163	Aug. 20, 1984, Emerg	June 25, 1976.
Texas, Sabine	Pineland, city of	480998	Aug. 24, 1984, Emerg	Oct. 22, 1976.
Florida, Lake	Howey-in-the-Hills, town of	120585B	July 18, 1979, Emerg., Aug. 15, 1984, Reg., Aug. 15, 1984, Susp., Aug. 30, 1984, Rein.	Mar. 2, 1979.
Alabama:				
Lowndes	Unincorporated areas	010272B	Dec. 11, 1975, Emerg., Aug. 15, 1984, Reg., Aug. 15, 1984, Susp., Aug. 31, 1984, Rein.	Nov. 29, 1974 and Feb. 3, 1974.
Elmore	Millbrook, city of	010370B	Oct. 18, 1979, Emerg., Aug. 15, 1984, Reg., Aug. 15, 1984, Susp., Aug. 31, 1984, Rein.	Sept. 15, 1978.
Florida, Nassau	Unincorporated areas	120170B	July 9, 1971, Emerg., Aug. 15, 1984, Reg., Aug. 15, 1984, Susp., Aug. 31, 1984, Rein.	Nov. 29, 1974 and Feb. 4, 1977.
REGION II				
New York:				
Chautauqua	Ellicott, town of	361073A	Aug. 1, 1984, Suspension withdrawn	Dec. 6, 1974.
Dutchess	Pawling, village of	361517A	do	Feb. 7, 1975.
Do	Tivoli, village of	361507A	do	Dec. 20, 1974.
REGION III				
Pennsylvania:				
Chester	Honey Brook, township of	422290A	do	Dec. 6, 1974.
Do	West Nantmeal, township of	421428B	do	Dec. 13, 1974 and Jan. 23, 1981.
REGION VI				
Texas:				
Montgomery	Unincorporated areas	480483C	do	Apr. 25, 1978 and Mar. 25, 1980.
Do	Roman Forest, city of	481538A	do	
REGION VIII				
Montana, Gallatin	Unincorporated areas	300027B	do	May 16, 1978.
REGION IX				
Arizona, Pima	Marana, town of	040118B	do	Dec. 17, 1973, May 15, 1979, and Apr. 17, 1980.
California, San Luis Obispo	Pismo Beach, city of	060309A	do	Mar. 26, 1976.
Nevada, Washoe	Unincorporated areas	320019B	do	Feb. 28, 1978.
REGION X				
Idaho, Bonner	do	160206B	do	Oct. 25, 1977.
Oregon:				
Coos	Coos Bay, city of	410044B	do	Aug. 23, 1974 and Mar. 25, 1977.
Do	Lakeside, city of	410278B	do	Nov. 22, 1977.
Do	North Bend, city of	410048B	do	June 28, 1974 and July 11, 1975.
Linn	Scio, city of	410144A	do	Nov. 22, 1974.
Washington, King	North Bend, city of	530085B	do	May 17, 1974 and May 7, 1976.
REGION I				
Vermont, Washington	Berlin, town of	500106B	Aug. 15, 1984, Suspension withdrawn	Feb. 15, 1974 and Sept. 13, 1977.
REGION II				
New York:				
Dutchess	Dover, town of	361335A	do	Dec. 6, 1974.
Westchester	Peekskill, city of	360924B	do	May 31, 1974 and Oct. 24, 1975.
Rensselaer	Schodack, town of	361169A	do	Jan. 31, 1975.
Orange	Walden, village of	360635B	do	Mar. 8, 1974 and Sept. 19, 1975.
REGION IV				
Alabama, Coosa	Unincorporated areas	010052B	do	Dec. 27, 1974, June 16, 1978, and Feb. 3, 1978.
Florida:				
Citrus	do	120063B	do	Dec. 20, 1974 and Nov. 4, 1977.
Do	Crystal River, city of	120340B	do	Mar. 26, 1976 and Nov. 30, 1979.
Georgia, Stephens	Unincorporated areas	130391A	do	Feb. 20, 1976.
REGION V				
Ohio, Allen	Fort Shawnee, village of	390611C	do	Oct. 18, 1974, June 4, 1976, and Dec. 12, 1980.
Wisconsin:				
Clark	Thorp, city of	550055B	do	May 24, 1974 and June 4, 1976.
Dodge and Fond du Lac	Waupun, city of	550108	do	Jan. 9, 1974, June 25, 1976, June 9, 1978, and Feb. 23, 1979.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
REGION VI				
Texas, Montgomery	Woodbranch Village, city of	480694A	....do	July 2, 1976.
REGION X				
Oregon:				
Coos	Bandon, city of	410043B	....do	Dec. 28, 1973 and Apr. 16, 1976.
Harney	Burns, city of	410084B	....do	Nov. 30, 1973 and Jan. 30, 1976.
Klamath	Chiloquin, city of	410111B	....do	Nov. 30, 1973 and Nov. 14, 1975.
Umatilla	Stanfield, city of	410213B	....do	Nov. 9, 1974 and Jan. 2, 1976.

Code for reading 4th column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension; Rein.—Reinstatement.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; E.O. 12127, 44 FR 19367; and delegation of authority to the Administrator, Federal Insurance Administration)

Issued: September 13, 1984.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 84-24740 Filed 9-18-84; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 64

[Docket No. FEMA 6622]

Suspension of Community Eligibility Under the National Flood Insurance Program; New York, et al.

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the flood plain management requirements of the program. If FEMA receives documentation that the community has adopted the required flood plain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register**.

EFFECTIVE DATE: The third date ("Susp.") listed in the fourth column.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 287–0222, 500 C Street, Southwest, FEMA—Room 509, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (46 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fourth column, so that as of that date flood insurance is no longer available in the community. However, those communities which, prior to the suspension date, adopt and submit documentation of legally enforceable flood plain management measures required by the program, will continue their eligibility for the sale of insurance. Where adequate documentation is received by FEMA, a notice withdrawing the suspension will be published in the **Federal Register**.

In addition, the Director of Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. No direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood prone areas. (Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Director finds that notice and public procedure under 5 U.S.C. 533(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified. Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required flood plain management measures are met prior to the effective suspension date. For the same reasons, this final rule may take effect within less than 30 days.

Pursuant to the provision of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in Section 2 of the Flood Disaster Protection Act of 1973, the establishment of local flood plain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate flood plain management, thus placing itself in noncompliance of the Federal standards required for community participation. In each entry, a complete chronology of effective dates appears for each listed communituy.

List of Subject in 44 CFR Part 64

Flood Insurance, Flood plains.

PART 64—[AMENDED]

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
REGION II					
New York:					
Cayuga	Genoa, Town of [2]	360111B	Feb. 1, 1977, Emerg., Nov. 4, 1983 Reg., Sep. 19, 1984, Susp.	June 18, 1976 and Nov. 4, 1983	Sept. 19, 1984.
Do	Locke, Town of [2]	360114B	Apr. 4, 1975, Emerg., Nov. 4, 1983 Reg., Sept. 19, 1984, Susp.	June 11, 1976 and Nov. 4, 1982	Do.
Do	Niles, Town of [2]	360119B	July 21, 1975, Emerg., Feb. 6, 1984, Reg., Sept. 19, 1984, Susp.	Aug. 9, 1974, June 18, 1976 and Feb. 6, 1984.	Do.
Do	Scipio, town of [2]	360122B	May 9, 1977, Emerg., Dec. 23, 1983, Reg., Sept. 19, 1984 Susp.	May 31, 1974, May 28, 1976, and Dec. 23, 1983.	Do.
Do	Sempronius, Town of [2]	360123B	Jan. 7, 1976, Emerg., Nov. 4, 1983, Reg., Sept. 19, 1984 Susp.	May 31, 1974, May 26, 1976, and Nov. 4, 1983.	Do.
Do	Venice, Town of [2]	360130B	Sept. 11, 1975, Emerg., Dec. 23, 1983, Reg., Sept. 19, 1984, Susp.	June 28, 1974 and Dec. 23, 1983	Do.
Otsego	Maryland, Town of	361272A	Aug. 30, 1976, Emerg., Sept. 19, 1984, Susp.	Oct. 18, 1974 and June 25, 1976	Do.
REGION V					
Indiana, Clark	Utica, Town of	180487A	Feb. 12, 1982, Emerg., Feb. 12, 1982, Reg., Sept. 19, 1984 Susp.	Feb. 12, 1982	Do.
Ohio, Hamilton	St. Bernard, City of	390235B	May 13, 1984, Emerg., Sept. 19, 1984, Reg., Sept. 19, 1984 Susp.	May 10, 1974 and Apr. 9, 1976	Do.
Wisconsin:					
Iowa	Avoca, Village of	550173B	June 26, 1974, Emerg., Sept. 19, 1984, Reg., Sept. 19, 1984 Susp.	Jan. 9, 1974 and May 14, 1976	Do.
Waupaca	Clintonville, City of	550494A	April 2, 1974, Emerg., Sept. 19, 1984 Reg., Sept. 19, 1984, Susp.	July 30, 1976	Do.
Sauk	North Freedom, Village of	550399C	Apr. 22, 1975, Emerg., Sept. 19, 1984, Reg., Sept. 19, 1984 Susp.	Dec. 17, 1973, Nov. 24, 1975, and Feb. 6, 1976.	Do.
Do	West Baraboo, Village of	550407	July 24, 1975 Emerg., Sept. 19, 1984, Reg., Sept. 19, 1984, Susp.	Jan. 16, 1974, and June 11, 1976	Do.
REGION VII					
Iowa, Linn	Fairfax, City of	190190B	Jan. 20, 1975, Emerg., Sept. 19, 1984, Reg., Sept. 19, 1984, Susp.	May 3, 1974 and Dec. 5, 1975	Do.
Kansas, Miami	Osawatomie, City of	200223	June 13, 1974, Emerg., Sept. 19, 1984, Reg., Sept. 19, 1984, Susp.	Jan. 23, 1974 and Apr. 2, 1976	Do.
REGION X					
Oregon, Malheur	Jordan Valley, City of	410150A	Sept. 4, 1975, Emerg., Sept. 19, 1984 Reg., Sept. 19, 1984 Susp.	Feb. 7, 1975	Do.

[1] Date certain Federal assistance no longer available in special flood hazard areas.
[2] Minimal conversions.
Code for reading 4th column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Administrator, Federal Insurance Administration)

Issued: September 13, 1984.

Jeffery S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 84-24739 Filed 9-19-84; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 83-670]

Revision of Programming and Commercialization Policies, Ascertainment Requirements, and Program Log Requirements for Commercial Television Stations; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: The Federal Communications Commission makes editorial corrections to a rule appearing in an appendix of a document which was published in the **Federal Register.** This erratum adds language inadvertently omitted from § 73.3526 of the Commission's Rules and amends an incorrect reference therein.

FOR FURTHER INFORMATION CONTACT: Thomas S. Walsh, Mass Media Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Erratum

In the matter of revision of programming and commercialization policies, ascertainment requirements and program log requirements for commercial television stations; MM Docket No. 83-670.

Released: September 11, 1984.

In the above captioned *Report and Order* released August 21, 1984 (MM Docket No. 83-670, FR Doc. 84-22415) and published in the **Federal Register** on August 23, 1984 at 49 FR 33588, item 7 of Appendix A (pertaining of § 73.3526) inadvertantly deleted references to paragraph (a)(15) of the rule and also improperly refers to the "annual problems/programs list" as the "annual issues/programs list".

A. On page 33603, middle column, the amendatory language in item 7 is corrected to read:

"7. 47 CFR 73.3526 is amended by revising paragraph (a), paragraph (a)(8) and paragraph (e), by adding a Note following paragraph (a)(8), by removing paragraphs (a)(9), (a)(10), (a)(11) and (a)(12) and by redesignating paragraphs (a)(13), (a)(14) and (a)(15) as paragraphs (a)(9), (a)(10) and (a)(11) respectively, to read as follows:"

* * * * *

B. On page 33603, in § 73.3526, the introductory text of paragraph (a) is

corrected by revising it to read as follows:

§ 73.3526 Local public inspection file of commercial stations.

(a) *Records to be maintained.* Every applicant for a construction permit for a new station in the commerical broadcast services shall maintain for public inspection a file containing the material described in paragraph (a)(1) of this section. (Every permittee or licensee of an AM, FM or TV station in the commercial broadcast services shall maintain for public inspection a file containing the material described in paragraphs (a) (1), (2), (3), (4), (5), (6), (7) and (11) of this section. In addition, every permittee or licensee of a TV station shall maintain for public inspection a file containing material described in paragraphs (a) (8) and (9) of this section; every permittee or licensee of an AM or FM station shall maintain for public inspection a file containing material described in paragraph (a)(10) of this section. The material to be contained in the file is as follows:

* * * * *

C. On page 33603, in § 73.3526, the note following paragraph (a)(8) is revised to read as follows:

(a) * * *

(8) * * *

Note.—The first quarterly filing is to include at least the past three months of a station's programming peformance. If the last annual problems/programs list was filed more than three months prior to October 1, 1984, the licensee must place in its public inspection file an issues/programs list encompassing the period of time between its last annual filing and October 1, 1984.

* * * * *

D. On page 33603, in § 73.3526, paragraph (e) is corrected by revising it to read as follows:

* * * * *

(e) *Period of retention.* The records specified in paragraph (a)(4) of this section shall be retained for periods specified in § 73.1940 (2 years). The manual specified in paragraph (a)(6) of this section shall be retained indefinitely. The letters specified in paragraph (a)(7) of this section shall be retained for the period specified in § 73.202 (3 years). The issues/program list specified in paragraphs (a) (8) and (10) of this section shall be retained for the term of license (5 and 7 years, respectively). The certification specified in paragraph (a)(11) of this section shall be retained for the period specified in § 73.3580 (for as long as the application to which it refers). The records specified in paragraphs (a) (1), (2), (3), and (5) of this section shall be retained as follows:

* * * * *

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 84-24595 Filed 9-18-84; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 49, No. 183
Wednesday, September 19, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 20

[Docket No. PRM-20-15]

Edison Electric Institute (EEI) and Utility Nuclear Waste Management Group (UNWMG); Filing of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of receipt of petition for rulemaking from Edison Electric Institute (EEI) and Utility Nuclear Waste Management Group (UNWMG).

SUMMARY: The Commission is publishing for public comment this notice of receipt of a petition for rulemaking dated July 31, 1984, which was filed with the Commission by Michael A. Bauser on behalf of EEI and UNWMG. The petition was docketed by the Commission on July 31, 1984, and has been assigned Docket No. PRM-20-15. The petitioners request that the Commission issue a regulation governing the disposal of low-level radioactively contaminated waste oil from nuclear power plants by establishing radionuclide concentrations in waste oil at which disposal may be carried out without regard to the radioactive material content of the waste.

DATE: Submit comments by November 19, 1984. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given as to comments received on or before this date.

ADDRESSES: All persons who desire to submit written comments concerning the petition for rulemaking send their comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

For a copy of the petition write to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

The petition, copies of comments, and the accompanying document to the petition may be inspected and copied for a fee at the NRC Public Document Room, 1717 H Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: John Philips, Chief, Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301-492-7086 or Toll Free: 800-368-5642.

SUPPLEMENTARY INFORMATION:

I. Background

The petitioners stated that when the Commission published its final rule creating 10 CFR Part 61 (December 27, 1982; 47 FR 57446), the Commission noted that numerous commentors had requested that it develop a "de minimis" standard which would permit certain wastes to be disposed of by less restrictive means than existing practices. At that time, the Commission expressed its agreement that establishment of such de minimis standards would reduce disposal and long-term site maintenance costs, help preserve disposal capacity for wastes with higher activity levels, enhance overall stability of disposal facilities and tend to reduce groundwater migration impacts. The Commission also expressed its willingness "to accept petitions for rulemaking . . . for declaring certain waste streams to be of no regulatory concern," and identified some of the information necessary to support such a petition.

More recently, the Advisory Committee on Reactor Safeguards (ACRS) recommended that de minimis levels or radiation exposure be established. Presently, certain criteria defining regulatory cutoff levels for radioactively contaminated waste exists in 10 CFR 20.306, which authorizes the disposal of liquid scintillation media and animal tissue containing no greater than 0.05 microcurie per gram of H-3 or C-14 without regard to their radioactivity. The petitioners stated that it was also their understanding that the draft proposed revisions to 10 CFR Part 20 defined de minimis exposure as that exposure to radiation which would present a calculated risk of biological harm so low, relative to the risks faced routinely from daily activities, that the risk from radiation would be a trifle and of no regulatory concern. The petitioners stated that they understood that a numerical dose level of one mrem was determined to represent the de minimis level of radiation exposure.

II. Waste Oil at Nuclear Power Plants

Each year, the petitioners state, quantities of waste oil containing very low levels of radioactive contamination are produced at nuclear power plants. The principal sources of the waste oil are primary system pump motors (including reactor coolant pumps) at pressurized water reactors (PWRs), and turbine and pump motors, such as recirculation and feedwater pump motors, at boiling water reactors (BWRs). Waste oil also collects in turbine and radwaste building sumps, equipment drain trays, and during maintenance operations (miscellaneous waste oils).

Radioactivity levels for sources of waste oil, such as pump turbines and motors at both PWRs and BWRs are typically in the 10^{-7} to $10^{-6}\mu$ Ci/ml range with Mn-54, Co-58, Co-60, Cs-134 and Cs-137 the dominant radionuclides. Miscellaneous waste oils at PWRs and BWRs—from sumps, drains, etc.,—generally contain the same dominant radionuclides, but concentrations are more variable, typically ranging from $10^{-7}\mu$ Ci/ml to $10^{-4}\mu$ Ci/ml. These often are oil-water mixtures. Prior processing might be necessary before disposal by some of the methods addressed in the petition.

Currently, according to the petitioners, the only generally approved disposal method for low-level radioactively contaminated waste oil involves absorption or solidification, transportation to, and burial at a licensed disposal facility. Disposal of waste oil in this manner is costly, inconsistent with the NRC's policy in favor of volume reduction, and represents an inefficient use of Commission, licensee, and burial site resources.

III. Petitioners Solution to this Problem

The petitioners state that waste oil, under certain conditions, may be disposed of in a considerably more efficient manner, while providing adequate protection for both the environment and public health and

safety. Data on generation rates, radionuclide concentrations and content were gathered from 15 operating plants, including 29 units (16 PWRs and 13 BWRs). A number of specific disposal methods were considered individually, as follows:

1. To burn the oil on the nuclear reactor site in a controlled location.
2. To burn the oil off site.
3. To spray it on an unpaved road, as is done for dust control.
4. To solidify it and bury it in a landfill.
5. To recycle it in the same manner as is done commercially with waste oil.

The ultimate objective was to identify mechanisms by which waste oil at specific levels of contamination could be disposed of in an efficient, environmentally acceptable, cost-beneficial manner while assuring that the postulated radiation dose does not exceed the regulatory cutoff level.

The detailed analysis which forms the basis of the petition is found in the report entitled "Development of Recommended Regulatory Cutoff Levels for Low-Level Radioactively Contaminated Oils from Nuclear Power Plants." This report was prepared for the UNWMG by OTHA, Inc., in October 1983. The report notes that it is possible to specify limiting gross activity levels for each disposal method. Specifically, waste oils can be disposed of via the six disposal methods set out in the proposed amendment.

IV. Proposed Amendment to 10 CFR Part 20

The petitioners request amendment of 10 CFR Part 20 as follows:

1. Redesignate existing paragraphs (c) and (d) and (e), respectively; and add paragraph (c) to § 220.306 to read as follows:

(c) Waste oil not exceeding the following gross activity limits by the indicated methods, provided that, the total quantity of oil disposed of at a single location by methods (1), (2), (3), and (6) either not exceed 1,000 gallons per year; or that the sum of the ratios of each radionuclide present to the concentration of that radionuclide in Part 20, Appendix E, not exceed the value of 1,000 divided by the number of gallons disposed of per year at that location, i.e.;

$$\sum_{i} \frac{\text{Concentration of radionuclide i}}{\text{i radionuclide i Part 20, App. E concentration}} \leq \frac{1{,}000}{\text{volume of gallons disposed of at location (gal/yr)}}$$

Disposal method	Gross activity limit μCi/cm³
(1) Burn on-site, short stact	4×10^{-4}
(2) Burn on-site, tall stack	4×10^{-3}
(3) Burn off-site, short stack	4×10^{-4}
(4) Spray on road	3×10^{-3}
(5) Solidify-Bury	4×10^{-4}
(6) Recycle	6×10^{-4}

2. Add a new Appendix E to read as follows:

APPENDIX E—CONCENTRATION LIMITS FOR WASTE OIL DISPOSAL UNDER THE PROVISIONS OF 10 CFR 20.306(C) BY ELEMENT AND DISPOSAL METHOD

Nuclide	Concen. limit (pCi/cm3)	Disposal scenario
Ag11Om	5.9×10^{1}	Recycle.
	2.4×10^{2}	Burn offsite-short stack.
	2.4×10^{2}	Burn onsite-short stack.
	2.9×10^{3}	Spray on road.
	2.4×10^{4}	Burn onsite-tall stack.
	7.3×10^{6}	Solidify-bury/landfill.
Ce141	1.9×10^{3}	Recycle.
	1.9×10^{4}	Burn offsite-short stack.
	9.6×10^{4}	Spray on road.
	1.9×10^{5}	Burn onsite-short stack.
	1.9×10^{5}	Burn onsite-tall stack.
	1.0×10^{12}	Solidify-bury/landfill.
Ce144	6.5×10^{2}	Burn offsite-short stack.
	3.3×10^{3}	Recycle.
	6.5×10^{3}	Burn onsite-short stack.
	1.5×10^{4}	Spray on road.
	6.5×10^{4}	Burn onsite-tall stack.
	1.0×10^{12}	Solidify-bury/landfill.
Co58	1.5×10^{2}	Recycle.
	2.2×10^{3}	Burn offsite-short stack.
	7.5×10^{3}	Spray on road.
	2.2×10^{4}	Burn onsite-short stack.
	2.2×10^{5}	Burn onsite-tall stack.
	1.6×10^{9}	Solidify-bury/landfill.
Co60	3.9×10^{1}	Burn offsite-short stack.
	6.3×10^{1}	Recycle.
	1.6×10^{2}	Solidify-bury/landfill.
	3.9×10^{2}	Burn onsite-short stack.
	3.1×10^{3}	Spray on road.
	3.9×10^{3}	Burn onsite-tall stack.
Cr51	4.9×10^{3}	Recycle.
	1.8×10^{5}	Burn offsite-short stack.
	2.4×10^{5}	Spray on road.
	1.8×10^{6}	Burn onsite-short stack.
	1.8×10^{7}	Burn onsite-tall stack.
	1.0×10^{12}	Solidify-bury/landfill.
Cs134	8.9×10^{1}	Recycle.
	1.2×10^{2}	Burn offsite-short stack.
	1.2×10^{3}	Burn onsite-short stack.
	1.7×10^{5}	Solidify-bury/landfill.
	4.4×10^{3}	Spray on road.
	1.2×10^{4}	Burn onsite-tall stack.
Cs137	8.1×10^{1}	Burn offsite-short stack.
	2.1×10^{2}	Solidify-bury/landfill.
	2.5×10^{2}	Recycle.
	8.1×10^{2}	Burn onsite-short stack.
	8.1×10^{3}	Burn onsite-tall stack.
	1.3×10^{4}	Spray on road.
Fe55	2.6×10^{4}	Burn offsite-short stack.
	2.6×10^{5}	Burn onsite-short stack.
	1.8×10^{6}	Solidify-bury/landfill.
	2.3×10^{6}	Spray on road.
	2.6×10^{6}	Burn onsite-tall stack.
	1.0×10^{12}	Recycle.
Fe59	1.3×10^{3}	Recycle.
	3.0×10^{3}	Burn offsite-short stack.
	6.6×10^{3}	Spray on road.
	3.0×10^{4}	Burn onsite-short stack.
	3.0×10^{5}	Burn onsite-tall stack.
	3.7×10^{11}	Solidify-bury/landfill.
Mn54	1.8×10^{2}	Recycle.
	6.2×10^{2}	Burn offsite-short stack.
	6.2×10^{3}	Burn onsite-short stack.
	9.1×10^{3}	Spray on road.
	6.2×10^{4}	Burn onsite-tall stack.
	5.2×10^{5}	Solidify-bury/landfill.
Nb95	2.1×10^{2}	Recycle.
	6.1×10^{2}	Burn offsite-short stack.
	1.0×10^{4}	Spray on road.
	6.1×10^{4}	Burn onsite-short stack.
	6.1×10^{5}	Burn onsite-tall stack.
	1.0×10^{12}	Solidify-bury/landfill.
Ni63	8.5×10^{2}	Solidify-bury/landfill.
	2.1×10^{4}	Burn offsite-short stack.
	2.1×10^{5}	Burn onsite-short stack.
	2.0×10^{6}	Spray on road.
	2.1×10^{6}	Burn onsite-tall stack.
	1.0×10^{12}	Recycle.
Pr143	2.6×10^{4}	Burn offsite-short stack.
	2.6×10^{5}	Burn onsite-short stack.
	2.6×10^{6}	Burn onsite-tall stack.
	1.3×10^{7}	Spray on road.
	1.0×10^{12}	Recycle.
	1.0×10^{12}	Solidify-bury/landfill.
Te127	1.1×10^{5}	Recycle.
	4.2×10^{5}	Burn offsite-short stack.
	5.3×10^{6}	Spray on road.
	4.2×10^{7}	Burn onsite-short stack.
	4.2×10^{8}	Burn onsite-tall stack.
Rb86	1.7×10^{2}	Recycle.
	8.8×10^{2}	Burn offsite-short stack.
	8.4×10^{4}	Spray on road.
	8.8×10^{4}	Burn onsite-short stack.
	8.8×10^{5}	Burn onsite-tall stack.
	1.0×10^{12}	Solidify-bury/landfill.
Te127m	1.7×10^{3}	Burn offsite-short stack.
	1.7×10^{4}	Burn onsite-short stack.
	1.7×10^{5}	Burn onsite-tall stack.
	9.7×10^{5}	Recycle.
	1.3×10^{6}	Spray on road.
	3.3×10^{7}	Solidify-bury/landfill.
Te139	1.5×10^{3}	Recycle.
	7.4×10^{4}	Spray on road.
	1.3×10^{7}	Burn offsite-short stack.
	1.3×10^{8}	Burn onsite-short stack.
	1.3×10^{9}	Burn onsite-tall stack.
Te29m	1.4×10^{3}	Recycle.
	3.8×10^{3}	Burn offsite-short stack.
	3.8×10^{4}	Burn onsite-short stack.
	6.9×10^{4}	Spray on road.
	3.8×10^{5}	Burn onsite-tall stack.
	1.0×10^{12}	Solidify-bury/landfill.
Ru103	3.0×10^{2}	Recycle.
	7.6×10^{2}	Burn offsite-short stack.
	1.5×10^{4}	Spray on road.
	7.6×10^{4}	Burn onsite-short stack.
	7.6×10^{5}	Burn onsite-tall stack.
	1.0×10^{12}	Solidify-bury/landfill.
Ru106	5.9×10^{2}	Burn offsite-short stack.
	7.1×10^{3}	Recycle.
	5.9×10^{3}	Burn onsite-short stack.
	1.4×10^{4}	Spray on road.
	5.9×10^{4}	Burn onsite-tall stack.
	4.7×10^{5}	Solidify-bury/landfill.
Sr89	3.1×10^{2}	Burn offsite-short stack.
	3.1×10^{3}	Burn onsite-short stack.
	4.9×10^{3}	Spray on road.
	1.9×10^{6}	Recycle.
	2.1×10^{6}	Burn onsite-tall stack.
	2.9×10^{10}	Solidify-bury/landfill.
Sr90	3.8×10^{1}	Solidify-bury/landfill.
	7.1×10^{1}	Burn offsite-short stack.
	7.1×10^{2}	Burn onsite-short stack.
	4.1×10^{3}	Spray on road.
	7.1×10^{3}	Burn onsite-tall stack.

APPENDIX E—CONCENTRATION LIMITS FOR WASTE OIL DISPOSAL UNDER THE PROVISIONS OF 10 CFR 20.306(c) BY ELEMENT AND DISPOSAL METHOD—Continued

Nuclide	Concen. limit (pCi/cm3)	Disposal scenario
	1.0×10^{13}	Recycle.
Y91	2.9×10^{5}	Burn offsite-short stack.
	2.9×10^{4}	Burn onsite-short stack.
	4.4×10^{4}	Recycle.
	2.9×10^{5}	Burn onsite-tall stack.
	4.4×10^{5}	Spray on road.
	6.2×10^{6}	Solidify-bury/landfill.
Zn65	2.7×10^{2}	Recycle.
	1.0×10^{3}	Burn offsite-short stack.
	1.0×10^{4}	Burn onsite-short stack.
	1.3×10^{4}	Spray on road.
	1.0×10^{5}	Burn onsite-tall stack.
	5.8×10^{6}	Solidify-bury/landfill.
Zr95	2.1×10^{2}	Recycle.
	3.4×10^{3}	Burn offsite-short stack.
	1.1×10^{4}	Spray on road.
	3.4×10^{4}	Burn onsite-short stack.
	3.4×10^{5}	Burn onsite-tall stack.
	4.0×10^{6}	Solidify-bury/landfill.

The petitioners conclude that both the Commission and the ACRS have expressed support for the development of regulatory cutoff levels. The Commission, in particular, the petitioners note, has invited petitions for rulemaking of particular waste streams which might be considered below regulatory concern, and has formulated some criteria identifying exposure levels deemed de minimis, and certainly below regulatory concern.

Waste oil generated in nuclear power plants, the petitioners state, appears to be particularly suitable for such treatment, because current methods of disposal are unnecessarily costly, inconsistent with NRC policy favoring volume reduction, and represent an inefficient use of NRC, licensee, and burial site resources. The petitioners conclude that the 1 mrem/year standard is a conservative value which is consistent with current NRC policy.

Dated at Washington, DC, this 12th day of September 1984.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 84-24796 Filed 9-18-84; 8:45 am]

BILLING CODE 7590-01-M

FARM CREDIT ADMINISTRATION

12 CFR Part 611

Organization

AGENCY: Farm Credit Administration.

ACTION: Proposed rule comment period extension.

SUMMARY: The Farm Credit Administration ("FCA"), by its Federal Farm Credit Board ("Federal Board"), published for comment proposed amendments to its regulations concerning changes to Federal land bank association ("FLBA") and production credit association ("PCA") charters in the **Federal Register** on July 20, 1984 (49 FR 29404). The FCA gives notice that the original comment period is hereby extended to November 5, 1984, because of requests for additional time to comment.

DATE: The period for receipt of written comments is extended from September 19, 1984, to November 5, 1984.

ADDRESS: All comments should be submitted in writing to Donald E. Wilkinson, Governor, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090. Copies of all written communications received will be available for inspection by interested parties in the Office of the Director, Congressional and Public Affairs Division, Office of Administration, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT:

Tom Holland, Office of Examination and Supervision, (703) 883-4033

or

Kenneth L. Peoples, Office of the General Counsel, (703) 883-4024

SUPPLEMENTARY INFORMATION: On July 20, 1984, the FCA published in the **Federal Register** proposed revisions to its regulations concerning the procedures for amending FLBA and PCA charters, including those related to mergers and consolidations of like associations. Since that time, the FCA has received several comments requesting additional time to respond to the proposed rules due to their complexity, particularly the financial disclosure required to be made to stockholders.

The FCA does not believe the financial disclosure requirements for merger or consolidations to be unfamiliar to Farm Credit System institutions or to be more complex than financial reporting required by other regulatory agencies in similar circumstances. However, because FCA has previously issued financial disclosure guidelines to address many of these concerns, the FCA believes the delay in the rulemaking process is outweighed by the potential for more constructive comments. Accordingly, the FCA decided to extend the comment period until November 5, 1984. During the extended comment period the FCA will continue to review proposed mergers consistent with the related guidelines issued on February 24, 1984.

Kenneth J. Auberger,

Acting Governor.

[FR Doc. 84-24836 Filed 9-18-84; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 373 and 376

[Docket No. 40110-4107]

Amendments of the Distribution License Procedure

Correction

In FR Doc. 84-24126 beginning on page 35790 in the issue of Wednesday, Septemeber 12, 1984, make the following corrections:

1. On page 35794, second column, the fourth line from the bottom should read "and (d)(3)(iv) are revised; and ".

2. On the same page, third column, in the fifth line from the bottom, the parenthetical expression should read "(end-users)".

3. On page 35797, third column, in the second line of the paragraph for commodity 1733A, insert a comma after the word "materials".

4. On the same page and in the same column, in the fourth line of the paragraph for the commodity 4755B, "10 — ^{9}' should read "10^{-9}'.

BILLING CODE 1505-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76-233; (West Virginia—5)]

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432 (1982), to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR

271.703 (1983)). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendations of the State of West Virginia Office of Oil and Gas that the "Maxton" zone, "Little Lime" zone, "Blue Monday" zone, "Big Lime" zone, "Keener" zone, "Big Injun" zone, and "Squaw" zone be designated as tight formations under § 271.703(d).

DATE: Comments on the proposed rule are due on October 29, 1984.

PUBLIC HEARING: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on October 1, 1984.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511, or Walter W. Lawson, (202) 357–8556.

Notice of Proposed Rulemaking by Director, OPPR

In the matter of High-Cost Gas Produced from Tight Formations; Docket No. RM79–76–233, (West Virginia—5).

Issued: September 14, 1984.

I. Background

On July 24, 1984, the State of West Virginia Office of Oil and Gas (West Virginia) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (18 CFR 271.703 (1983)), that the "Maxton"zone, "Little Lime" zone, and "Blue Monday" zone of the Mauch Chunk Group, the "Big Lime" zone and "Keener" zone of the Greenbrier Group, and the "Big Injun" zone and "Squaw" zone of the Pocono Group in central West Virginia, be designated as tight formations. This Notice of Proposed Rulemaking is hereby issued under §271.703(c)(4) to determine whether West Virginia's recommendation that the "Maxton" zone, "Little Lime" zone, "Blue Monday" zone, "Big Lime" zone, "Keener" zone, "Big Injun" zone, and "Squaw" zone be designated as tight formations should be adopted. West Virginia's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

West Virginia recommends that the "Maxton" zone, "Little Lime" zone, and "Blue Monday" zone of the Mauch Chunk Group, the "Big Lime" zone and "Keener" zone of the Greenbrier Group, and the "Big Injun" zone and "Squaw" zone of the Pocono Group, all of Mississippian age and located in certain areas of Braxton and Clay Counties, West Virginia, be designated as tight formations. The total area covered by this recommendation is approximately 867 square miles. (A more detailed description of the recommended area and the excluded areas is contained in the recommendation on file with the Commission.)

The "Maxton" zone refers to a number of different productive sandstones within the Mauch Chunk Group of late Mississippian age. The "Maxton" zone lies immediately below the "Salt Sands" zone of the Pottsville Group of Pennsylvanian age. The sands of the "Maxton" zone are white to gray, fine-grained, and range in thickness from approximately 20 to 130 feet. The average depth to the top of the "Maxton" zone is approximately 1,550 feet.

The "Little Lime" zone lies immediately below the "Maxton" zone within the Mauch Chunk Group. The "Little Lime" zone is dark gray to dark brown, fossiliferous, with interbeds of micaceous siltstone or shale, and ranges in thickness from 15 to 35 feet. The average depth to the top of the "Little Lime" zone is approximately 1,650 feet.

The "Blue Monday" zone lies immediately below the "Little Lime" zone and is the basal sandstone of the Mauch Chunk Group. The sand of the "Blue Monday" zone is light gray to yellow, fine-grained, calcereous, and may thicken to as much as 45 feet, with an average thickness ranging from 20 to 25 feet. The average depth to the top of the "Blue Monday" zone is approximately 1,685 feet.

The "Big Lime" zone lies immediately below the "Blue Monday" zone and is the uppermost driller's pay of the Greenbrier Group. The "Big Lime" zone is pinkish gray to pale brown, fossiliferous, locally sandy to dolomitic, and ranges in thickness from 80 to 220 feet. The average depth to the top of the "Big Lime" zone is approximately 1,735 feet.

The "Keener" zone lies immediately below the "Big Lime" zone and is also included in the Greenbrier Group. The sand of the "Keener" zone is light gray, very fine-grained, argillaceous, calcereous, and ranges in thickness from zero to approximately 20 feet. The average depth to the top of the of the "Keener" zone is approximately 1,845 feet.

The "Big Injun" zone lies immediately below the "Keener" zone and is the uppermost driller's pay of the Pocono Group. The sand of the "Big Injun" zone is light to medium gray, very fine-to-fine-grained, argillaceous, glauconitic, calcereous, locally dolomitic with interbeds of micaceous shale and siltstone, and ranges in thickness from 30 to 60 feet. The average depth to the top of the "Big Injun" zone is approximately 1,865 feet.

The "Squaw" zone lies immediately below the "Big Injun" zone of the Pocono Group. The sand of the "Squaw" zone is white to tan, coarse-grained, a delta channel deposit, and ranges in thickness from zero to approximately 40 feet. The average depth to the top of the "Squaw" zone is approximately 2,025 feet.

III. Discussion of Recommendation

West Virginia claims in its submission that evidence gathered and presented in support of this recommendation demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

West Virginia further asserts that existing state law and established casing procedures assure protection of all fresh water zones.

Accordingly, under the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97 [Reg. Preambles 1977–1981], FERC Stats. and Regs. ¶ 30,180 (1980), the Director gives notice of the proposal submitted by West Virginia that the "Maxton" zone, "Little Lime" zone, "Blue Monday" zone, "Big Lime" zone, "Keener" zone, "Big Injun" zone, and "Squaw" zone, as described and delineated in West Virginia's recommendation filed with the Commission, be designated as tight formations under § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before October 29, 1984. Each person submitting a comment

should indicate that the comment is being submitted in Docket No. RM79–76–233 (West Virginia—5), and should give reasons including supporting data for any recommendation. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C., during business hours.

Any persons wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they wish to make an oral presentation and so request a public hearing. The person shall specify the amount of time requested at the hearing, and should file the request with the Secretary of the Commission no later than October 1, 1984.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

Accordingly, the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, will be amended as set forth below, in the event the Commission adopts West Virginia's recommendation.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703 is amended as follows:

1. The authority citation for Part 271 reads as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.;* Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553.

2. Section 271.703 is amended by adding paragraph (d)(205) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.* * * *

* * * * *

(205) *The "Maxton", zone, "Little Lime" zone, and "Blue Monday" zone of the Mauch Chunk Group, the "Big Lime" zone and "Keener" zone of the Greenbrier Group, and the "Big Injun" zone and "Squaw" zone of the Pocono Group in Portions of Braxton and Clay Counties, West Virginia.* RM79–76–233 (West Virginia—5).

(i) *"Maxton" zone of the Mauch Chunk Group.*

(A) *Delineation of formation.* The "Maxton" zone underlies the "Salt Sands" zone of the Pottsville Group of Pennsylvanian age and overlies the "Little Lime" zone of the Mauch Chunk Group of Mississippian age.

(B) *Depth.* The average depth to the top of the "Maxton" zone is approximately 1,550 feet.

(ii) *"Little Lime" zone of the Mauch Chunk Group.*

(A) *Delineation of formation.* The "Little Lime" zone underlies the "Maxton" zone and overlies the "Blue Monday" zone of the Mauch Chunk Group.

(B) *Depth.* The average depth to the top of the "Little Lime" zone is approximately 1,650 feet.

(iii) *"Blue Monday" zone of the Mauch Chunk Group.*

(A) *Delineation of formation.* The "Blue Monday" zone underlies the "Little Lime" zone and overlies the "Big Lime" zone of the Greenbrier Group.

(B) *Depth.* The average depth to the top of the "Blue Monday" zone is approximately 1,685 feet.

(iv) *"Big Lime" zone of the Greenbrier Group.*

(A) *Delineation of formation.* The "Big Lime" zone underlies the "Blue Monday" zone and overlies the "Keener" zone of the Greenbrier Group.

(B) *Depth.* The average depth to the top of the "Big Lime" zone is approximately 1,735 feet.

(v) *"Keener" zone of the Greenbrier Group.*

(A) *Delineation of formation.* The "Keener" zone underlies the "Big Lime" zone and overlies the "Big Injun" zone of the Pocono Group.

(B) *Depth.* The average depth to the top of the "Keener" zone is approximately 1,845 feet.

(vi) *"Big Injun" zone of the Pocono Group.*

(A) *Delineation of formation.* The "Big Injun" zone underlies the "Keener" zone and overlies the "Squaw" zone of the Pocono Group.

(B) *Depth.* The average depth to the top of the "Big Injun" zone is approximately 1,865 feet.

(vii) *"Squaw" zone of the Pocono Group.*

(A) *Delineation of formation.* The "Squaw" zone underlies the "Big Injun" zone and overlies the "Weir" zone of the Pocono Group.

(B) *Depth.* The average depth to the top of the "Squaw" zone is approximately 2,025 feet.

[FR Doc. 84–24797 Filed 9–18–84; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 667

[FHWA Docket No. 84–15]

Public Lands Highways

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The FHWA requests comments on proposed revisions to its regulation on Public Lands Highways. Public Lands Highways are Federal-aid highways which are bounded on both sides by unappropriated or unreserved public lands, nontaxable Indian lands or other Federal reservations. The regulation specifies procedures for allocation of funds and project administration and provides guidance on eligibility of work. The proposed revisions are intended to bring the existing regulation up to date considering recent legislative and administrative changes in the program.

DATE: Comments must be received by October 19, 1984.

ADDRESS: Submit written comments, preferably in triplicate, to FHWA Docket No. 84–15, Federal Highway Administration, Room 4205, HCC–10, 400 7th Street SW., Washington, D.C. 20590. All comments received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. James A. Carney, Railroads, Utilities and Programs Branch, Office of Engineering, (202) 426–0450, or Mr. Michael J. Laska, Office of the Chief Counsel, (202) 426–0762, Federal Highway Administration, 400 7th Street SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The policies, procedures and requirements for administering the Public Lands Highways program are set forth in 23 CFR Part 667. In carrying out the requirements of section 126(a) of Pub. L.

97–424, 96 Stat. 2113, to provide funds to pay for the cost of construction and improvement of Public Lands Highways, the Secretary of Transportation is authorized by 23 U.S.C. 315 to prescribe and promulgate rules and regulations. This authority is delegated to the Federal Highway Administrator by 49 CFR 1.48. The regulation, 23 CFR Part 667, establishes the authority and responsibility of the Federal Highway Administrator to allocate funds on the basis of need as determined upon application of the State highway agency (SHA). It is necessary to have candidate projects sufficiently outlined in writing to permit comparison and selection.

Periodically FHWA solicits candidate projects for Public Lands Highways funding. Upon submission of candidates by the SHA's, FHWA makes selections based on need and other criteria according to the information provided. The Public Lands Highways program is part of the Federal Lands Highways program which provides for a coordinated effort for construction of forest highways, public lands highways, park roads, parkways and Indian reservation roads. Maintenance provisions of legislation have been deleted and although rehabilitation type activities may be funded, maintenance, per se, is no longer eligible. The Public Lands Highways part of the Federal Lands Highways program provides funds only for roads on a Federal-aid system which are bounded on both sides by Federal lands. The FHWA allocates Public Lands Highways funds to the States, on the basis of need in such States as determined by FHWA upon application of the SHA. Preference is given to those projects which significantly benefit or improve Federal land and resource management activities. Since candidate projects are on Federal-aid systems, appropriate classes of regular Federal-aid funds as well as other classes of Federal Lands funds are available which permits greater flexibility in the development of viable improvements.

Summary of Revisions

The proposed revisions are intended to bring the existing regulations up to date considering recent legislative and administrative changes in the program. Specifically, the proposed changes include (1) recent legislative provisions in the 1982 Surface Transportation Assistance Act (Pub. L. 97–424, 96 Stat. 2113] for giving preference to projects which significantly benefit or improve Federal land and resource management activities, and removing maintenance as an eligible category of work, (2) deletion of the consideration previously given to the needs of FHWA direct Federal forces to perform work, (3) internal FHWA administrative changes to centrally allot funds to the Associate Administrator for Engineering and Operations to simplify the allocation procedure, (4) clarification of the wording of several sections to assure candidate projects are within Federal lands, on a public road and on the Federal-aid system, and (5) clarification of the criteria on which the review of candidate projects are based to accurately reflect the priority of factors considered.

Regulatory Impact

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant regulation under the regulatory policies and procedures of the Department of Transportation. The revisions proposed in this document are primarily technical in nature, provide language clarifications, and provide a more current delineation of legislative mandates. The revisions will impose no additional burdens on the States or local agencies and could reduce implementation burdens by providing a more current and simplified regulation. For these reasons, the anticipated economic impact, if any, will be minimal. Therefore, a full regulatory evaluation is not required. For the same reasons and under the criteria of the Regulatory Flexibility Act [Pub. L. 96–354], the FHWA hereby certifies that this action, if promulgated, will not have a significant economic impact on a substantial number of small entities.

Since the revisions being proposed are primarily procedural in nature, it has been determined that a 30-day comment period provides adequate time for the public to respond.

In consideration of the foregoing and under the authority of 23 U.S.C. 202(c), 204, and 315; 49 CFR 1.48(b); the FHWA proposes to revise Part 667 of title 23, Code of Federal Regulations, to read as set forth below.

(Catalog of Federal Domestic Assistance Program No. 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

List of Subjects in 23 CFR Part 667

Grant programs—transportation, Highways and roads, Public lands.

Issued on: September 11, 1984.

R. A. Barnhart,

Federal Highway Administrator, Federal Highway Administration.

It is proposed to revise Part 667 to read as follows:

PART 667—PUBLIC LANDS HIGHWAYS

Sec.

667.1 Purpose.
667.3 Allocation of funds.
667.5 Project procedures.
667.7 Eligibility.

Authority: 23 U.S.C. 202(c), 204 and 315; and 49 CFR 1.48(b).

§ 667.1 Purpose.

The purpose of this regulation is to outline procedures to be followed in administering Public Lands Highways funds.

§ 667.3 Allocation of funds.

(a) Funds authorized for Public Lands Highways shall be allocated among the States on the basis of need as determined by the Federal Highway Administrator upon application of the State highway agency (SHA). Preference will be given to those projects which significantly benefit or improve Federal land and resource management.

(b) Periodically a call will be issued by the Federal Highway Administration (FHWA) to the respective SHA's for candidate projects.

(c) All candidate projects submitted in response to the above call will be reviewed by FHWA Washington Headquarters and a priority of need determined on the basis of supporting information submitted with the application dealing with the following considerations:

(1) Relationship to Federal land and resource management plans and activities including traffic carrying capacity and other effects on land use and resource development,

(2) Current status and adequacy of the present road with regard to capacity and safety,

(3) Relationship of proposed improvement to the adequate development of a complete highway section, and

(4) Schedule for physical construction; particularly, how soon physical construction will begin.

(d) After reviewing the applications based on the above criteria, the FHWA will also give some consideration to the equitable distribution to States of available funds.

§ 667.5 Project procedures.

(a) Except as noted herein, work is to be administered by the SHA in accordance with Federal-aid procedures applicable to Federal-aid primary projects or by FHWA in accordance with procedures applicable to forest highway projects. The method chosen will be determined by agreement between the SHA and the FHWA Division Administrator.

(b) The Administrator's approval of a specific project constitutes program approval, there is no need for subsequent inclusion in the statewide program of projects. Funds will be centrally allotted to the Associate Administrator for Engineering and Operations who will advise the appropriate Regional Administrator of the amount allocated for the approved project and that obligations may be processed against the central allotment up to the amount allocated for that project.

(c) Upon receipt of advice of project approval, the project should be advanced expeditiously. Projects may be constructed through contracts awarded by competitive bidding unless the FHWA Division Administrator (or Division Engineer) finds that another method is in the public interest for a particular project.

(d) The amount of Public Lands Highways funds available for the construction of a specific project is limited to the amount of funds allotted for that project. No fund transfers or changes to project termini or description as approved by the Administrator will be permitted without prior approval from Washington Headquarters.

§ 667.7 Eligibility.

(a) Funds authorized for public Lands Highways are available for public roads on the Federal-aid system which are entirely within Federal lands. (1) Funds may be used for contruction, including preliminary engineering but excluding rights-of-way.

(2) Funds may also be used for construction of adjacent vehicular parking areas, scenic easements, and sanitary, water and fire control facilities.

[FR Doc. 84-24759 Filed 9-18-84; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-124-76]

Distributions in Redemption of Stock To Pay Death Taxes; Proposed Rulemaking

Correction

In FR Doc. 84-22324 beginning on page 33277 in the issue of Wednesday, August 22, 1984, make the following corrections.

1. On page 33277, second column, eighth line, "December 3, 1976" should have read "December 31, 1976".

2. On the same page, third column, third complete paragraph, third line, "section 303(a)(2)(A)" should have read "section 303(b)(2)(A)".

3. In the same column, fifth complete paragraph, third line from the bottom, "is" should have read "in".

§ 1.303-1 [Corrected]

4. On page 33279, in § 1.303-1(a)(5), first column, tenth line from the bottom, "of" should have read "or".

5. On page 33280, in § 1.303-1(d)(4), Example (1), ninth line, "has" should read "had".

BILLING CODE 1505-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. H-200]

Occupational Exposure to Ethylene Oxide

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for comments.

SUMMARY: On June 22, 1984, the Occupational Safety and Health Administration (OSHA) published a final standard for ethylene oxide (EtO) that established a permissible exposure limit of 1 part EtO per million parts of air determined as an 8-hour time-weighted average (TWA) concentration (49 FR 25734). The standard also includes provisions for methods of exposure control, personal protective equipment, measurement of employee exposure, training, signs and labels, medical surveillance, regulated areas, emergencies and recordkeeping. The basis for this action was a determination by OSHA, based on human and animal data, that exposure to EtO presents a carcinogenic, mutagenic, genotoxic, reproductive, neurologic, and sensitization hazard to workers.

During the rulemaking proceedings that led to the establishment of the 1 ppm TWA, the issue of whether there was a need for a short-term exposure limit (STEL) for worker protection from EtO was raised. OSHA reserved decision on the adoption of a STEL at the conclusion of the rulemaking in order to permit peer review of OSHA's preliminary decision and to review more fully the arguments and pertinent data regarding the STEL issue. To date, the comments of about half of the peer reviewers on the data in the record pertaining to the STEL have been received. This notice solicits public comment both on the reviewers' analyses of the available data and on the issue of whether OSHA should adopt a STEL.

DATE: Comments in response to this notice must be submitted by November 5, 1984.

ADDRESS: Comments should be submitted in quadruplicate to the Docket Officer, Occupational Safety and Health Administration, Docket H-200, Room S-6212, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Mr. James Foster, Occupational Safety and Health Administration, Office of Public Affairs, Room N 3641, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210, Telephone (202) 523-8148.

SUPPLEMENTARY INFORMATION:

I. Events Leading to this Action

On January 26, 1982, OSHA published an Advance Notice of Proposed Rulemaking (47 FR 3566) announcing its intention to conduct a reevaluation of its existing EtO standard of 50 ppm as a TWA. In addition to a request for public comment on the adequacy of 50 ppm as a TWA, comment was also solicited on the question of the necessity of a STEL as follows:

> Is a short-term or ceiling limit for EtO exposures necessary and why, and what would be the technological and economic feasibility of complying with that limit?

On April 21, 1983, OSHA published a Notice of Proposed Rulemaking for EtO that proposed to reduce the permissible 8-hour TWA for EtO from 50 ppm to 1 ppm (48 FR 17284). Although a specific STEL for ETO was not proposed, public comment on that issue was solicited by the following questions:

Is a short-term or ceiling exposure limit for EtO exposure necessary for the PEL or action level in view of recent information regarding increased spontaneous abortions and chromosome changes in workers exposed to EtO? What monitoring methods and control technology are available to meet such a short-term limit and what would be the economic burdens, if any, of such a limit?

and,

What are the most suitable methods for determining compliance with EtO permissible exposure limits (PEL's) of 0.5 and 1 ppm as 8-hour time-weighted averages and for ceilings ranging from 5 to 50 ppm for 30 minutes or less? What are the problems associated with such monitoring methods? Do they require special training or experience? Are there serious limitations as to the accuracy or precision of the available sampling techniques?

Numerous comments and other data were received by OSHA in response to the STEL qustions set forth in the ANPR and NPR (Ex. 168). Analysis of these data resulted in OSHA including a STEL provision, with an accompanying rationale, in a draft version of the final standard dated June 14, 1984 (Ex. 167B). However, the final EtO rule published on June 22, 1984 (49 FR 25734) reserved decision on the question of whether the standard should contain a STEL (Ex. 167A).

Upon its review of comments submitted by the Office of Management and Budget (OMB) pursuant to Executive Order 12291 (Ex. 162), OSHA determined that certain issues relating to a STEL were important and merited further consideration. In particular, questions concerning the following issues merit more deliberate review:

—Quantification of the risk avoided by issuance of the STEL, in light of the requirement of the new standard to meet a 1 ppm PEL;
—The need for a STEL given current exposures and the 1 ppm PEL of the new standard;
—The appropriateness of relying on studies by Hemminki, Yager, and Johnson & Johnson as partial support for the issuance of a STEL.
—A decision by ACGIH not to recommend a STEL for EtO; and
—The economic and technical feasibility of a STEL without the use of respirators.

To develop the fullest possible administrative record, both OSHA's draft final standard (Ex. 167B) and OMB's comments (Ex. 162) as well as all other exhibits in the docket relating to the STEL (compiled as Ex. 168), have been submitted to a number of scientifically qualified peer reviewers for comment, analysis, and criticism. The peer reviewers have filed statements that have been placed in the public docket.

Public comments on the statements filed by the peer reviewers and on the issues raised by OMB on the June 14, 1984 draft standard are solicited by this notice. After reviewing the comments submitted, OSHA will publish a reasoned decision on the STEL and related issues in the **Federal Register**.

OSHA notes that the June 22, 1984 final standard does not require installation of engineering controls to meet the TWA until one year from the August 21, 1984 effective date of the standard. A decision on these STEL issues will be made in advance of that compliance deadline.

As stated in the June 22 final rule for EtO, OSHA anticipated the possibility that the peer review and public comment might result in adoption of a STEL. OSHA noted that if that were to occur, the deadline for compliance with the STEL would be the same as for compliance with the TWA—namely one year from the August 21, 1984 effective date of the standard. Comments on the feasibility of this schedule are also invited.

II. Identification of Peer Reviewers

OSHA requested peer review of the STEL data by 23 individuals and organizations. As noted above, these reviewers were provided with OSHA's June 14, 1984, draft final standard (Ex. 167B), OMB's comments (Ex. 162), and all other data in EtO Docket H–200 pertaining to the STEL issue (Ex. 168). Reviewers were asked to provide comment on those aspects of the STEL issue that were within their area of expertise (toxicology, epidemiology, industrial hygiene, etc.). OSHA contacted the following peer reviewers (A number in parenthesis in the list below reflects OSHA's receipt of the person's review and the exhibit number of that review in Docket H–200. Reviews received subsequent to publication of this notice will be entered into the docket upon receipt.):

Elliot Harris, Ph.D., Deputy Director, National Institute for Occupational Safety and Health (Ex. 181)
Ralph Allen, President, American Academy of Industrial Hygiene (Ex. 175)
Vern Carter, Ph.D., College of Veterinary Medicine, Ohio State University (Ex. 178)
William Kelly, Executive Director, American Conference of Governmental Industrial Hygienists
Dr. Donald Hoops, Executive Director, American Academy of Occupational Medicine
Dr. L.B. Russell, President, Environmental Mutagen Society
Matilda Babbitz, Executive Director, American Association of Occupational Health Nurses (Ex. 180)
Dr. Fred Oehme, President, Society of Toxicology
Dr. John Crum, Executive Director, American Chemical Society (Ex. 170)
Richard Adamson, Ph.D., National Cancer Institute (Ex. 172)
David P. Rall, M.D., Ph.D., National Institute of Environmental Health Sciences (Ex. 171)

The following 12 members of the Department of Labor's National Advisory Committee on Occupational Safety and Health were also requested to review and submit comments on the STEL issue:

Frank R. Barnako, Chairman of the Board, National Safety Council (Ex. 174)
Joyce C. Hearn, Representative, South Carolina Legislature
Sidney Shindell, M.D., Chairman, Department of Preventive Medicine, The Medical College of Wisconsin (Ex. 176)
Robert B. Taylor, Director, Division of Occupational Safety and Health, Tennessee Department of Labor
Tom Baker, President, Baker Electric Company
Bruce W. Karrh, M.D., General Director, Medical, Safety and Fire Protection, E.I. DuPont DeNemours and Co., Inc. (Ex. 173)
John J. Donlon, Business Manager, Colorado Building and Construction Trades Council
R.V. Durham, Director, Safety and Health Department, International Brotherhood of Teamsters, Chauffers, Warehousemen & Helpers of America (Ex. 179)
B. Gawain Bonner, Director, Safety and Health, Tenneco, Inc.
Ronald H. Davis, Vice President, Industrial Relations, Carolina Steel Corporation
Marcus M. Key, M.D., Professor of Occupational Medicine, The University of Texas Health Sciences Center (Ex. 177)
William E. McCormick, Former Managing Director, American Industrial Hygiene Association

III. Public Participation

Interested persons are invited to submit written comment on the statements filed by the peer reviewers and the issues raised by OMB. Comments should be sent in quadruplicate to the Docket Officer at the address noted at the beginning of this document where they will be available for inspection and copying. Comments must be submitted by November 5, 1984. The comments received in response to this notice will be carefully reviewed and, along with other relevant material in the record, will be used by OSHA to arrive at a final determination as to whether it is necessary and appropriate to adopt a STEL for occupational exposure to EtO, and, if so, what the STEL should be.

This notice was prepared under the direction of Robert Rowland, Assistant

Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue, NW., Washington, D.C. 20210. It is issued pursuant to section 6(b) of the Occupational Safety and Health Act (84 Stat. 1593; 29 U.S.C. 655).

List of Subjects in 29 CFR Part 1910

Occupational safety and Health.

Signed at Washington, D.C., this 14th day of September 1984.

Robert A. Rowland,

Assistant Secretary of Labor.

[FR Doc. 84-24848 Filed 9-18-84; 8:45 am]

BILLING CODE 4510-26-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-1-FRL-2671-5]

Approval and Promulgation of Implementation Plans; Maine—Particulate Emissions Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve State Implementation Plan (SIP) revisions submitted by the State of Maine. These statewide revisions will require fuel burning equipment to meet more stringent particulate emissions limits. The intended effect of this action is to ensure maintenance of air quality standards as required under Section 110 of the Clean Air Act.

DATES: Comments must be received on or before October 19, 1984.

ADDRESSES: Comments may be mailed to Harley F. Laing, Director, Air Management Division, Room 2312, JFK Federal Bldg., Boston, MA 02203. Copies of the submittal and EPA's evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, Room 2313, JFK Federal Bldg., Boston, MA 02203 and Maine Department of Environmental Protection, Bureau of Quality Control, Ray Building, Hospital Street, Augusta, Maine 04330.

FOR FURTHER INFORMATION CONTACT: Margaret McDonough (617) 223-4870.

SUPPLEMENTARY INFORMATION: On January 11, 1983 and March 29, 1984 the Commissioner of the Maine Department of Environmental Protection (DEP) submitted revisions to Chapter 103, "Fuel Burning Equipment Particulate Emission Standard," of the Maine SIP. The new particulate emission limits are equivalent to or more stringent than the present SIP regulation. The new regulation sets separate emission limits for coal, oil, wood and multiple fuel-fired boilers; the present SIP contains one limit for all source categories.

Proposed Limits for Existing Sources

Existing sources are defined as those which applied for an air emissions license before December 22, 1982 which is the date on which the Maine DEP adopted revisions to Chapter 103 "Fuel Burning Equipment Particulate Emission Standard."

The present Maine SIP limits particulate emissions from all fuel burning equipment rated at 150 million Btu per hour or greater to 0.30 pounds per million Btu. For equipment rated at under 150 million Btu per hour the limits are increasingly less stringent as the rated capacity decreases. The new regulation sets more stringent limits for certain categories of existing sources. Table 1 compares the current SIP to the proposed revisions.

TABLE I.—PARTICULATE EMISSION LIMITS FOR EXISTING SOURCES

Source category	Design capacity (MM Btu/hr)	SIP emission limit (lbs. particulate/ MM Btu)	Proposed revision (lbs particulate/ MM Btu).
1. Oil, gas, petroleum burning.	Less than 150.	0.30 or greater.[1].	0.20.
	150 or greater.	0.30	0.20
2. Coal burning.	Less than 50.	0.30	
	50 or greaterD0.30 or greater[1].	0.08	
	0.30		
3 Wood burning (wood, bark, chips, sawdust, pulp mill sludge, forest products including those with oil firing capabilities).	Less than 150.	0.30 or greater[1].	0.30 or greater[1].
	150 or geater.	0.30	0.30.

[1] A sliding scale is used to determine emission limits for sources rated at less than 150 million Btu per hour.

Any petroleum burning source that cannot achieve the 0.20 pounds per million Btu emission limit may operate at a higher emission rate not to exceed 0.30 pounds per million Btu if it installs automatic fuel viscosity controls and combustion efficiency instrumentation.

Proposed Emission Limits for New Sources

New sources are those which apply for air emissions license after December 22, 1982. Current SIP limits for new sources and proposed revisions are shown in Table 2.

TABLE 2.—PARTICULATE EMISSION LIMITS FOR NEW SOURCES

Source category	Design capacity (MM Btu/hr)	SIP emission limit (lbs. particulate/ MM Btu)	Proposed revision (lbs particulate/MM Btu).
1. Oil, gas, petroleum burning.	Less than 50	0.30 or [1] greater.	0.12
	50 to less than 250.	0.30 or [1] greater.	0.08
	Greater than 250.	0.30	0.06
2. Coal burning..	Less than 50	0.30 or [1] greater.	0.30
	50 to less than 250.	0.30 or [1] greater.	0.08
	250 or greater	0.30	0.05
3. Biomass boiler (wood, bark, coal sludge, petroleum product alone or in combination).	Less than 50	0.30 or [1] greater.	0.30
	50 to less than 250 when burning primary fuel or within range of design rate proportions.	0.30 or [1] greater.	0.08
	50 to less than 250 when burning other than the primary fuel or outside the range of design rate proportions.	0.30 or [1] greater.	0.10
	250 or greater when burning the primary fuel or within the range of design rate proportions.	0.30	0.06
	250 or greater when burning other than the primary fuel or outside the range of design rate proportions.	0.30	0.10
	Greater than 50 and using a venturi scrubber providing 75% sulfur dioxide removal.	0.30	0.10
4. Solid Waste Burning.	Less than 50	.08 grains per dry standard cubic foot.	0.30
	50 to less than 250.	do	0.20
	250 or greater	do	0.10

[1] A sliding scale is used to determine emission limits for sources rated at less than 150 million Btu per hour.

New Source Performance Standards (NSPS) for incinerators apply to solid waste burning sources if more stringent. The NSPS particulate emission limit is 0.08 grains per dry standard cubic foot and applies to incinerators charging greater than 50 tons per day. NSPS for

other source categories will also apply if more stringent than the revised chapter 103.

Any source which is considered new (i.e. applies for a license after December 22, 1982) but is installing previously owned equipment may be exempt from the proposed emission limits in Table 2 and will be subject to case-by-case emission limitations which may not be less stringent than emission limits for existing sources (Table 1).

New oil, gas and petroleum burning sources rate at exactly 250 million Btu per hour were inadvertently omitted. This omission must be addressed by DEP before EPA issues a final approval of Chapter 103.

Proposed Action

EPA is proposing to approve the revisions to Chapter 103, "Fuel Burning Equipment Particulate Emission Standard" because the emission limits in all cases are at least as stringent as the present SIP limits. DEP must address oil, gas and petroleum product burning sources rated at exactly 250 million Btu per hour before EPA can publish a final rulemaking.

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities (see 46 FR 8709).

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

The Administrator's decision to approve or disapprove the plan revisions will be based on whether it meets the requirements of Section 110(a)(2) (A)–(K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51. These revisions are being proposed pursuant to Sections 110(a) and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410(a) and 7601(a)).

List of Subjects in 40 CFR Part 52

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

Dated: August 3, 1984.

Paul G. Keough,

Acting Regional Administrator, Region I.

[FR Doc. 84-24497 Filed 9-18-84; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[EPA Docket No. AM012WV; A-3-FRL-2673-1]

State of West Virginia; Proposed Revision of the West Virginia State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: On August 14, 1980, at 45 FR 54042, EPA approved, with certain conditions, West Virginia's revised State Implementation Plan (SIP) for the attainment of National Ambient Air Quality Standards for Total Suspended Particulates (TSP). One of the conditions EPA established was that West Virginia revise Regulation VII and submit this revision and associated test procedures, to EPA as a SIP revision. EPA has reviewed these test procedures from West Virginia and is proposing its approval in this Notice.

DATE: Comments must be submitted on or before October 19, 1984.

ADDRESSES: Copies of West Virginia's Test Procedures for Regulation VII are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Air Management Division, Curtis Building, Tenth Floor, Sixth and Walnut Streets, Philadelphia, PA 19106, Attn: Denis M. Zielinski

West Virginia Air Pollution Control Commission, 1558 Washington Street, East, Charleston, West Virginia 25312, Attn: Mr. Carl G. Beard, II.

All comments on the proposed revision submitted within thirty (30) days of publication of this notice will be considered and should be directed to Mr. Glenn Hanson, Chief, PA/WVA Section, EPA Region III, Curtis Building, Sixth and Walnut Streets, Philadephia, PA 19106, EPA Docket No. AM012WV.

FOR FUTHER INFORMATION: Denis M. Zielinski (3AM11) at the EPA, Region III address above or call (215) 597–2906.

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1977 required States to submit revised State Implementation Plans (SIP's) for all areas where National Ambient Air Quality Standards (NAAQS) have not been attained. West Virginia submitted a SIP revision to EPA as required for attainment of the TSP NAAQS's. EPA approved this SIP revision, with certain conditions, in a notice published at 45 FR 54042, August 14, 1980. One of the conditions in the SIP was that West Virginia was to revise its Regulation VII—"To Prevent and Control Particulate Air Pollution From Manufacturing Process Operations".

On September 20, 1983 (48 FR 42813), EPA approved the revision of Regulation VII with certain conditions. This approval did not include the associated compliance test procedures and EPA conditioned approval upon submittal by West Virginia of the associated test procedures now being proposed for approval today.

On January 31, 1984, West Virginia submitted emergency regulations and TP-4—"Compliance Test Procedures For Regulation VII—'To Prevent and Control Particulate Air Pollution From Manufacturing Process Operations' ". On June 13, 1984, West Virginia notified EPA that the test procedures submitted on January 31, 1984 were the final submittal.

EPA has reviewed West Virginia's test procedures and has determined them to be acceptable. Therefore, EPA is proposing to approve these test procedures as a revision to the West Virginia SIP.

EPA invites the public to comment on whether the test procedures should be approved. Comments should be submitted to the address given above.

EPA's final decision to approve or disapprove the proposed revision will be based on the comments received and on a determination of whether the revision conforms to the requirements of section 110(a)(2) of the Clean Air Act and of 40 CFR Part 51.

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), the Regional Administrator has certified that this SIP revision will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 52

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

Authority: 42 U.S.C. 7401–7642.

Dated: August 15, 1984.

Sheldon M. Novick,

Acting Regional Administrator.

[FR Doc. 84-24750 Filed 9-18-84; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[EPA Docket Nos. AM049, 50, 51, 52, 56 and 57 MD; A-3-FRL-2673-7]

Proposed Approval of Revisions to the Maryland State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: On December 13, 1983 and April 6, 1984, the Maryland Air Management Administration submitted to EPA proposed revisions to the Maryland State Implementation Plan (SIP) in the form of a Plan for Compliance (PFC) for each of the following Companies: General Motors Corporation, GM Assembly Division (Baltimore City Plant); American Can Company (Baltimore City); National Can Corporation (Baltimore County); Crown Cork and Seal Company, Inc. (Baltimore City) and Continental Can Company, (Baltimore City).

The proposed PFCs require compliance by each of the companies with all applicable provisions of the Code of Maryland Regulations (COMAR) governing the emission of Volatile Organic Compounds (VOC). The proposed PFCs for the American Can Company, National Can Corporation, Crown Cork and Seal Company, and the Continental Can Company also require compliance with the applicable Maryland regulations which govern Visible Emissions (VE).

EFFECTIVE DATE: Comments must be submitted on or before October 19, 1984.

ADDRESSES: Copies of the proposed SIP revisions and the accompanying support documents are available for public inspection during normal business hours at the following locations.

U.S. Environmental Protection Agency, Region III, Air Programs Branch (3AM13), Curtis Building, Sixth and Walnut Streets, Philadelphia, PA 19106, Attn: Mr. James Topsale, P.E.

Maryland Air Management Administration, Maryland Department of Health and Mental Hygiene, 201 West Preston Street, Baltimore, MD 21201, Attn: Mr. George Ferreri

All comments on the proposed revision submitted within 30 days of publication of this Notice will be considered and should be directed to Mr. James Sydnor, Chief, Maryland, Virginia, Delaware, District of Columbia Section at the EPA, Region III address stated above. Please reference the EPA Docket Numbers found in the heading of this Notice.

FOR FURTHER INFORMATION CONTACT: Mr. James Topsale, P.E. or Mr. Paul Racette at the Region III address stated above or telephone 215/597-4553.

SUPPLEMENTARY INFORMATION:

Background

This proposed SIP revision consists of Plans for Compliance (PFCs) in the form of Consent Orders between the 5 companies and the Maryland Department of Health and Mental Hygiene (DHMH). The proposed PFCs require that each company come into full compliance with the Code of Maryland Regulations (COMAR) for Volatile Organic Compounds (VOC).

In the cases of the National Can Corporation, American Can Company, Crown Cork and Seal Company, and the Continental Can Company, the PFCs ensure compliance with the COMAR Visible Emission (VE) regulations. A summary of the control strategies for each company is as follows:

[AM049MD]

General Motors Corporation, Baltimore City

The General Motors Corporation (GM) PFC ensures that the requirements of COMAR 10.18.21.03B (Control of VOC Emissions from Automotive and Light Duty Truck Coating) and COMAR 10.18.21.13 (Control of VOC Emissions from Miscellaneous Metal Coating) will be met as expeditiously as possible. The PFC includes control strategies for the prime coat, primer-surfacer, final repair coating, and topcoat, along with an outline for developing control strategies for the hi-temp anti-corrosion coating, anti-corrosion wax, zinc-rich primers, and coatings for steering columns.

GM plans to control prime coat emissions through the use of a new electrodeposition (ELPO) facility. GM had originally planned to build the ELPO facility in 1980, but due to the economic downturn, construction was cancelled. Presently, the company has decided to produce a new downsized van that will require the major capital investment of an ELPO facility. Construction of this facility was scheduled to be initiated on April 1, 1984. The facility will be completed by December 31, 1984, when GM will be in compliance with COMAR 10.18.21.03B for the prime coat. This date is consistent with the EPA Policy Statement for Automobile Assembly Plant Paint Shop Operations, 46 FR 51386, October 20, 1981. The policy statement allows compliance date extensions until 1984 for companies installing ELPO facilities, in order to defer significant capital expenditures and to allow time for installation. GM will also achieve compliance for the primer-surfacer and the final repair coatings by December 31, 1984. This will be accomplished through the development of low solvent coatings that meet the requirements of COMAR 10.18.21.03B.

GM plans to achieve compliance for the topcoat coatings by December 31, 1986. Their topcoat facilities are being modified to utilize base coat/clear coat (BC/CC) topcoat technology. Due to the need for additional time to develop BC/CC technology that would produce compliance coatings, EPA in the October 20, 1981 Policy Statement granted an extension period to automobile paint shop operations.

GM's December 31, 1986 compliance date is consistent with the allowed extension period. GM will achieve compliance through the evaluation of alternative control techniques, including applying solventborne coatings with improved transfer efficiencies and booth or oven emission abatement. As further low solvent coating development programs evolve, compliance coatings that are production-ready by 1986 are to be utilized by GM in their modified plant as a part of the developing BC/CC technology.

The PFC also contains provisions for ensuring compliance with COMAR ⅛10.18.21.13B, as applicable, for GM's hi-temp anti-corrosion coatings, anti-corrosion wax, zinc-rich primers, and the coating for steering columns. By April 1, 1984 GM will advise the DHMH of the anticipated coating usage, and solvent content of each of these four miscellaneous metal coating operations.[1] Within ninety (90) days after this notification, the DHMH will determine the applicability of these coatings to the requirements of COMAR 10.18.21.13B, and advise GM of which coatings need to be replaced. Within sixty (60) days of the receipt of this determination, GM shall submit a compliance schedule which shall call for the utilization of these required compliance coatings as expeditiously as practical, but in no case shall the schedule extend beyond December 31, 1986.

[AM050MD]

The American Can Company, Baltimore City

The American Can Company (American Can) must meet the

[1] In GM's April 10 letter to the DHMH, the company noted that the anti-corrosion wax, zinc-rich primers, and coatings for steering columns will not be used at the facility. They also noted that the hi-temp anti-corrosion coating does not contain VOCs. Based on the GM letter, Section (4)E of the PFC may no longer be applicable.

requirements of COMAR 10.18.21.04B (Control of VOC Emissions from Can Coating) and COMAR 10.18.06.02B (Control of Visible Emissions). Their PFC includes control strategies for end-seal/sheet base coatings and inside body spray and side seam stripe coatings. Compliance is to be achieved by the development of low solvent replacement coatings. As these coatings are developed into low solvent form, they are tested in commercial trials to evaluate their acceptability as a replacement coating. By September 30, 1984, any of the materials to be converted to low solvent coatings must be formulated into production text packs. By December 31, 1985, American Can shall be in compliance with all the requirements of COMAR 10.18.21.04 either by converting the end-seal compounds and sheet base coating materials to low solvent coatings or by converting a sufficient number of these materials to low solvent coatings so that the entire can manufacturing operation shall be in compliance by utilizing a daily production weighted averaging technique. This averaging technique is outlined in EPA's Policy Memorandum of December 8, 1980, 45 FR 80824. The December 31, 1985 compliance deadline is consistent with EPA's Policy Memorandum for Can Coating Operations of March 3, 1982, 47 FR 10293.

If American Can decides that compliance cannot be achieved solely through the use of low solvent coatings, control equipment shall be purchased and installed. This equipment shall consist of a fume incinerator. American Can has submitted dates for applying for a permit to construct, issuing purchase orders, initiating construction, completing construction, and achieving compliance. American Can shall achieve compliance by the designated December 31, 1985 deadline if control equipment is necessary.

[AW051MD]

The National Can Corporation, Baltimore City

The National Can Corporation (National Can) must meet the requirements of COMAR 10.18.21.04B and COMAR 10.18.06.02B. Their PFC includes control strategies for end-seal compound and sheet base coatings. Compliance is to be achieved by the development of low solvent replacement coatings. By September 30, 1984, National Can will have evaluated all of their coating materials to determine which materials must be replaced by a low solvent coating. As these materials are developed into low solvent form, they are tested in commercial trials to evaluate their acceptability as a replacement coating. By September 30, 1984, any of the materials to be converted to low solvent coatings must be formulated into production test packs. By December 31, 1985, National Can shall be in compliance with all the requirements of COMAR 10.18.21.04 either by converting the end-seal compound and sheet base coating to low solvent coatings or by converting a sufficient number of these materials to low solvent coatings so that the entire can manufacturing operation shall be in compliance by utilizing a daily production weighted averaging technique. This averaging technique is outlined in EPA's Policy Memorandum of December 8, 1980, 45 FR 80824. The December 31, 1985 compliance deadline is consistent with EPA's Policy Memorandum for Can Coating Operations of March 3, 1982.

If National Can decides that compliance cannot be achieved solely through the use of low solvent coatings, control equipment shall be purchased and installed. National Can has submitted dates for applying for a permit to construct, initiating construction, and completing construction and achieving compliance. National Can shall achieve compliance by the designated December 31, 1985 deadline if control equipment is necessary.

[AW056,57MD]

Crown, Cork and Seal Company, Baltimore City, Continental Can Company, Baltimore City

The Crown, Cork and Seal Company (Crown, Cork and Seal) and Continental Can Company (Continental Can) have submitted PSCs that are similar to those submitted by National Can and American Can. Crown Cork and Seal (AW057MD) must meet the requirements of COMAR 10.18.21.04B, COMAR 10.18.21.13C and COMAR 10.18.06.02B, while Continental Can (AM056MD) must meet the requirements of COMAR 10.18.21.04B and COMAR 10.18.06.02B. Crown, Cork and Seal's PFC includes control strategic for end-seal compound, sheet base coat, and crown manufacturing, while Continental Can's PFC includes control strategies for end-seal compound and sheet base coat. As was described for National and American Can, compliance is to be achieved by the development of low solvent coatings. These coatings are tested in commercial trials to evaluate their acceptability. By September 30, 1984 each company will have formulated into production test packs any of the materials to be converted into low solvent form. By December 31, 1985, each of these companies shall be in compliance with all of the required regulations. This will be achieved with the low solvent coating technology, and the daily production weighted averaging technique as it is needed.

If compliance cannot be achieved solely through the use of low solvent coatings, each company shall purchase and install control equipment. Each company has submitted dates for applying for permits to construct, initiating construction, completing construction and achieving compliance. The two companies shall achieve compliance by the designated December 31, 1985 deadline if control equipment is necessary.

EPA Evaluation

Based on our review of these PFCs, EPA is today proposing to approve them as SIP revisions. The State of Maryland has certified that, after adequate public notice, hearings were held with respect to these proposed SIP revisions in Baltimore, Maryland on September 15, 1983 and January 12, 1984. Public Notices for GM and National Can were published on August 15, 1983, and for American Can on August 8, 1983. Public notices for Continental Can and Crown Cork and Seal were published on December 9, 1983 and December 14, 1983, respectively.

EPA's approval of these PFCs is based in part on the State's demonstration that the Reasonable Further Progress (RFP) curve will not be adversely affected by the plans, and on evidence that the plans will require compliance as expeditiously as possible. The DHMH has determined that each of the 5 PFCs will maintain RFP in reducting VOC emissions in the Metropolitan Baltimore Intrastate Air Quality Control Region. The DHMH has estimated VOC Emissions for each company for 1980, 1981, and 1987, and has demonstrated that each company will effectively reduce VOC Emissions over the eight year period, with full compliance being achieved by, or before, 1987. In the Metropolitan Baltimore Instrastate Air Quality Control Region VOC Emissions, as a result of the five PFCs, will be reduced from 14,070 tons VOC/year in 1980 to 3,980 tons VOC/year in 1987, resulting in a 10,090 tons VOC/year incremental reduction in total regional VOC emissions. The conclusions concerning the expeditiousness of the PFCs are based upon detailed discussions with each company and on the EPA policy statements for Can Coating Operations and Automobile

Assembly Plant Operations that are sited in this Notice.

Each company is committed to submit to the DHMH either quarterly or semi-annual progress reports consisting of the reporting requirements specified in each company's PFC. Additionally, each company must notify the DHMH immediately of any inability to meet the increments of progress required by the PFCs, including the reasons for non-compliance with requirements.

Conclusion

The Regional Administrator's decision to propose approval of the PFCs is based on a determination that the SIP revisions meet the requirements of section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of State Implementation Plans.

The Public is invited to submit, to the address stated above, comments on whether the proposed revisions to the State of Maryland's SIP should be approved.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291. Pursuant to the provisions of 5 U.S.C. 605(b), the Regional Administrator has certified that SIP approvals under Sections 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. See 46 FR 8709 (January 27, 1982).

List of Subjects in 40 CFR Part 52

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

Authority: 42 U.S.C. (sections 7401–7642).

Dated: June 11, 1984.

Stanley L. Laskowski,

Acting Regional Administrator.

[FR Doc. 84–24754 Filed 9–18–84; 8:45 am]

BILLING CODE 6560–50–M

GENERAL SERVICES ADMINISTRATION

41 CFR Ch. 201

Federal Information Resources Management Regulation (FIRMR); Publication of Integrated Provisions

AGENCY: Office of Information Resources Management, GSA.

ACTION: Notice of proposed rulemaking and availability of drafts of Block "C" segment.

SUMMARY: This notice announces the availability of the Block C portion of the proposed integrated text to be published as Amendment 1 to the FIRMR. No changes will be made in authorities, policies, or procedures from those contained in codified portions of the Federal Procurement Regulations (FPR) and Federal Property Management Regulations (FPMR) from which the provisions are derived. Nevertheless, users may desire to become acquainted with the manner in which the integration is made. While comment and review is not solicited, all comments and suggestions received will be considered.

DATE: Any comments on the proposed provisions should be submitted in writing to the Policy Branch, OIRM at the address shown below on or before October 19, 1984. FIRMR Block C and the applicable FIRMR Part number must be cited in all correspondence related to this notice.

ADDRESS: Comments should be submitted to the General Services Administration, KMPP, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Ms. Leticia Boddie, Policy Branch, Office of Information Resources Management, telephone 202 566–0194 or FTS, 566–0194. A single copy of any of the parts comprising Block C is available upon request; please specify the part(s) desired.

SUPPLEMENTARY INFORMATION: GSA has established (49 FR 20994, May 17, 1984) the FIRMR to provide a single regulation for use by Federal agencies governing certain of their information activities. Text was published for only Part 201–1. An amendment to the FIRMR is under development to publish an integrated FIRMR text for codified Federal Procurement Regulations (41 CFR Subparts 1–4.11, 1–4.12, and 1–4.13) and Federal Property Management Regulations (41 CFR Parts 101–35, 101–36, 101–37). The third of four blocks of integrated FIRMR text has been drafted. Block C consists of five FIRMR parts. Each part includes derivation and distribution tables relating FIRMR sections to FPR/FPMR sources. Block C also includes two temporary regulation actions to present temporary provisions changed to be consistent with the integrated text.

List of Subjects in 41 CFR Ch. 201

Government information resources activities, Government procurement.

Authority: 201(c), 63 Stat. 390; 40 U.S.C. 486(c).

The parts in Block C are—

Part 201–21—Telecommunications Management Programs

Part 201–38—Management of Telecommunication Resources

Part 201–39—Major Changes and New Installations of Telecommunication Resources

Part 201–40—Contracting for Telecommunication Resources

Part 201–41—Routine Changes and Use of the Federal Telecommunications System (FTS)

The proposed temporary regulations in Block C are—

Proposed Temp. Reg. 3 (Reissue of FPMR Temp. Reg. F–502 provisions)

Proposed Temp. Reg. 4 (Reissue of FPR Temp. Reg. 51 and Supp. 2 to Temp. Reg. 51 provisions)

Dated: September 7, 1984.

Francis A. McDonough,

Deputy Assistant Administrator for Federal Information Resources Management.

[FR Doc. 84–24758 Filed 9–18–84; 8:45 am]

BILLING CODE 6820–25–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposal To Remove Three Palau Birds From the List of Endangered and Threatened Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to remove the Palau fantail (*Rhipidura lepida*), the Palau ground-dove (*Gallicolumba canifrons*), and the Palau owl (*Pyroglaux* (=*Otus*) *podargina*) from the protection of the Endangered Species Act of 1973, as amended. This action is being taken because these species are distributed throughout their former range, are found in relatively high numbers, and are faced with no foreseeable threat. They suffered population reductions in southern Palau during World War II, but have increased in these areas since then.

DATES: Comments must be received by November 19, 1984. Public hearing requests must be received by November 5, 1984.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Regional Director, Endangered Species, Department of the Interior, U.S. Fish and Wildlife Service, 500 NE. Multnomah Street, Suite 1692, Portland, Oregon 97232. Comments and materials received will be available for public inspection, by appointment, during

normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Willian F. Shake, Assistant Regional Director—Federal Assistance, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 NE. Multnomah Street, Portland, Oregon 97232 (503/231–6131).

SUPPLEMENTARY INFORMATION:

Background

Palau Fantail or Melimdelebteb

The fantail (*Rhipidura lepida*) is an old world flycatcher of the family Muscicapidae. It is common in the forests of Palau, and is presently distributed throughout its former range. It is found on all the major islands from Babeldaob to Peleiu, and on many of the smaller limestone islands between. The fantail inhabits all forest types except mangrove, and shows a preference for mixed second-growth stands with a thick and well developed understory. Early accounts suggest the fantail was common in the mid-1800's (Finsch, 1875), rare in 1931 (Coultas *in* Baker, 1951), and uncommon in 1945 on islands damaged by World War II (Baker, 1951).

Surveys completed by the Trust Territory Conservation Office in 1977–78 show that the fantail is common and widespread, and in fact is now most abundant on Peleliu, an island that was heavily damaged during the war. Observations by visiting ornithologists in the 1970's confirm the general abundance of the fantail (Pratt *et al.*, 1980).

Palau Ground-Dove or Omekrenguk

The Palau ground-dove (*Gallicolumba canifrons*) inhabits dense to open forest of rocky limestone substrates. Its historical and present range includes the many limestone islands from Koror to Angaur. A few birds have also been recorded from the large volcanic island of Babeldaob. Past accounts indicate the ground-dove has always been uncommon, particularly on war-damaged islands after World War II (Baker, 1951). Accurate assessments of the ground-dove's status are hindered by its inaccessible habitat, its low density, and its soft and infrequently voiced call. In surveys conducted by the Trust Territory Conservation Office from 1977–79, the ground-dove was found to be uncommon but widespread within its range on all the limestone islands within its original range. Island populations that were depressed in 1945 have recovered. A minimum of 15 birds was estimated to remain on Peleliu in 1945 (Baker, 1951), but the recent survey shows a population of over 150 on that one island.

Though uncommon to rare, the dove's low density is apparently natural and probably due to the living requirements of the species. There appears to be no imminent threats to the population. The many limestone islands that constitute the primary range are a *de facto* refuge. The ground-dove's small size, inaccessible habitat, and low, scattered numbers all make the bird an unsought game species.

Palau Owl or Chesuch

The Palau owl (*Pyroglaux* (=*Otus*) *Podargina*) is abundant and inhabits all the major islands from Babeldaob to Angaur. It resides in all forest types, including mangroves. The owl is a vocal species, and can be readily located by its loud and persistent calls that are voiced during the night. The owl has always been reported as common, though immediately after World War II it was rare on islands of southern Palau affected by the war (Marshall, 1949; Baker, 1951). It was thought that the owl had continued to decrease after World War II, possibly as a result of its feeding on the introduced coconut rhinoceros beetle (*Oryctes rhinoceros*), but since the 1960's the owl has steadily increased in numbers (Owen *in* Pratt *et al.*, 1980). (The beetle apparently is swallowed whole and kills the owl by piercing the stomach of the owl. Today, it is found in high densities. On Peleliu only 4 pairs could be located in 1945; the population in 1978 was estimated at over 300 on this island, and over 10,000 throughout the archipelago. The population appears to be secure and stable.

Neither the fantail, the ground-dove, nor the owl are sought as game species, and are not especially persecuted by humans. In the past, all three species have been protected by Trust Territory laws. Thses laws are slated to be adopted by the new government of Palau upon termination of the Trust. The new constitution of Palau bans personal possession of firearms, making it illegal to hunt with firearms. The forest habitat for these species is relatively secure. The high limestone islands should remain in a natural state; these generally have poor access, are preciptous, and have a rocky substrate that is unsuitable for agriculture or other types of development. On the main island of Babeldaob, a more extensive road system is planned, but a major portion of the island should remain in a forested condition. Populations of all three species do not appear to be threatened by disease, predation, or other nautral or manmade factors.

The Palau fantail, Palau ground-dove, and Palau owl were classified as endangered June 2, 1970 (35 FR 8495). No critical habitat was designated. This delisting action will merely acknowledge the fact that these species are not threatened or endangered and remove them from protection under the Endangered Species Act fo 1973, as amended (16 U.S.C. . 1531 *et seq.*).

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR 424.11; under revision to accommodate the 1982 Amendments) set forth the procedures for listing, reclassifying, or removing species from the Federal lists. The term "endangered species" means any species which is in danger of extinction throughout all or a significant portion of its range other than a species of the Class Insecta determined by the Secretary to constitute a pest whose protection under the provision of the Act would present an overwhelming and overriding risk to man. The term "threatened species" means any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

A species may be determined to be an endangered or threatened species due to one or more of the five factors described in Section 4(a)(1). The data used to support a removal must be the best scientific and commercial data available to substantiate that the species is neither endangered nor threatened. Fctors leading to delisting include extinction, recovery of the species, or the original data for classification were in error. The factors in Section 4(a)(1) and their application to the Palau fantail, Palau ground-dove, and Palau owl are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

The three Palau birds are all forest species. About 75 percent of Palau is forested, and much of this forest should remain intact in future years, particularly on the many small, inaccessible islands between Koror and Peleliu. Despite relatively rapid development at present, much of the growth is concentrated around the capital of Koror and on the upper savannas of Babeldaob, where there is little forest habitat.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

None of the three Palau birds are utilized for these purposes. Occassionally, the Palau owl is taken for a pet and the Palau ground-dove is taken incidental to hunting for the Micronesian pigeon (*Dacula oceanica*). These losses are few and are not considered a threat to the population.

C. Diseasu or Predation

Populations of all three species appear to be stable, and neither disease nor predation is thought to pose a threat at present.

D. The Inadequacy of Existing Regulatory Mechanisms

All three species are protected by local regulations. Recently a ban on personal possession of firearms was enacted in Palau, which may further reduce any illegal taking of these and other bird species.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

There are no other known factors that are affecting the continued existence of the three Palau species.

In summary, the Palau fantail, Palau ground-dove, and Palau owl appear to have recovered on islands damaged during World War II. The original status information was meager and more recent and complete information is now available. These three Palau species are presently distributed throughout their former habitat and have stable populations that survive at or near their respective carrying capacities. They thus appear no longer to meet the definitions of threatened or endangered species.

Effects of the Rule

The rule merely acknowledges that the Palau fantail, Palau ground-dove, and Palau owl are not threatened with becoming endangered or in danger of extinction and that further protection under the Act is not required. Those prohibitions and conservation measures under the Act, sections 7 and 9, in particular, would no longer be applicable to these species if this rule is made final. As there were no specific preservation or management programs for the species in effect, there will be no impact or any agency or idividuals.

Public Comments Solicited

The Service intends that any rule finally adopted will be as accurate and effective as possible. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of this proposed rule are hereby solicited. The principal information that would affect this rule is evidence that these species are still under some threat to their continued existence. Comments are particularly sought concerning:

(1) Biological, commercial trade, or other relevant data pertaining to any threat (or lack thereof) to the three Palau species;

(2) Additional information concerning the range and distribution of these species; and

(3) Current or planned activities in the subject area and their possible impacts on these three Palau species.

Final promulgation of the regulation on the three Palau species will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal (see **DATES**). Such requests must be made in writing and addressed to the Regional Director, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 NE. Multnomah Street, Portland, Oregon 97332.

National Environmental Policy Act

The Fish and Wildlife service has determined that an Environmental Assessment, as defined by the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to Section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References

Baker, R.H. 1951. The avifauna of Micronesia, its origin, evolution, and distribution. Univ. of Kansas Publ. 3(1):1–359.

Finch, O. 1875. On the ornithology of the South Sea Islands, Vol. 1. The birds of the Palau Islands. Journal of the Godeffroy Museum 8:1–51. (in German)

Marshall, J. T., Jr. 1949. The endemic avifauna of Saipan, Tinian, Guam, and Palau. Condor 51:200–221.

Pratt, H.D., J. Engbring, P.L. Bruner, and D.G. Berret. 1980. Notes on the taxonomy, natural history, and status of the resident birds of Palau. Condor 82:117–131.

Author

The primary author of this proposed rule is John Engbring, U.S. Fish and Wildlife Service, 300 Ala Moana Boulevard, P.O. Box 50167, Honolulu, Hawaii 96850.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

§ 17.11 [Amended]

2. It is proposed to amend § 7.11(h) by removing the following entries, in alphabetical order under BIRDS, from the List of Endangered and Threatened Wildlife: Fantail, Palau; Ground-dove, Palau; and Owl, Palau.

Dated: August 21, 1984.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84–24768 Filed 9–18–84; 8:45 am]

BILLING CODE 4310–55–M

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50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Reopening of Comment Period for the Warner Sucker Proposed Threatened Status and Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: The Service extends the comment period for the Warner sucker proposed rule. The Service has received requests to extend this period so that additional data may be submitted concerning the proposed threatened status and critical habitat for this species.

DATES: The public comment period is reopened September 19, 1984. Comments from all interested parties must be received on or before Monday, October 29, 1984, in order to ensure consideration.

ADDRESSES: Comments and materials should be sent to the Regional Director, U.S. Fish and Wildlife Service, Lloyd 500 Building, 500 NE Multnomah Street, Suite 1692, Portland, Oregon 97232. Comments and materials received will

be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: William F. Shake, Assistant Regional Director, Federal Assistance, U.S. Fish and Wildlife Service, Lloyd 500 Building, 500 NE Multnomah Street, Suite 1692, Portland, Oregon 97232 (503/231–6131 or FTS 429–6131).

SUPPLEMENTARY INFORMATION:

Background

The proposed rule published May 21, 1984 (49 FR 21383) for the Warner sucker invited public comments. In the **Federal Register** of August 13, 1984 (49 FR 32320) the Service reopened the comment period until September 13, 1984 and announced a public hearing. The public hearing was held on August 29, 1984, in Lakeview, Oregon. As a result of public comments received during the current comment period, the Service reopens the comment period to October 29, 1984.

Author

The primary author of this notice is Carolyn Bohan, U.S. Fish and Wildlife Service, Lloyd 500 Building, 500 NE Multnomah Street, Suite 1692, Portland, Oregon 97232 (503/231–6131).

Authority: The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*; Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Dated: September 12, 1984.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84–24769 Filed 9–18–84; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 49, No. 183
Wednesday, September 19, 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

Office of the Secretary

Determination of Import Quotas on Sugar for Fiscal Year 1985

AGENCY: Office of the Secretary, UDSA.

ACTION: Notice.

SUMMARY: This notice establishes the annual quota year sugar import quota (October 1, 1984 through September 30, 1985) at 2,552,000 short tons, raw value.

EFFECTIVE DATE: October 1, 1984.

ADDRESS: Mail comments to Chief, Sugar Group, Horticultural and Tropical Products Division, Foreign Agricultural Service, UDSA, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: John Nuttall, Foreign Agricultural Service, Department of Agriculture, Washington, D.C. 20250, Telephone: (202) 447–2916.

SUPPLEMENTARY INFORMATION: Presidential Proclamation No. 4941, dated May 5, 1982, amended Headnote 3 of subpart A, part 10, schedule 1 of the Tariff Schedules of the United States (TSUS) to establish a system of import quotas for foreign sugar coming into United States. Under the terms of Headnote 3, the Secretary of Agriculture established an annual sugar import period of October 1–September 30 beginning October 1, 1982. (47 FR 34812.)

For the 1984 quota year the quota was 3,052,000 short tons, raw value.

For the 1985 quota year the quota level is 2,552,000 short tons, raw value.

Notice

Notice is hereby given that, in accordance with the requirements of Headnote 3, subpart A, part 10, schedule 1 of the TSUS, I have determined that a quota of 2,552,000 short tons, raw value of sugar as described in items 155.20 and 155.30 of the TSUS may be entered or withdrawn from warehouse for consumption during the period October 1, 1984 through September 30, 1985. Of the 2,552,000 short tons, raw value, 2,000 short tons, raw value, are reserved for specialty sugars from countries listed in paragraph (c)(ii) of Headnote 3.

I have also determined that this quota amount gives due consideration to the interests in the United States sugar market of domestic producers and materially affected contracting parties to the General Agreement on Tariffs and Trade.

In conformity with the above, paragraph (a) of Headnote 3, subpart A, part 10, schedule 1 of the TSUS is modified to read as follows:

3. (a) The total amount of sugars, sirups and molassess described in items 155.20 and 155.30, the products of all foreign countries entered, or withdrawn from warehouse for consumption, between October 1, 1984 and September 30, 1985, inclusive, shall not exceed in the aggregate 2,552,000 short tons, raw value. Of this amount, the total amount permitted to be imported for purposes of paragraph (c)(i) of this headnote (the total base quota amount) shall be 2,550,000 short tons, raw value, and the remaining 2,000 short tons, raw value, may only be used for the importation of "specialty sugars," as defined by the United States Trade Representative in accordance with paragraph (c)(ii) of this headnote.

Signed at Washington, D.C., on September 14, 1984.

Richard E. Lyng,

Acting Secretary of Agriculture.

[FR Doc. 84-24817 Filed 9-14-84; 4:03 pm]

BILLING CODE 3410-10-M

Forms Under Review by Office of Management and Budget

September 14, 1984.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404–W, Admin. Bldg., Washington, D.C. 20250, (202) 447–2118.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, ATTN: Desk Officer for USDA

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Extension

• Agricultural Cooperative Service
Marketing of Grain by Regional Cooperatives
Annually
Businesses or other for-profit; 16 responses; 48 hours; not applicable under 3504(h)
David Cummins (202) 382–1762

Larry K. Roberson,

Acting Clearance Officer.

[FR Doc. 84-24828 Filed 9-18-84; 8:45 am]

BILLING CODE 3410-01-M

Packers and Stockyards Administration

Deposting of Stockyard

It has been ascertained, and notice is hereby given, that the livestock market named herein, originally posted on the respective date specified below as being subject to the Packers and Stockyards

Act, 1921, as amended (7 U.S.C. 181 *et seq.*), no longer comes within the definition of a stockyard under said Act and is, therefore, no longer subject to the provisions of the Act.

Facility No., name, and location of stockyard	Date of posting
MO-258 Uder Brothers Livestock Auction Co., Lebanon, Missouri.	Oct. 19, 1983.

Notice or other public procedure has not proceded promulgation of the foregoing rule. There is not legal justification for not promptly deposting a stockyard which is no longer within the definition of that term contained in the Act.

The foregoing is in the nature of a change relieving a restriction and may be made effective in less than 30 days after publication in the **Federal Register.** This notice shall become effective upon publication in the **Federal Register.**

(42 Stat. 159, as amended and supplemented; 7 U.S.C. 181 *et seq.*)

Done at Washington, D.C., this 13th day of September 1984.

Jack W. Brinckmeyer,

Chief Financial Protection Branch Livestock Marketing Division.

[FR Doc. 84-24833 Filed 9-18-84; 8:45 am]

BILLING CODE 3410-02-M

Forest Service

Challis National Forest Grazing Advisory Board; Meeting

The Challis National Forest Advisory Board will meet at 1:00 p.m., MDT, on October 11, 1984 at the Challis National Forest Supervisor's Office, Challis, Idaho. The purpose of this meeting is to discuss, and receive advice and recommendations for, the utilization of range betterment funds, and development of allotment management plans for Fiscal Years 1985 and 1986.

The meeting will be open to the public. Persons who wish to attend should notify Ralph Jenkins at the Challis National Forest Supervisor's Office, Challis, Idaho (208/879-2285). Written statements may be filed with the committee before or after the meeting.

Dated: September 10, 1984.

Jack E. Griswold,

Forest Supervisor.

[FR Doc. 84-24775 Filed 9-18-84; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

Office of the Secretary

Senior Executive Service (SES); Performance Review Board Membership

Below is a listing of individuals who are eligible to serve on the Performance Review Board in accordance with the Office of the Secretary Senior Executive Service (SES) Performance Appraisal System:

Hugh L. Brennan
Guy W. Chamberlin, Jr.
David L. Edgell
David Farber
J. Michael Farren
H. Stephen Halloway
Thomas F. Mefford
Nancy A. Richards
Otto J. Wolff

Jo Ann Sondey-Hersh,

Executive Secretary, Office of the Secretary, Performance Review Board.

FR Doc. 84-24837 Filed 9-18-84; 8:45 am]

BILLING CODE: 3510-BS-M

International Trade Administration

Certain Carbon and Alloy Steel Products Producers, Prospects for Adjustment Assistance for Firms

The Department of Commerce, pursuant to section 264 of the Trade Act of 1974, has conducted a study of firms producing certain carbon and alloy steel products. Such a study is required whenever the U.S. International Trade Commission (USITC) completes an investigation under Section 201 of the Trade Act with an affirmative finding.

In its report issued July 24, 1984, the USITC determined by a three to two vote that plates; sheet and strip; wire and wire products; structural shapes and units; and semi-finished products were being imported into the United States in such increased quantities as to threaten serious injury to the domestic industry producing like or directly competitive articles. Three Commissioners recommended the imposition of a 5-year program of tariffs and quotas; two Commissioners recommended no relief.

Section 264 requires the Department to review existing programs which could assist the domestic industry. Four federal agencies have financial or technical assistance program that might assist the orderly adjustment of firms.

Under section 251 of the Trade Act of 1974, a firm may petition the Department of Commerce to be certified as eligible to apply for trade adjustment assistance; certification requires that increased imports of articles like or directly competitive with those produced by the petitioning firm contributed importantly to: (1) Absolute declines in sales or production, or both, and (2) the separation, or threat of separation, of a significant number or proportion of its workers. A trade-impacted producer may petition the Department for certification at any time regardless of whether a petition has been filed under section 201.

As of August 1, five domestic firms have been certified as eligible to receive Trade Adjustment Assistance. Based on employment, sales, production and import data obtained by the USITC in its investigation, it appears likely that several firms could receive certification for adjustment assistance. However, more definite numbers cannot be determined without more specific company financial and other data.

The program of adjustment assistance for firms authorized by the Trade Act under Title II, Chapter 3, and administered by the International Trade Administration (ITA) in the Department of Commerce, may provide either financial assistance or technical assistance, or both. Financial assistance to firms may take the form of direct loans or loan guarantees, or both, and may be used for the acquisition, construction, installation, modernization, expansion, or conversion of fixed assets, or for working capital necessary for a firm to implement its adjustment plan. Technical assistance may be used for management and operational assistance, feasibility studies and related research to aid in developing and implementing a firm's recovery plan.

Title XXV of the Omnibus Budget Reconciliation Act of 1981 added section 265 to Chapter 3 of Title II of the Trade Act which provides for technical assistance, on such terms as the Secretary of Commerce deems appropriate, for the establishment of industry-wide programs "for new product development, new process development, export development or other uses consistent with the purposes" of Title II. The technical assistance may be provided through existing agencies or private channels or by grants, contracts, or cooperative arrangements to associations, unions, or other nonprofit industry organizations in which a substantial number of firms have been certified as eligible to apply for adjustment assistance. Expenditures were authorized up to $2,000,000 annually per industry.

Under the Public Works and Economic Development Act of 1965

(PWEDA), as amended, also administered by the Department of Commerce, direct and indirect assistance to firms is available without Trade Act certification. Firms located in EDA-designated "redevelopment areas" and "economic development centers" can benefit directly from business development loans and guarantees. There is doubt, however, as to EDA's ability to provide loan or guarantee assistance this fiscal year (FY 1984) or thereafter. It may be possible for firms also to benefit indirectly from public works financing. Under PWEDA neither grants, loans nor guarantees can be used to assist industries found to have long-term over capacity. However, PWEDA does not authorize technical assistance to firms regardless of location, and grants of loanable funds to communities with actual or threatened unemployment.

The Farmers Home Administration (FmHA) of the Department of Agriculture has a program which may benefit firms in the industry. Loan guarantees are available to business located in areas other than cities with a population over 50,000. As with EDA business loans, however, these guarantees are not available to firms in industries characterized by long-term over capacity. FmHA can also make loans to public bodies, such as local governments and development organizations, in areas other than cities of over 20,000 population.

The Small Business Administration (SBA) administers three programs of potential assistance to small business. It is unlikely that many domestic producers of the products for which injury was found, except wire products, would qualify as a "small business" under the SBA definition.

Additional copies of the report, "Prospects of Adjustment Assistance for Firms Producing Certain Carbon and Alloy Steel Products" are available from Ralph Thompson, Office of Metals, Minerals and Commodities, U.S. Department of Commerce, Room 2898, Washington, DC 20230, telephone 202–377–0606.

Dated: August 29, 1984.

David K. Diebold,

Deputy Assistant Secretary for Trade Development.

[FR Doc. 84-24742 Filed 9-18-84; 8:45 am]

BILLING CODE 3510-DR-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products From the People's Republic of China

September 14, 1984.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on September 20, 1984. For further information contact Jane Corwin, International Trade Specialist (202) 377–4212.

Background

A CITA directive establishing import limits for specified categories of cotton and man-made fiber textile products, including Categories 363 and 645/646, produced or manufactured in the People's Republic of China and exported during the twelve-month period which began on January 1, 1984, was published in the **Federal Register** on December 22, 1983 (48 FR 56626). Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983, the Government of the People's Republic of China has notified the Government of the United States of its intention to use flexibility in the form of swing to be applied to the current-year limits for these categories. The limit for Category 645/646 (man-made fiber sweaters) is being increased from 619,030 dozen to 649,982 dozen. The limit for Category 363 (terry and other pile towels) is being reduced to account for the increase applied to Category 645/646 from 18,456,958 numbers to 16,178,928 numbers.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), and July 16, 1984 (49 FR 28754).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

September 14, 1984.

Committee for the Implementation of Textile Agreements

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

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of December 19, 1983 from the Chairman of the Committee for the Implementation of Textile Agreements which established levels of restraint for certain specified categories of cotton and man-made fiber textile products, produced or manufactured in the People's Republic of China and exported during 1983.

Effective on September 20, 1984, the directive of December 19, 1983 is hereby further amended to adjust the previously established restraint limits for Categories 363 and 645/646 to the following under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983:[1]

Category	Adjusted 12-Mo. limit[1]
363	16,178,928 numbers.
645/646	649,982 dozen.

[1] The limits have not been adjusted to reflect any imports exported after December 31, 1983.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-24714 Filed 9-18-84; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Establishment of the Ada Board [1]

Under the provisions of Pub. L. 92–463, Federal Advisory Committee Act, notice is hereby given that the Ada Board has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law.

The Board will provide the Under Secretary of Defense, Research and Engineering, with a balanced source of advice and information regarding the technical and policy aspects of the Ada Program. This input is essential to achieving the establishment and utilization of a common computer language. The Board will serve the public interest by providing a source of

[1] The Agreement provides, in part, that (1) with the exception of Category 315, any specific limit may be exceeded by not more than 5 percent of its square yards equivalent total, provided that the amount of the increase is compensated for by an equivalent square yard equivalent decrease in one or more other specific limits in that agreement year; (2) the specific limits for certain categories may be increased for carryforward, and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

[1] Ada is a registered trademark of the U.S. Government—Ada Joint Program Office.

expert advice in accordance with the Defense Standardization Program and the American National Standards Institute (ANSI) procedures.

FOR FURTHER INFORMATION CONTACT: John Wilson, Office of the Assistant Secretary of Defense (Comptroller), 695–4281.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 84-24841 Filed 9-18-84; 8:45 am]

BILLING CODE: 3810-01-M

Defense Science Board Task Force on Atmospheric Obscuration; Meeting

ACTION: Notice of advisory committee meeting.

SUMMARY: The Defense Science Board Task Force on Atmospheric Obscuration will meet in closed session in the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will review their findings and observation of the atmospheric obscuration phenomenon and consider what actions and activities might be appropriate for the Department of Defense to take in future response to the atmospheric obscuration phenomenon.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. 92–463, as amended (5 U.S.C. App. II, (1982)), it has been determined that this DSB Panel meeting, concerns matters listed in 5 U.S.C. 552b(c) (1) (1982), and that accordingly this meeting will be closed to the public.

Dated: October 17, 1984.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 84-24840 Filed 9-18-84; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board; Meeting

ACTION: Notice of advisory committee meeting.

SUMMARY: The Defense Science Board will meet in closed session in the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Board will discuss interim findings and tentative recommendations resulting from ongoing Task Force activities associated with Strategic, Tactical, Intelligence/Command, Control and Communications, and Technology Issues. The Board will also discuss plans for future consideration of scientific and technical aspects of specific strategies, tactics, and policies as they may affect the U.S. national defense posture.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. 92–463, as amended (5 U.S.C. App. II (1982)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly these meetings will be closed to the public.

Dated: October 23–24, 1984.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 84-24839 Filed 9-18-84; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

September 11, 1984.

The USAF Scientific Advisory Board Ad Hoc Committee on Advanced Air Vehicle Surveillance and Warning Technologies will meet at the Pentagon on October 11 (8:30 a.m.–4:30 p.m.) and October 12 (8:30 a.m.–4:00 p.m.) 1984 to review surveillance technologies and system concepts for application to air vehicle detection systems.

This meeting will involve classified defense matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph 1 thereof, and will therefore be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–4648.

Harry C. Waters,

Alternate Air Force Federal Register Liaison Officer.

[FR Doc. 84-24772 Filed 9-18-84; 8:45 am]

BILLING CODE 3910-01-M

Department of the Navy

Public Information Collection Requirement Submitted to OMB for Review.

The Department of Defense has submitted to 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). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

Existing Collection in Use Without an OMB Control Number

Government-Industry Data Exchange Program (GIDEP) Annual Progress Report

DD 2166

Government sponsors provide GIDEP information free of charge to participating industry and government activities. All activities use the information to maximum extent possible and report data utliization on DD 2166 to provide demonstrated accomplishment of program objectives. The reports are summarized in annual report to Program Manager for possible modifications and revisionst to program scope, policies and procedures.

Businesses or other for profit; Federal agencies or employees; 1040; 1040

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and Daniel J. Vitiello, DOD Clearance Officer, WHS/DIOR, Room 1C535, The Pentagon, Washington, D.C. 20301, telephone (202) 694–0187.

A copy of the information collection proposal may be obtained from Captain B. A. Butcher, Naval Material Command (Code MAT 06B), Washington, D.C. 20360, telephone (202) 692–1106.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 84-24842 Filed 9-18-84; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

National Advisory Council on Women's Educational Programs; Amendment of Meeting Agenda

SUMMARY: This document is intended to notify the general public of changes in the agenda of a meeting of the National

Advisory Council on Women's Educational Programs and its Executive, Civil Rights, Federal Policies, Practices and Programs, and WEEA Committees as published in 49 FR 34556 on August 31, 1984.

The Council will meet from 8:45 a.m. until 10:00 a.m. in the U.S. Capitol and will recess for site visits from 10:00 a.m. until 12:00 noon and from 1:45 p.m. until 4:00 p.m. on September 20, 1984. All other dates, times, and locations remain the same.

FOR FURTHER INFORMATION CONTACT: Sally Todd, Deputy Director, National Advisory Council on Women's Educational Programs, 425 13th Street, NW., Suite 416, Washington, D.C., 20004, (202) 376–1038.

Signed at Washington, D.C., on September 14, 1984.

Patricia A. Jensen,

Executive Director.

[FR Doc. 84-24815 Filed 9-18-84; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP84-654-000]

Algonquin Gas Transmission Co.; Application

September 13, 1984.

Take notice that on August 17, 1984, Algonquin Gas Transmission Company (Applicant), 1284 Soldiers Field Road, Boston, Massachusetts 02135, filed in Docket No. CP84–654–000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant: (1) To render additional firm sales service under Applicant's established Rate Schedule F–1, (2) to make adjustments to the hourly delivery provision and to add a monthly minimum commodity bill provision to Applicant's Rate Schedule F–1 and (3) to construct and operate facilities necessary to render the additional firm sales service, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to receive an additional 90 billion Btu equivalent of natural gas per day from Texas Eastern Transmission Corporation (TETCO)[1] and redeliver such additional quantities under Applicant's Rate Schedule F–1, less an amount required for additional system fuel, to the following 16 customers:

Customer	Maximum daily quantities (million Btu)		
	Additional F–1	Existing F–1	Total F–1 after expansion
1. Bay State Gas Company	6,529	33,434	39,963
2. Boston Gas Company	24,814	127,059	151,873
3. Bristol and Warren Gas Company	385	1,972	2,357
4. Colonial Gas Company	2,262	11,577	13,839
5. Commonwealth Gas Company	13,860	70,981	84,841
6. The Connecticut Light & Power Company	10,061	51,519	61,580
7. Connecticut Natural Gas Corporation	7,353	37,655	45,008
8. Fall River Gas Company	1,940	14,606	16,546
9. Town of Middeleborough, Massachusetts	165	845	1,010
10. New Jersey Natural Gas Company	1,180	6,106	7,286
11. City of Norwich, Connecticut	875	4,478	5,353
12. Orange & Rockland Utilities, Inc.	984	5,089	6,073
13. The Pequot Gas Company	110	560	670
14. Providence Gas Company	10,704	54,814	65,518
15. South County Gas Company	239	1,221	1,460
16. The Southern Connecticut Gas Company	5,843	29,921	35,764
Total	87,304	451,837	539,141

Applicant states that the proposed additional F–1 quantities are to be made available to the aforementioned customers at an even hourly rate, which Applicant states is the same basis on which TETCO would make the gas available to Applicant under TETCO's existing Rate Schedule DCQ–D. Applicant proposes to make the following adjustments to the provisions of Rate Schedule F–1 to conform with the provisions of TETCO's Rate Schedule DCQ–D:

1. Rate Schedule F–1 contains the following provision (Section 2, Applicability and Character of Service) related to hourly deliveries:

"Seller shall not be obligated to deliver to Buyer under this Rate Schedule in any single hour more than Buyer's Maximum Hourly Quantity; but Seller will make hourly deliveries to Buyer without regard to such limitation to the extent that, in Seller's sole judgment, it can do so without impairment to its other obligations. Buyer's Maximum Hourly Quantity shall be 6 percent of Buyers Maximum Daily Quantity for all nominated daily deliveries up to Buyer's Maximum Daily Quantity in effect on August 1, 1984 (Existing MDQ). For nominated daily deliveries in excess of the Existing MDQ, Buyer's Maximum Hourly Quantity shall be 6 percent of the Existing MDQ plus 4.17 percent of the nominated daily delivery in excess of the Existing MDQ."

Applicant proposes that for incremental daily deliveries in excess of the currently effective maximum daily quantity, the obligation be changed from the 6 percent per hour amount to a uniform hourly amount (*i.e.*, 1/24th rate or 4.17 percent per hour). Applicant alleges that this lower hourly quantity permits certain economies in construction of facilities proposed herein.

2. TETCO'S Rate Schedule DCQ–D, under which Applicant would purchase the incremental supply, contains a minimum monthly commodity charge applicable to usages at less than 75 percent load factor during any month. The current supply for sales under Rate Schedule F–1 is obtained by purchases under TETCO's Rate Schedule GS–D which contains no minimum commodity charge and Rate Schedule DCQ–D which contains the aforesaid 75 percent minimum monthly requirement. However, the mix of the two has provided, in the past, a sufficiently low composite requirement so that Applicant did not provide for incurrence of this gas cost; and the problem has not arisen in the past. The composite monthly load factor requirement has been approximately 34 percent. However, under the proposal herein the mix of GS and DCQ gas changes materially, with a resulting composite monthly load factor requirement of approximately 41 percent, as shown below. At the new level, Applicant alleges that the possibility increases that this contingent gas cost could actually occur during a month—particularly an off-peak month. Accordingly, Applicant proposes to add a provision to its tariff providing that in the event this contingent gas cost actually does occur it would be reimbursed by those Rate Schedule F–1 customers who, during that month, took gas under Rate Schedule F–1 (and including Applicant's Rate Schedule I–1 takes during that month) which were less than 41 percent load factor use of that customer's maximum daily quantity.

	Load factor requirement (million Btu)	
	Present	Proposed
GSA contract demand	242,269	242,269
DCQ contract demand	203,907	293,907
Total	446,176	536,176
Percent DCQ to Total	45.7	54.8
Percent DCQ × 75 percent Monthly Load Factor	34.2	41.1

[1] TETCO is currently seeking Commission authorization in Docket No. CP84–429–000 to sell the subject additional volumes to Applicant.

3. TETCO's Rate Schedule DCQ–D, under which the incremental supply is to be purchased, provides an availability of 365 days use of the contract demand. Based upon this, Applicant has advised its customers that upon commencement of service contemplated by this application, it would increase the relationship between annual firm entitlement and maximum daily quantity under Applicant's Gas Rate Schedule F–1 to 280 days usage.

4. Exhibit N of Applicant's application shows that with the proposed facilities, system cost exceeds system revenues, indicating the need for a rate adjustment. Applicants states that such rate adjustment would be the subject of a rate proceeding where individual rate levels would be determined.

To accomplish revised sales delivery obligations, Applicant proposes herein to constuct and operate facilities at an estimated cost of $72,932,742 as follows:

Proposed facilities	Estimated cost
1. Pipelines:	
Approximately 15.6 miles of 30-inch loop in New Jersey	$20,624,000
Approximately 4.4 miles of 10-inch E–1 system loop in Connecticut	2,834,000
Approximately 3.9 miles of 10-inch G–2 system loop in Rhode Island	2,492,000
Approximately 2.5 miles of 12-inch G–10 system loop in Massachusetts	1,768,000
Approximately 11.5 miles of pipeline retest and regulatory installation J–1 system	2,063,000
2. Compressors:	
Install three 3830 horsepower compressors at proposed compressor station in Southeast New York	24,961,000
Install one 3830 horsepower compressor at existing compressor station in Cromwell, Connecticut	7,945,000
Modify process piping at existing compressor station in Stony Point, New York	1,755,000
Modify process piping at existing compressor station in Burrillville, Rhode Island	1,283,000
3. Meter Stations: Miscellaneous modifications	1,405,000
4. Allowance for funds used during construction	5,660,800
5. Total Facility Cost	72,790,800
6. Commission Filing Fees	141,942
Total Cost	72,932,742

Applicant proposes initially to finance the estimated $72,932,742 cost of constructing the proposed facilities through revolving credit arrangements, short-term loans, and funds on hand, with permanent financing to be undertaken at a later date as part of Applicant's overall long-term financing program.

Applicant submits that the proposed service to be rendered pursuant to the authorization requested herein is required by the present and future public convenience and necessity. Applicant states that TETCO has not expanded its base-load Rate Schedule DCQ service to Applicant since 1969. Since that time, Applicant alleges that Applicant's New England markets have been expanding. Applicant states in its application that additional gas to be made available form TETCO and, in turn, Applicant would enable Applicant's resale customers to render more reliable service to gas users in their New England markets and enhance their ability to cope with delivery requirements.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 3, 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 Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–24703 Filed 9–18–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP84–651–000]

ANR Pipeline Co.; Application

September 13, 1984.

Take notice that on August 15, 1984, ANR Pipeline Company (Applicant), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP84–651–000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to provide a transportation service for American Petrofina Company of Teras (Fina) on behalf of Cosden, Inc. (Cosden), all as more fully set forth in the application on file with the Commission and open for public inspection.

Applicant states that it entered into a transportation agreement (Agreement) with Fina on June 4, 1984, in which it agreed to receive, transport, and redeliver up to 13 billion Btu of natural gas per day. Applicant indicates that it would receive the gas from Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), for the account of Final at a subsea tap in High Island Area Block 546, offshore Texas, and deliver thermally equivalent quantities to Louisiana Resources Company (LRC) at Cameron Parish, Louisiana, to make redeliveries to Faustina Pipe Line Company (Faustina) at Vermilion Parish, Louisiana. It is stated that Faustina would then deliver thermally equivalent volumes to Cosden's facility near Carville, Iberville Parish, Louisiana. It is further stated that Fina has agreed to pay Applicant 16.17 cents per million Btu of gas transported through the High Island Offshore System; 10.2 cents per million BTU of gas transported through Applicant's own facilities to LRC for Fina's account; 1.25 cents per Mcf in payment of the funding unit for the Gas Research Institute. In addition, it is indicated that LRC and Faustina would receive 10.39 cents and 17.88 cents per million Btu, respectively, for their service. It is further indicated that the term of the Agreement would commence on the date of initial deliveries, and continue for a period of two years thereafter.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 3, 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 Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-24704 Filed 9-18-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-699-000]

Colorado Interstate Gas Co.; Application

September 13, 1984.

Take notice that on September 7, 1984, Colorado Interstate Gas Company (Applicant), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP84-699-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to sell natural gas to all its present resale customers under a new discount rate schedule, Rate Schedule SDR-1, through September 30, 1985, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that since 1979 its annual sales volume had declined substantially with no forecast of recovery of these markets in the near future. It is stated a decrease in sales volume has occurred each year, dropping from 397,000,000 Mcf in 1979 to 276,000,000 Mcf in 1983. The largest single year reduction occurred in 1983, it is claimed, when sales volume fell approximately 47,000,000 Mcf from 323,000,000 Mcf in 1982, a reduction of 14.5 percent. Applicant states further, that in its major service area, all of 1983 was 12 percent colder than a normal year in contrast to 1982 which was less than 4 percent below normal. It is asserted that although the extreme weather conditions in December 1983 resulted in sales 8,000,000 Mcf higher than December 1982, sales for all of 1983 fell short of sales during 1982.

It is alleged that projections of sales for 1984 indicate a continuation of the downward trend with sales volumes estimated to be 259,000,000 Mcf. These declines have occurred, it is asserted, even though the residential and commercial customer growth in Applicant's major market areas has increased an aggregate of approximately 13 percent during the 1979–1983 period.

Applicant states the continuing decline of sales volumes has the potential to increase its exposure to possible take-or-pay liabilities under certain of its gas purchase contracts. To counter this exposure, Applicant claims, it has taken aggressive action to reduce the potential take-or-pay liability, while at the same time making sustained efforts to retain sales. The actions claimed by Applicant are:

1. Reducing gas prices. Applicant states that on August 15, 1984, it filed with the Commission for authority to reduce its natural gas rates by $19.8 million annually effective October 1, 1984. It is said this is the fourth price reduction filed by Applicant in the past two years resulting in a total decrease of approximately 60 cents per Mcf.

2. Renegotiating gas purchase contracts.

3. Releasing certain gas under contract.

4. Concurrently filing special discount Rate Schedule AF-1 for which reauthorization is sought in Docket No. CP84-700-000.

Applicant indicates proposed Rate Schedule SDR-1 would be an effort to retain sales by providing an incentive price for volumes of gas purchased by its customers which are in excess of a predeterimed threshold volume. The threshold volume would be 90 percent of each customer's annual purchase volume based upon the transmission system sales volume. Should Rate Schedule SDR-1 be in effect for a period of less than one year, the threshold volume would be prorated for the appropriate period.

The discount price would apply only to sales in excess of the threshold volume and further would exclude purchases under any other discount rate schedule. Applicant proposes that the Rate Schedule SDR-1 rate be established as 15 cents per Mcf less than its Rate Schedule G-1 commodity rate.

Applicant estimates that in 1983 it lost approximately 20,000,000 Mcf of sales because of gas-on-gas competition. Applicant claims proposed Rate Schedule SDR-1 coupled with price reductions would make the price of its gas more competitive with gas from external sources.

It is stated proposed Rate Schedule SDR-1 is designed to increase competitiveness by offering Applicant's customers an incentive to purchase increased volumes of gas from Applicant at reduced rates through existing facilities and delivery points. The aggregate volume that Applicant sells to any cutomer under Rate Schedule SDR-1, combined with that Customer's purchases under other applicable rate schedules, would not be permitted to exceed the authorized entitlements for such customer.

Applicant asserts Rate Schedule SDR-1 would benefit its customers by providing a reduced purchase price for all volumes purchased in excess of the threshold volume. Applicant claims this price reduction would be absorbed by its accepting a reduced margin, and it would not impose any additional cost to offset the lower price. Any additional sales would benefit all of Applicant's customers by reducing potential take-or-pay exposure, it is claimed. Thus, it is asserted, any gas sales made under Rate Schedule SDR-1 which otherwise would have been sold under another existing rate schedule would only affect Applicant through receipt of a reduced margin. Applicant states its customers stand only to gain without any risk imposed by the implementation of proposed Rate Schedule SDR-1.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 2, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protest filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by 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 Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-24705 Filed 9-18-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-700-000]

Colorado Interstate Gas Co.; Application

September 13, 1984.

Take notice that on September 7, 1984, Colorado Interstate Gas Company (Applicant), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP84-700-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to sell natural gas to all its present resale customers under a new discount rate schedule, Rate Schedule AF-1, through September 30, 1985, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that since 1979 its annual sales volume has declined substantially with no forecast of recovery of these markets in the near future. It is stated a decrease in sales volume has occurred each year, dropping from 397,000,000 Mcf in 1979 to 276,000,000 Mcf in 1983. The largest single year reduction occurred in 1983, it is claimed, when sales volume fell approximately 47,000,000 Mcf from 323,000,000 Mcf in 1982, a reduction of 14.5 percent. Applicant states further, that in its major service area, all of 1983 was 12 percent colder than a normal year in contrast to 1982 which was less than 4 percent below normal. It is asserted that although the extreme weather conditions in December 1983 resulted in sales 8,000,000 Mcf higher than December 1982, sales for all of 1983 fell short of sales during 1982.

It is alleged that projections of sales for 1984 indicate a continuation of the downward trend with sales volumes estimated to be 259,000,000 Mcf. These declines have occurred, it is asserted, event though the residential and commercial customer growth in Applicant's major market areas has increased an aggregate of approximately 13 percent during the 1979-1983 period.

Applicant states the continuing decline of sales volumes has the potential to increase its exposure to possible take-or-pay liabilities under certain of its gas purchase contracts. To counter this exposure, Applicant claims, it has taken aggressive action to reduce the potential take-or-pay liability, while at the same time making sustained efforts to retain sales. The actions claimed by Applicant are:

1. Reducing gas prices. Applicant states that on August 15, 1984, it filed with the Commission for authority to reduce its natural gas rates by $19.8 million annually effective October 1, 1984. It is said this is the fourth price reduction filed by Applicant in the past two years resulting in a total decrease of approximately 60 cents per Mcf.

2. Renegotiating gas purchase contracts.

3. Releasing certain gas under contract.

4. Concurrently filing special discount Rate Schedule SDR.1 for which authorization is sought in Docket No. CP84-699-000.

Applicant indicates Rate Schedule AF-1 is an additional effort by it to retain sales by providing an incentive price for its customers with qualifying end-users. The incentive price would be applicable only when the end-user purchases natural gas in excess of 150 Mcf per day from Applicant's customer, notifies the customer that an alternative fuel source offers a lower cost and that the end-user would be switching to an alternative fuel or alternate natural gas supply source. End-users currently using an alternative fuel would qualify the customer for the Rate Schedule AF-1 rate provided the end-user switched to natural gas because of this incentive rate.

It is claimed Applicant's market areas are not in locations with heavy industrial loads and that, because of the limited opportunity to supply industrial end-users with natural gas, Applicant believes the retention of such existing end-users and possible addition of end-users now using alternative fuel would be vital to prevent further reductions in its sales.

Applicant estimates that in 1983 it lost approximately 20,000,000 Mcf to gas-on-gas competition, 80 percent or 16,000,000 Mcf of which was to large end-users. It is claimed the proposed Rate Schedule AF-1, coupled with price reductions by Applicant, would make the price of Applicant's gas more competitive with gas from external sources.

Rate Schedule AF-1 would consist of an incentive price of 15 cents per Mcf less than the Rate Schedule G-1 commodity rate. The resale customer would be a contributor under Rate Schedule AF-1 wherein it would provide a discount of 2 cents per Mcf to the end-user in addition to the reduced price for those purchases from Applicant. Applicant claims that its customer would benefit from the increased sales level and should have significant interest in supporting the special discount rate program.

The aggregate volume that Applicant would sell to any customer under Rate Schedule AF-1, combined with that customer's purchases under the other applicable rate schedules, would not be permitted to exceed the authorized entitilements for such customer.

It is alleged Rate Schedule AF-1 would benefit Applicant's resale customers by providing a reduced purchase price for all volumes purchased that are attributable to a qualifying end-user. Applicant states its price reduction would be absorbed by its accepting a reduced margin and would not affect any customer by imposing additional cost to offset the lower price. It is asserted sales made pursuant to Rate Schedule AF-1 would benefit all of Applicant's customers by reducing potential take-or-pay exposure. Applicant claims the proposed Rate Schedule AF-1 cannot adversely affect any of its customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 2, 1984, file with the Federal Energy Regualtory 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 Regualtory 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 belives that a formal hearing is required, further notice of such hearing will be duly given.

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

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-24706 Filed 9-18-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-112-001]

Columbia Gas Transmission Corp.; Amendment of Request Under Blanket Authorization

September 13, 1984.

Take notice that on August 24, 1984, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in Docket No. CP84-112-001 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) that Columbia proposes to continue to transport natural gas on behalf of Certainteed Corporation (Centainteed) under the authorization issued in Docket No. CP83-76-000 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.

By request noticed on January 13, 1984, in Docket No. CP84-112-000, pursuant to the prior notice and protest procedure set forth in § 157.205 of the Commission's Regulations Columbia was authorized to transport up to 800 dt equivalent of natural gas per day through October 9, 1984, to Certainteed's York, Pennsylvania, plant.

Comumbia proposes to continue the transportation through June 30, 1985, on the same terms and conditions as the existing transportation authority.

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. 84-24707 Filed 9-18-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-188-001]

Columbia Gas Transmission Corp.; Amendment to Request Under Blanket Authorization

September 13, 1984.

Take notice that on August 24, 1984, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in Docket No. CP84-188-001 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) that Columbia proposes to continue to transport natural gas on behalf of Mar-Zane, Inc. (Mar-Zane), under the authorization issued in Docket No. CP83-76-000 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.

By request noticed on January 13, 1984, in Docket No. CP84-188-000, pursuant to the prior notice and protest procedure set forth in § 157.205 of the Commission's Regulations Columbia was authorized to transport up to 150 dt equivalent of natural gas per day through October 3, 1984, to Mar-Zane's Haydenville, Ohio, plant.

Columbia proposes to continue the transportation through June 30, 1985, on the same terms and conditions as the existing transportation authority.

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. 84-24708 Filed 9-18-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-662-000]

Columbia Gulf Transmission Co.; Application

September 13, 1984.

Take notice that on August 24, 1984, Columbia Gulf Transmission Company (Applicant), P.O. Box 683, Houston, Texas 77001, filed in Docket No. CP84-662-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Mountain Fuel Resources, Inc. (Mountain Fuel), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport on an interruptible, best-efforts basis, 20,000 Mcf per day of Mountain Fuel's gas from the tailgate of Chevron's Carter Creek plant in Section 6, Township 18 North, Range 119 West, Uinta County, Wyoming, and to redeliver equivalent volumes to Mountain Fuel at the interconnection of Applicant's and Mountain Fuel's facilities in Section 16, Township 17 North, Range 119 West, Uinta County, Wyoming. The redelivered volumes would be reduced to reflect the retention by Applicant of 1.05 percent of the total volume of gas received at the receipt point as fuel and unaccounted-for volumes, it is explained.

Applicant states that Mountain Fuel would pay Applicant a rate of 6.16 percent per Mcf of gas (at 14.73 psia) for gas received for transportation at the receipt point.

It is explained that the service would continue in effect for a period of 20 years from the date of initial delivery and from year to year thereafter.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 3, 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 Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-24709 Filed 9-18-84; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4799-002]

Commonwealth of Pennsylvania; Surrender of Exemption

September 14, 1984.

Take notice that the Commonwealth of Pennsylvania, Exemptee for the proposed Nockamixon Dam Project No. 4799, requested by letter dated August 17, 1984, that its exemption be terminated. The order granting exemption was issued on September 14, 1983. The project would have been located on Tohickom Creek in Bucks County, Pennsylvania. Exemptee has not started project construction.

The Exemptee filed the request on August 17, 1984, and the surrender of the exemption for Project No. 4799 is deemed accepted as of August 17, 1984, and effective as of 30 days after the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-24710 Filed 9-18-84; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5530-002]

Commonwealth of Pennsylvania Department of Environmental Resources; Surrender of Exemption

September 14, 1984.

Take notice that the Commonwealth of Pennsylvania Department of Environmental Resources, Exemptee for the George B. Stevenson Project No. 5530, has requested that its exemption be terminated. The order granting exemption for Project No. 5530 was issued on February 2, 1984. The project would have been located on the First Fork Sinnemahoning Creek, in Cameron County, Pennsylvania. Exemptee has not started project construction.

The Exemptee filed the request on August 17, 1984, and the surrender of the exemption for Project No. 5530 is deemed accepted as of August 17, 1984, and effective as of 30 days after the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-24711 Filed 9-18-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-657-000]

El Paso Natural Gas Co.; Application

September 13, 1984.

Take notice that on August 21, 1984, El Paso Natural Gas Company (Applicant), Post Office Box 1492, El Paso, Texas 79978, filed in Docket No. CP84-657-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon the sale of natural gas to Arizona Public Service Company (Arizona) for resale to Salt River Project Agricultural Improvement and Power District (Salt River) and pursuant to section 7(c) for permission to deliver natural gas for sale directly to Salt River through the use of existing pipeline and metering facilities in Maricopa County, Arizona, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicant states that pursuant to a gas sales agreement (agreement), dated February 1, 1970, as amended, among Applicant, Arizona and Salt River, which comprises special Rate Schedule X-7 to Applicant's FERC Gas Tariff, Third Revised Volume No. 2, Applicant constructed and operates certain pipeline and metering facilities and sells and delivers up to 47,248,879 Mcf of natural gas per year to Arizona, inlcuding gas destined for resale to Salt River for use in Salt River's Cross Cut, Kyrene and Agua Fria electric generating power plants in Maricopa County. It is further stated that by letter dated December 20, 1983, Applicant has given notice of its intention to terminate the agreement as of December 31, 1984.

Applicant also states that as provided by a letter of intent, dated August 3, 1984, Applicant and Salt River will execute an agreement to provide for the direct sale by Applicant of gas not to exceed 92,900 Mcf per day, to Salt River for utilization at the Cross Cut, Kyrene and Agua Fria plants.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 3, 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 Commissions'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 approporiate 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 and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

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

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-24712 Filed 9-18-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES84-70-000]

El Paso Electric Co.; Application

September 14, 1984.

Take notice that on September 4, 1984, El Paso Electric Company (Applicant) filed an application and an amendment on September 5, 1984, with the Federal Energy Regulatory Commission (Commission) seeking authority pursuant to Section 204 of the Federal Power Act to issue and sell in October 1984 in a negotiated private placement up to $50,000,000 principal amount of first mortgage bonds and applying for an exemption of the transaction from the competitive bidding requirements of the Commission. The Company is also requesting that the Commission authorize it to negotiate the placement of the first mortgage bonds with a single placement agent.

Any person desiring to be heard or to make any protest with reference to the application should file a motion to intervene or protest on or before October 4, 1984, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-24713 Filed 9-18-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-669-000]

Freeport Pipeline Co.; Application

September 13, 1984.

Take notice that on August 27, 1984, Freeport Pipeline Company (Applicant), 601 Poydras Street, New Orleans, Louisiana 70130 filed in Docket No. CP84-669-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon in place and discontinue the operation of facilities and the transportation of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that by order issued April 14, 1982, in Docket No. CP81-419-000, it was authorized to retain in place 6.58 miles of 10-inch pipeline and 1.48 miles of 6-inch pipeline and to transport natural gas from Exxon Corporation's (Exxon) platforms in Grand Isle Block 16 Field L and Grand Isle Block 18 Field A, offshore Louisiana, to Freeport Sulphur Company's (Freeport Sulphur) offshore sulphur mine at Grand Island Block 9 in state waters in the Gulf of Mexico. Applicant further states that the natural gas so transported by it has been purchased from Exxon by Freeport Sulphur pursuant to a gas sales contract providing for termination when Exxon's post-January 1974 deliveries reach 24, 691,977 Mcf.

Applicant states that Freeport Sulphur ceased taking deliveries of the Exxon gas on July 24, 1984, on the basis that the total quantity available under the contract has been delivered. It is further stated that in view of the termination of the Exxon gas sales contract, and as a result of the unavailability to Freeport Sulphur of adequate reserves in the producing area served by the subject pipeline facilities, Freeport Sulphur has contracted with intrastate suppliers to provide all future requirements of natural gas at the Grand Isle mine.

Applicant asserts that the facilities proposed to be abandoned in place are no longer required.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 3, 1984 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

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

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

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-24714 Filed 9-18-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP75-57-011]

KN Energy, Inc.; Amendment

September 13, 1984.

Take notice that on August 21, 1984, KN Energy, Inc. (Petitioner), P.O. Box 15265, Lakewood, Colorado 80125, filed in Docket No. CP75-57-011 an amendment to the petition to amend the order issued May 11, 1977 [1] in Docket No. CP75-57, as amended, pursuant to section 7(c) of the Natural Gas Act to reflect an agreement dated May 31, 1984, between Petitioner and Montana-Dakota Utilities Co. (MDU) which reduces MDU's right to purchase gas under a gas sales, transportation, and gas exchange agreement (agreement), dated May 10, 1974, between Petitioner and MDU, and also increases MDU's facility charge to Petitioner, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Petitioner states that the May 31, 1984, amendment reduces MDU's right to purchase exchange gas produced by Petitioner, or a subsidiary of Petitioner, from 15 percent to 7½ percent. Petitioner further states it would reduce MDU's right to purchase exchange gas which is purchased by Petitioner from any non-affiliated producer in the Bowdoin area of mutual interest from 50 percent to 25 percent.

Petitioner avers that the May 31, 1984, amendment would change the formula used to calculate Petitioner's monthly payment to MDU for additional facilities, which Petitioner elected to have MDU construct pursuant to the agreement, by increasing the cost of capital rate from 9.75 percent to 11.76 percent (return on net investment), plus 7.65 percent to reflect a 50 percent composite statutory federal and state income tax rate imposed on net income less related interest deductions, for a new total rate of 19.41 percent. Petitioner further avers that the proposed changes in the cost of capital rate would reflect the level of return and taxes authorized by the Commission in

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

MDU's last general rate case in Docket No. RP82–81–000.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before October 3, 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 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 Commision's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–24715 Filed 9–18–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP74–322–001

Michigan Gas Storage Co.; Petition To Amend

September 13, 1984.

Take notice that on August 17, 1984, Michigan Gas Storage Company (Petitioner), 212 West Michigan Avenue, Jackson, Michigan 49201, filed in Docket No. CP74–322–001 a petition to amend the order issued November 10, 1977, in Docket No. CP74–322, *et al.*, pursuant to section 7(c) of the Natural Gas Act so as to remove the 52,000,000 Mcf transportation limitation on natural gas sold by Northern Michigan Exploration Company (Northern Michigan) from three lease blocks in offshore Louisiana, to Consumers Power Company (Consumers), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that the November 10, 1977, order, authorized Northern Michigan to sell natural gas to its parent, from three lease blocks located offshore Louisiana. It is further stated that the order authorized Trunkline Gas Company (Trunkline) to transport the subject as from Northern Michigan to Petitioner at the existing Consumers-Trunkline interconnection on the Indiana-Michigan border and authorized Petitioner to transport the gas from Trunkline to Consumers. In the November 10, 1977, order, the Commission limited the transportation and sale to 52,000,000 Mcf of the estimated proven reserves attributable to Northern Michigan's working interest in the three lease blocks.

Petitioner asserts that subsequent to the issuance of the November 10, 1977, order, Northern Michigan's original estimates of proven reserves have proven to be conservative. It is further asserted that Northern Michigan currently estimates that the 52,000,000 Mcf ceiling could be reached during 1986 and projects that total proven reserves from the lease block would amount to approximately 70,000,000 Mcf. Petitioner seeks amendment of the November 10, 1977, order to allow it to transport on behalf of Consumers all natural gas produced from Northern Michigan's working interests in the subject lease blocks. Petitioner avers that the elimination of the 52,000,000 Mcf limitation in its certificate would not require any change in any existing facilities and Petitioner would continue to have pipeline capacity sufficient to transport gas from Northern Michigan to consumers.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before Oct. 3 1984, flew 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–24716 Filed 9–18–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP84–667–000]

Northern Natural Gas Co., Division of InterNorth, Inc.; Application

September 13, 1984

Take notice that on August 24, 1984, Northern Natual Gas Company, Division of InterNorth, Inc. (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP84–667–000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for American Petrofina Company of Texas (Fina), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Applicant and Fina are parties to a gas purchase contract dated March 17, 1977, providing for the sale by Fina to Applicant of natural gas from High Island Area Block A–571 (HIA–571) offshore Texas.

Applicant states that it is obligated by the gas purchase contract to purchase 90% of Fina's HIA–571 deliverability. However, Applicant explains that it is presently experiencing a situation where its natural gas supplies under contract exceed its market requirements and it is unable to purchase the minimum contract volume. Applicant states that this excess supply situation is expected to continue through the summer of 1986, at which time Applicant would be required to contract for new gas supplies in order to meet the 1986 winter market requirements.

Applicant states that, in an effort to reduce its take-or-pay exposure during this temporary excess supply situation, it has entered into a temporary limited release from gas purchase contract with Fina dated March 16, 1984. It is stated that the release contract provides for the release of one-third of Fina's HIA–571 deliverability presently under contract to Applicant for a two-year period and the reduction of Applicant's purchase obligation under the gas purchase contract from the original 90% to 75% of the HIA–571 deliverability for the remaining term of the contract.

In return, it is stated, Applicant has entered into a gas transportation agreement with Fina dated March 19, 1984, as amended August 14, 1984, wherein Applicant has agreed to transport, on a best-effort basis, up to 13,000 Mcf of the released natural gas per day for the account of Fina from the HIA–571 production platform. Applicant states that it would redeliver thermally equivalent volumes to ANR Pipeline Company at the interconnection of the HIA–571 lateral and High Island Offshore System (HIOS) in HIA–546 for the account of Fina for further transportation through HIOS.

Applicant states that it will charge Fina 3.9 cents per Mcf of gas received at HIA–571 based upon its system-wide cost of service allocation factors in Applicant's currently effective rate settlement in Docket No. RP82–71, approved by Commission order dated April 28, 1983.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 3, 1984, file with the Federal 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 Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-24717 Filed 9-18-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-668-000]

Northern Natural Gas Company, Division of InterNorth, Inc.; Application

September 13, 1984.

Take notice that on August 24, 1984, Northern Natural Gas Company, Division of InterNorth, Inc. (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP84-668-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Northwest Central Pipeline Corporation (northwest Central) and the construction of facilities to facilitate such transportations, all as more fully set forth in the application which is on file with the Commission and open to pubic inspection.

Applicant proposes to transport natural gas for Northwest Central pursuant to the terms of a gas transportation agreement between Applicant and Northwest Central dated May 29, 1984. Applicant would transport natural gas for Northwest Central to and from Northern Gas Product's (NGP) Bushton Extraction Plant located in Ellsworth County, Kansas. Such transportation service is said to be necessary to accomodate a sales agreement between Northwest Central and NGL Production Company (NGL) whereby Northwest Central has agreed to sell up to sell up to 20,000 Mcf per day of natural gas to NGL for the purpose of extracting liquefiable hydrocarbons at the Bushton Extraction Plant.

Applicant would transport up to 100,000 Mcf per day of natural gas from two existing interconnections between Applicant and Northeast Central in Burton County, Kansas, to the suction side of NGP's Bushton Extraction Plant where such gas would be processed. Applicant would then transport the residue from such natural gas from the discharge side of NGP's Bushton Extraction Plant for redelivery to Northwest Central at a proposed interconnection to be constructed between Applicant and Northwest Central located in Bushton County, Kansas. Applicant estimates the cost to construct the proposed interconnection to be $151,200.

Applicant proposes to charge Northwest Central 1.70 cents per Mcf of gas transported to the suction side of NGP's Bushton Extraction Plant or 2.05 cents per Mcf gas transported to the suction side of NGP's Bushton Extraction Plant for ultimate delivery to the proposal delivery point between Applicant and Northwest Central in Barton County, Kansas.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 3, 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 Rule.

Take further notice that, pursuant to the authority contained in and subject to jurisdication conferred upon the Federal Energy Regulatory Commission by section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene if 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 Applicant to appear or be represented at the hearing.

Kennth F. Plumb,

Secretary.

[FR Doc. 84-24727 Filed 9-18-84; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5553-002]

Pennsylvania Department of Environmental Resources; Surrender of Exemption

September 14, 1984.

Take notice that Pennsylvania Department of Environmental Resources, Exemptee for the Pymatuning Dam Project No. 5553, has requested that its exemption be terminated. The order granting exemption for Project No. 5553 was issued March 6, 1984. The project would have been located on the Shenango River in Crawford County, Pennsylvania. Exemptee has not started project construction.

The Exemptee filed the request on August 17, 1984, and the surrender of the exemption for Project No. 5553 is deemed accepted as of August 17, 1983, and effective as of 30 days after the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-24728 Filed 9-18-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-461-000]

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

September 14, 1984.

On August 23, 1984, Western Power, Inc. (Applicant) of P.O. Box 31359, 1914 North 34th Street, Seattle, Washington 98103–1359 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 15.5 megawatt hydroelectric facility will be located near the North Fork Skykomish River in Snohomish County, Washington.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intevenue 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 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. 84-24729 Filed 9-18-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-666-000]

ANR Pipeline Co.; Request Under Blanket Authorization

September 14, 1984

Take notice that on August 24, 1984, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP84–666–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) that ANR proposes to transport natural gas on behalf of Fostoria Glass Company (Fostoria) under the authorization issued In Docket No. CP 82–480–000 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.

Specifically, ANR proposes to transport up to 1,000 dt equivalent of natural gas per day for Fostoria through June 30, 1985. ANR states that the gas to be transported would be pruchased from ANR Gathering Company (Gathering) and would be used primarily as fuel in process equipment and boilers in Fostoria's Moundsville, West Virginia, facility. ANR states that it would recieve the gas existing delivery points on its system and redeliver such gas to Columbia Gas Transmission Corporation (Columbia). It is explained that pursuant to the agreement, ANR would take receipt of the purchased volumes which Fostoria would cause Gathering to tender to ANR For Fostoria's account at a point of interconnection of the pipeline system of ANR and the production facilities of Gathering in the States of Kansas, Oklahoma and Texas. ANR states it would transport and deliver equivalent volumes to columbia for Fostoria's account at an existing point of interconnection of the pipeline systems of columbia and ANR in Paulding County, Ohio. ANR is advised that Columbia would provide additional transportation for or on behalf of Fostoria.

As consideration for providing the transportation service ANR states that it would charge 54.7 cents per dt equivalent for all gas transported and delivered to Columbia for Fostoria's account which rate is based upon ANR's rate schedule EUT–1 on file in its FERG Gas Tariff, Original Volume No. 1.

Any person or the Commission's staff may, wihtin 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. 84-24802 Filed 9-18-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-44-001]

Columbia Gas Transmission Corp. Amendment to Request Under Blanket Authorization

September 14, 1984.

Take notice that on August 29, 1984, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in Docket No. CP84–44–001 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to continue to transport natural gas on behalf of Locke Insulators, Inc. (Locke), under the certificate issued in Docket No. CP83–76–000 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.

Columbia proposes to continue transporting natural gas to Locke's Baltimore, Maryland, plant until June 30, 1985, instead of the October 4, 1984, termination date authorized in Docket No. CP84–444–000 under the prior notice procedure by notice issued December 27, 1983. Columbia also requests authorization for an increase in volumes transported from 800 million Btu on an average day to 1.132 billion Btu and from 288 billion Btu on an annual basis to 413 billion Btu. It is stated that the peak day quantity would remain at 1.4 billion Btu. It is also stated that the end-use of the gas would include process gas as well as boiler fuel instead of boiler fuel only as authorized in Docket No. CP84–44–000. Columbia asserts that in all other respects the transportation would remain the same as authorized in Docket No. CP84–44–000.

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. 84-24803 Filed 9-18-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP79-256-003]

Columbia Gulf Transmission Co.; Petition To Amend

September 14, 1984.

Take notice that on August 6, 1984, Columbia Gulf Transmission Company (Columbia Gulf), P.O. Box 683, Houston, Texas 77001, filed in Docket No. CP79-256-003 a petition to amend the order issued April 24, 1979, in Docket No. CP79-256-000 as amended October 16, 1981, in Docket No. CP79-256-002 pursuant to Section 7(c) of the Natural Gas Act, so as to authorize the substitution of a transportation arrangement for the present transportation and exchange arrangement, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By order issued April 24, 1979, as amended by order issued October 16, 1981, it is stated, the Commission authorized Columbia Gulf to deliver, for the account of Gulf Oil Corporation (Gulf) approximately 86,000 Mcf of natural gas per day to a point near Venice, Plaquemines Parish, Louisiana, said gas being all of Columbia Gulf's affiliate's gas from Exxon Company, U.S.A.'s Grand Isle processing plant (Grand Isle plant) and all or part the gas transported through the Project 37 pipeline. In exchange, it is indicated, equivalent volumes were to be delivered by Gulf, from its production in Eugene Island Block 238, offshore Louisiana, to a point near Erath, Vermilion Parish, Louisiana. It is further indicated that Columbia Gulf was authorized to receive from Gulf an additional 40,000 Mcf of gas per day at Erath. Columbia Gulf was then to transport said excess volumes to a delivery point near St. Landry, St. Landry Parish, Louisiana, and receive 11.67¢ per Mcf of gas received and transported, it is explained.

Due to operational problems, Columbia Gulf proposes that the exchange be converted to a straight transportation arrangement. It is averred that Columbia Gulf would receive, on a best-efforts basis, up to 100,000 Mcf of gas per day from Gulf near Erath, Vermilion Parish, Louisiana, and redeliver, for the account of Gulf, equivalent volumes of gas, less retainage, to an interconnection with Texas Eastern Transmission Corporation's facilities near Venice, Plaquemines Parish, Louisiana. Columbia Gulf proposes to charge 3.94 cents per Mcf of gas for its service.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before Oct. 4, 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-24804 Filed 9-18-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA85-1-33-000 and 001]

El Paso Natural Gas Co.; Proposed Change in Rates Pursuant to Purchased Gas Cost Adjustments

September 13, 1984.

Take notice that on August 31, 1984, El Paso Natural Gas Company ("El Paso") tendered for filing a notice of change in rates for jurisdictional gas service rendered to customers served by its interstate gas transmission system under rate schedules affected by and subject to Section 19, Purchased Gas Cost Adjustment Provision ("PGA"), contained in the General Terms and Conditions of El Paso's FERC Gas Tariff, First Revised Volume No. 1, which Section 19 also applies to certain special rate schedules contained in El Paso's FERC Gas Tariff, Third Revised Volume No. 2 and Original Volume No. 2A.

The filing reflects an increase in the purchased gas cost of $0.0910 per dth and a decrease of $0.2058 per dth in the surcharge rate for a net adjustment in El Paso's currently effective rate which is a decrease of $0.1148 per dth attributable to the PGA.

To implement the instant notice of change in rates, El Paso tendered for filing the following revised tariff sheets to its FERC Gas Tariff:

Tariff volume	Tariff sheet
First Revised Volume No. 1	Third Revised Sheet No. 100; Second Revised Sheet No. 540.
Third Revised Volume No. 2	Twenty-eighth Revised Sheet No. 1-D.
Original Volume No. 2A	Twenty-ninth Revise Sheet No. 1-C.

El Paso requests that the Commission grant waiver of its applicable rules, regulation and orders as may be necessary to permit the tendered revised tariff sheets to become effective on October 1, 1984.

El Paso states that the filing has been served upon all interstate pipeline system customers of El Paso and all interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 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 September 20, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a 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. 84-24805 Filed 9-18-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP84-49-000]

El Paso Natural Gas Co. v. Wagner & Brown; Complaint

Issued: September 14, 1984.

On August 31, 1984, El Paso Natural Gas Company (El Paso) filed a complaint under Rule 206 of the Commission's Rules of Practice and

Procedure [1] against Wagner & Brown. The complaint concerns sales of gas Wagner & Brown makes to El Paso from three wells in Oklahoma [2] and whether the sales violate the provisions of the Natural Gas Policy Act of 1978 (NGPA).[3]

El Paso's complaint arises from actions by Wagner & Brown under its gas purchase agreement with El Paso dated April 17, 1979, as supplemented on August 16, 1979. El Paso claims that this agreement contains a take-or-pay provision which obligates El Paso to purchase and receive or pay for whether or not received, a minimum quantity of gas per day (80 percent of the aggregate maximum delivery capacity of the wells to deliver gas at the delivery point(s)). El Paso claims that, subject to certain exceptions listed in the contract, if it fails to purchase and receive any gas during any year, it must pay to Wagner & Brown an amount which is the difference between the price for the minimum quantities of gas and the price for the quantities of gas actually purchased and received by El Paso.

El Paso further states that while it has the right to make up any deficiency payments by receiving, without charge, the quantities of gas it paid for but did not take, that these make-up volumes are not considered to be part of the minimum quantities of gas which El Paso is required to buy under the agreement. Furthermore, El Paso's make-up rights terminate under the contract on July 24, 1989. El Paso asserts that due to the current decline in the demand for gas, its takes under the contract did not equal the aggregate maximum delivery capacity during 1982 and 1983. Wagner & Brown have allegedly demanded payment from El Paso in the amount of $2,514,047.14, for deficiencies in those years. El Paso has refused to pay, and Wagner & Brown has filed suit against El Paso to recover this amount.[4] El Paso claims that it may never be able to fully recover these payments.

El Paso alleges that receipt by Wagner & Brown of the deficiency amount would violate the NGPA because (1) Wagner & Brown would receive payment in excess of the applicable maximum lawful price for those volumes of gas actually delivered due to the inability of El Paso to fully recover the claimed deficiency payments; and (2) Wagner & Brown would receive an interest benefit attributable to the deficiency payments made up under the terms of the agreement, which interest would exceed the applicable maximum lawful prices for the gas when delivered. El Paso therefore requests the Commission issue an order declaring that Wagner & Brown's demand for deficiency payments under the gas purchase agreement constitute an unlawful demand for payment of a price in excess of the applicable maximum lawful prices under the NGPA, and that the Commission order Wagner & Brown to cease and desist from making its demands for such payments.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E. Washington, D.C. 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure. All such petitions should be filed within 30 days following publication of this notice in the **Federal Register.** 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. 84-24806 Filed 9-18-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-121-000]

Michigan Gas Storage Co.; Filing

September 13, 1984.

Take notice that on September 5, 1984, Michigan Gas Storage Company (Applicant), 212 West Michigan Avenue, Room 1011B, Jackson, Michigan 49201 filed, pursuant to 18 CFR part 154, a Docket No. RP84-121-000, an Application for a rate for transportation and compression service at Applicant's Freedom Compressor Station, all as more fully set forth in the Application, which is on file with the Commission and available for public inspection.

Specifically, Applicant requests Commission approval of:

1. Rate Schedule "T-2" which will apply to gas (a) which a customer, qualified under PanMark (or equivalent), Order 319 or 319-A, Order 234-B or Section 311 of the Natural Gas Policy Act, delivers or causes to be delivered to Applicant at the inlet of Applicant's Freedom Compressor Station, and (b) which Applicant transports through that station and redelivers to such customer or its designee at the outlet of the station, and (c) the transportation of which involves none of Applicant's other facilities; and

2. The classifications, practices, rules and regulations affecting such rates, charges, and services.

The application is one of two being filed concurrently by Applicant. Both are for transportation-type services. Applicant states that because the services involve different parts of Applicant's system, two separate rates were necessary to reflect properly the costs of providing the services. Applicant further states that only one of these rates would be charged in any particular transaction. The proposed rate under the "T-2" tariff would be 3.25¢ per MMBtu.

Pursuant to 18 CFR 154.51, Applicant seeks a waiver of the requirements of 18 CFR 154.22, so that the rate proposed here may go into effect on September 12, 1984. Absent a waiver allowing an earlier effective date, Applicant proposed that the rate be effective on October 5, 1984.

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 September 20, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a 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. 84-24807 Filed 9-18-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-122-000]

Michigan Gas Storage Co.; Filing

September 13, 1984.

Take notice that on September 5, 1984, Michigan Gas Storage Company (Applicant), 212 West Michigan Avenue, Room 1011B, Jackson, Michigan 49201 filed, pursuant to 18 CFR Part 154, in Docket No. RP84-122-000 an Application for a total system transportation rate all as more fully set

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[1] 18 CFR 385.206 (1983).

[2] The wells are the Bryant Unit 21 No. 1 Well, the State of Oklahoma 16 No. 1 Well and the State of Oklahoma 14 No. 2 Well.

[3] 15 U.S.C. 3301-3432 (1982).

[4] Wagner & Brown v. El Paso Natural Gas Company, No. C-84-43, District Court of Roger Mills County, Oklahoma.

forth in the Application, which is on file with the Commission and available for public inspection.

Specifically, Applicant requests Commission approval of:

1. Rate Schedule "T-3" which would apply to transportation of gas for any customer that is qualified to receive gas under PanMark (or equivalent), Order 319 or 319-A, Order 234-B or Section 311 of the NPGA; and

2. The classifications, practices, rules and regulations affecting such rates, charges, and services.

The application is one of two being filed concurrently by Applicant. Both are for transportation-type services. Applicant states that because the services involve different parts of Applicant's system, two separate rates were necessary to reflect properly the costs of providing the services. Applicant further states that only one of these rates would be charged in any particular transaction. The proposed rate under the "T-3" tariff is 1.85¢ per MMBtu. If incidental storage is required in order to make daily receipts equal daily deliveries, then the proposed rate would be increased by 1.83¢ per MMBtu.

Pursuant to 18 CFR 154.51 Applicant seeks a waiver of the requirements of 18 CFR 154.22, so that the rate proposed here may go into effect on September 12, 1984. Absent a waiver allowing an earlier effective date, Applicant proposed that the rate be effective on October 5, 1984.

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 September 20, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with 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. 84-24806 Filed 9-18-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-671-000]

National Fuel Gas Supply Corp.; Application

September 14, 1984.

Take notice that on August 27, 1984, National Fuel Gas Supply Corporation (National Fuel), Ten Lafayette Square, Buffalo, New York, 14203, filed in Docket No. CP84-671-000 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities and permission and approval for the abandonment of certain existing facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

National Fuel proposes to replace a 2.3-mile segment of its 20-inch pipeline designated as Line N, which is located in Center Township, Beaver County, Pennsylvania. National Fuel advises that the replacement and realignment is proposed because of the deteriorating condition of the pipeline segment and because several residences have been constructed in close proximity to such pipeline segment. National Fuel explains that the 20-inch replacement pipe would bypass the residential area along a route covering 2.7 miles. It is stated that the total estimated cost of acquiring the necessary right-of-way and constructing the new facilities is $618,800, which cost would be financed with internally generated funds and/or interim short-term bank loans. The application reflects that the northerly directed section of the project would be constructed in a right-of-way adjacent to an existing pipeline of Columbia Gas Transmission Corporation.

According to the proposal, the deteriorated pipeline segment would be abandoned in place.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 4, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

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

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

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-24809 Filed 9-18-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-670-000]

Panhandle Eastern Pipe Line Co.; Request Under Blanket Authorization

September 14, 1984.

Take notice that on August 27, 1984, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP84-656-000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Pabst Brewing Company (Pabst) under its certificate issued in Docket No. CP83-83-000 pursuant to Section 7 of the Natural Gas Act, as more fully set forth in the request on file with the Commission and open to public inspection.

Pursuant to a transportation agreement dated July 11, 1984, among Panhandle, Central Illinois Light Company (CILCO) and Pabst, Panhandle proposes the transportation of up to 1,200 Mcf of natural gas per day on an interruptible basis from a point of interconnection with Mobil Oil Corporation in Dewey County, Oklahoma, and a point of interconnection to be constructed with Consolidated Fuel Supply Company in Ellis County, Oklahoma. Panhandle

states that it would deliver such gas, less a four percent reduction for fuel, to CILCO at Panhandle's Peoria sales station in Tazewell County, Illinois. CILCO, it is asserted, would deliver the gas to Pabst at its plant in Peoria, Illinois, for use as boiler fuel.

Panhandle states that the annual volume of gas to be transported is 178,850 Mcf. It is further stated that the average day flow is approximately 490 Mcf and peak day flow is 1,200 Mcf. It is asserted that this service is conditioned upon the availability of capacity sufficient to provide service without detriment or disadvantage to Panhandle's existing customers.

Panhandle submits that the transportation charge is based upon its Rate Schedule OST which rate is currently 42.0 cents plus 1.24 cents GRI surcharge for each million Btu delivered within the contract entitlement transportation quantity. It is explained that to the extent the total quantity of all transport gas delivered on any day exceeds the contract entitlement transportation quantity the rate applicable to such excess volume would be Panhandle's OST–E rate, currently 87.0 cents plus 1.24 cents GRI surcharge per million Btu.

It is stated that Panhandle would construct and operate a measuring station and appurtenant facilities at a point of receipt in Ellis County, Oklahoma, at an approximate cost of $19,000.

Panhandle further indicates it may need to add and/or delete receipt and/or delivery points upon mutual agreement of the parties and has agreed to comply with certain filing agreements in implementing these changes. It advises that within 30 days following the addition or deletion of any suppliers or receipt or redelivery points, Panhandle would file the following information:

(1) Copy of the gas purchase contract between the seller and the end-user;

(2) Statement as to whether the supply is attributable to gas under contract to and released by a pipeline or distributor and if so, identification of the parties, and specification of the current contract price;

(3) Statement of the Natural Gas Policy Act of 1978 (NGPA) pricing categories of the added supply, if released gas, and the volumes attributable to each category;

(4) Statement that the gas is not committed or dedicated within the meaning of NGPA Section 2(18);

(5) Location of the receipt/delivery points being added or deleted and the name of the producer/supplier;

(6) Where an intermediary participates in the transaction between the seller and the end-user, the information required by Section 157.209(c)(1)(ix);

(7) Identity of any other pipeline involved in the transportation.

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 § 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. 84–24810 Filed 9–18–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER84–633–000]

Public Service Company of New Mexico; Cancellation

September 14, 1984.

Take notice that on August 29, 1984, Public Service Company of New Mexico (PNM) tendered for filing a notice of cancellation of FPC Rate Schedule No. 20, between PNM and Pacific Power & Light Company and FPC Rate Schedule No. 21 between PNM and Idaho Power Company.

PNM requests an effective date of August 20, 1984.

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 September 28, 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. 84–24811 Filed 9–18–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP84–655–000]

Southern Natural Gas Co.; Request Under Blanket Authorization

September 14, 1984.

Take notice that on August 20, 1984, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP84–655–000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Southern proposes to operate new sales taps for service to United States Steel Corporation (USS), an existing direct sale customer, under the authorization issued in Docket No. CP82–406–000 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.

Southern states it was authorized by order issued October 29, 1969, in Docket No. CP70–7 (Phase II) to transport gas and to operate facilities for deliveries to USS at six delivery points in Jefferson County, Alabama, for use by USS in its mills for the manufacture and/or finishing of steel and steel products in Jefferson County. Southern further states it proposes to operate six sales taps and appurtenant facilities for delivery of gas to USS, said sales taps to serve as additional points of delivery to USS under a direct sales agreement between Southern and USS dated May 14, 1982, as amended. It is stated that operation of the proposed sales taps would enable USS to utilize volumes of gas it is authorized to purchase under the May 14, 1982, agreement to operate at other business locations in addition to those located in Alabama.

Southern states that the proposed sales taps would be the existing facilities located at (1) the point of interconnection between the facilities of Sea Robin Pipeline Company (Sea Robin) and Columbia Gulf Transmission Company (Columbia Gulf) at the terminus of Sea Robin's offshore pipeline near Erath in Vermilion Parish, Louisiana (Erath Delivery Point); (2) the point of interconnection between the jointly-owned facilities of Southern and ANR Pipeline Company (ANR) and Southern's Shadyside Compressor Station in St. Mary parish, Louisiana

(Shadyside Delivery Point); (3) the point of interconnection between Southern's pipeline and Texas Eastern Transmission Corporation's (Texas Eastern) 36-inch pipeline in Iberville Parish, Louisiana (White Castle Delivery Point); (4) the point of interconnection between an existing meter located near milepost 34.4 on Southern's 24-inch Duck Lake-Franklinton Loop Line and Acadian Gas Pipeline System's (Acadian) 16-inch pipeline in Iberville Parish, Louisiana (Carrville Delivery Point); (5) the flange or weld connecting the pipeline facilities of Transcontinental Gas Pipe Line Corporation (Transco) with the outlet of Southern's meter in Livingston Parish, Louisiana (Livingston Delivery Point); and (6) the point of interconnection between the facilities of Southern and Natural Gas Pipeline Company of America (Natural) located near the outlet of Texaco Inc.'s Henry Plant in Vermilion Parish, Louisiana (Henry Plant Delivery Point). USS has indicated to Southern that the sales volumes would be transported from the Erath, Shadyside, White Castle, Carrville, Livingston, and Henry Plant Delivery Points by Columbia Gulf, ANR, Texas Eastern, Acadian, Transco, and Natural, respectively, for delivery to USS to be used for operations in Indiana, Ohio, and Pennsylvania.

It is stated that USS is entitled under the May 14, 1982, agreement, as amended, to purchase from Southern at the old and new delivery points a quantity of gas not to exceed USS's total requirements as set forth in the Index of Requirements in Southern's currently effective FERC Gas Tariff. Except at the Carrville Delivery Point where deliveries are limited to 60,000 Mcf per day, USS may purchase the maximum amount at any delivery point or at any combination of delivery points, it is asserted.

Southern states that USS would pay a negotiated rate under the May 14, 1982, agreement, as amended, that tracks changes in the price payable under Southern's Rate Schedule OCD–2.

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. 84-24812 Filed 9-18-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CS72-953-000, et al.]

TCPL Resources U.S.A. Ltd., d.b.a. Wessely Energy Co. (Wessely Energy Corp.), et al.; Applications for "Small Producer" Certificates [1]

September 14, 1984.

Take notice that each of the Applicants listed herein has filed an application pursuant to Section 7(c) of the Natural Gas Act and § 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make protest with reference to said applications should on or before September 26, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 214). 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. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

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

Kenneth F. Plumb,

Secretary.

Docket No.	Date filed	Applicant
CS72-953-000	[1] 9-6-84	TCPL Resources U.S.A. Ltd., d.b.a. Wessely Energy Co. (Wessely Energy Corp.), 2001 Bryan Tower—Suite 953, Dallas, TX 75201.
CS84-114-000	8-27-84	Edwards & Leach Oil Co., 600 Triad Center, 501 Northwest Expressway, Oklahoma City, OK 73118.
CS84-115-000	8-28-84	Encino Energy & Development Corp., 333 Clay Street—Suite 4400, Houston, TX 77002.
CS84-117-000	8-31-84	Thelma W. Bauerdorf and Constance B. Cartwritht, TTS U/W George F. Bauerdorf, 9363 Wilshire Blvd., Beverly Hills, CA 90210.
CS84-118-000	8-31-84	Combined Resources Corp., 2431 E. 61st St.—Suite 400 Tulsa, OK 74136.
CS84-119-000	9-6-84	Bogert Oil Co., 2601 NW. Expressway—Suite 901W, Oklahoma City, OK 73112.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

[1] Wessely Energy Corp.'s assets were purchased effective July 1, 1984, by TCPL Resources U.S.A. Ltd., and the surviving entity is TCPL Resources U.S.A. Ltd., d.b.a. Wessely Energy Co.

[FR Doc. 84-24813 Filed 9-18-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-675-000]

United Gas Pipe Line Co.; Request Under Blanket Authorization

September 14, 1984.

Take notice that on August 29, 1984, United Gas Pipe Line Company (United), Post Office Box 1478, Houston, Texas 77001, filed in Docket No. CP84-675-000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate a sales tap to supply natural gas for an eligible end-user under the certificate issued in Docket No. CP82-430-000 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.

United proposes to construct and operate a 2-inch sales tap to supply an estimated 275 Mcf of natural gas per day for the manufacture of asphalt to the Dickenson-Bowen Asphalt plant (Dickenson-Bowen) through Entex, Inc. (Entex), a distributor, under United's Rate Schedule DG-N. The sales tap would be located on United's Jackson-McComb 6-inch Line in McComb Summit, Pike County, Mississippi.

It is stated that service through the proposed sales tap would not cause an increase in Entex's contractual maximum daily quantity nor its entitlements under United's effective curtailment plan. Further, United states that it has sufficient capacity to provide the proposed service without detriment or disadvantage to its other customers.

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 Section 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. 84-24814 Filed 9-18-84; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-30236A; FRL-2670-1]

American Cyanamid Co.; Approval of Pesticide Product Registration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces approval of an application by American Cyanamid Co. to conditionally register the pesticide product Arsenal ™ containing an active ingredient not included in any previously registered product pursuant to the provisions of section 3(c)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT:

By mail:

Product Manager (PM) 25, Registration Division (TS-767C), Office of Pesticide Programs, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 245, CM#2, Environmental Protection Agency, 1921 Jefferson Davis Hwy, Arlington, VA 22202, (703-557-1800).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of January 25, 1984 (49 FR 3136), which announced that American Cyanamid Co., PO Box 400, Princeton, NJ 08540, had submitted an application to conditionally register the pesticide product Arsenal" a herbicide containing 27.6 percent of the active ingredient 2-4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1*H*-imidazol-2-yl-3-pyridinecarboxylic acid with 2-propanamine (1:1) an active ingredient not included in any previously registered product pursuant to the provisions of section 3(c)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

The application was approved on July 31, 1984 for general use on noncropland areas. The product was assigned EPA Registration No. 241-273.

A copy of the approved label and the list of data references used to support registration are available for public inspection in the Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 236, CM#2, Arlington, VA 22202 (703-557-3262) within 30 days after registration date in accordance with section 3(c)(2) of FIFRA. Request for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), 401 M St., SW., Washington, D.C. 20460. Such requests should:

(1) Identify the product name and registration number and

(2) Specify the data or information desired.

(Sec. 3(c)(4)(5) FIFRA, as amended)

Dated: August 29, 1984.

Steven Schatzow,

Director, Office of Pesticide Programs.

[FR Doc. 84-24365 Filed 9-18-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[Docket No.: FEMA-REP-5-IL-5]

The Illinois Plan for Radiological Accidents Site-Specific for the Byron Nuclear Power Plant; Certification of FEMA Findings and Determination

In accordance with the Federal Emergency Management Agency (FEMA) rule 44 CFR 350, the State of Illinois submitted its plans relating to the Byron Nuclear Power Plant to the Director of FEMA Region V on March 28, 1984, for FEMA review and approval. On June 18, 1984, the Regional Director forwarded his evaluation to the Associate Director for State and Local Programs and Support in accordance with § 350.11 of the FEMA rule. Included in this evaluation is a review of the State and local plans around the Byron facility, and an evaluation of the full participation exercise conducted on November 15, 1983, in accordance with section 350.9 of the FEMA rule, and a report of the public meeting held on December 8, 1983, to discuss the site-specific aspects of the State and local plans in accordance with § 350.10 of the FEMA rule.

Based on the evaluation by the Regional Director and the review by the FEMA Headquarters staff, I find and determine that, subject to the condition stated below, the State and local plans and preparedness for the Byron Nuclear Power Plant are adequate to protect the health and safety of the public living in the vicinity of the plant. These offsite plans and preparedness are assessed as adequate in that they provide reasonable assurance that appropriate protective actions can be taken offsite in the event of a radiological emergency and are capable of being implemented. The condition for the above approval is that the adequacy of the public alert and notification system already installed and operational must be verified as meeting the standards set forth in appendix 3 of the Nuclear Regulatory Commission (NRC)/FEMA criteria of NUREG-0654/FEMA/REP-1, Revision 1.

FEMA will continue to review the status of offsite plans and preparedness associated with the Byron Nuclear Power Plant in accordance with § 350.13 of the FEMA rule.

For further details with respect to this action, refer to Docket File FEMA-REP-5-IL-5 maintained by the Regional Director, FEMA Region V, Federal Center, Battle Creek, Michigan 49016.

Dated: September 13, 1984.

For the Federal Emergency Management Agency.

Samuel W. Speck,

Associate Director, State and Local Programs and Support.

[FR Doc. 84-24738 Filed 9-18-84; 8:45 am]

BILLING CODE 6715-01-M

FEDERAL HOME LOAN BANK BOARD

Mitchell Home Savings and Loan Association, Mitchell, SD; Appointment of Receiver

Correction

In FR Doc. 84-23908 appearing on page 35693 in the issue of Tuesday, September 11, 1984, make the following correction. At the end of the fifth line of text add "Home Loan Bank Board appointed the Federal".

BILLING CODE 1505-01-M

FEDERAL RESERVE SYSTEM

[Docket No. R-0505]

Fee Schedules for Federal Reserve Bank Services

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Fee Schedule for Electronic Services.

SUMMARY: On January 18, 1984, the Board requested comment on a revised fee structure for the Federal Reserve's wire transfer of funds service and on the establishment of a monthly fee for institutions possessing an electronic connection with the Federal Reserve. After consideration of the comments received, the Board has approved the following fixed monthly fees for electronic connections:

Type of connection	Monthly fees	
	All priced services, except dedicated ACH connections	Dedicated ACH connections [1]
Dedicated leased line	$300	$200
Multi-drop leased line	225	180
Dial-up line	60	48

[1] The fees for dedicated ACH connections reflect the 80 percent recovery rate to be in effect in 1985 under the current pricing policy for the ACH service. The current daily fee of $0.75 asssessed for ACH electronic deliveries will be eliminated on January 2, 1985.

EFFECTIVE DATE: January 2, 1985.

FOR FURTHER INFORMATION CONTACT: Elliott C. McEntee, Associate Director (202/452-2231), or Florence M. Young, Program Manager (202/452-3955), Division of Federal Reserve Bank Operations; Gilbert T. Schwartz, Associate General Counsel (202/452-3625), or Elaine M. Boutilier, Attorney (202/452-2418), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: On January 18, 1984, the Board issued for public comment a proposal to assess fixed monthly fees to all depository institutions having an electronic connection with the Federal Reserve for one or more priced services,[1] (49 FR 2828). The following fees were proposed:

Type of connection	Monthly fees	
	All priced services, except dedicated ACH and security transfer connections [1]	Dedicated ACH connections [2]
Computer interface	$1,400	$840
Leased line	350	210
Dial up	75	45

[1] No fixed fees for dedicated security connections were proposed pending a review of the fee structure for security transfer services.

[2] The fees proposed for dedicated ACH connections reflected the 60 percent recovery rate for the service in effect at the time of the proposal.

In conjunction with implementing the fixed monthly fees, it was also proposed that:

- The fee for orginating or receiving a basic wire transfer of funds be reduced from $0.65 per transfer;
- The fee for originating a book-entry security transfer be maintained at $3.00 per transfer; and
- The proposed, daily $0.75 electronic delivery fee for the ACH service be eliminated.

Forty-eight comments were received from the public on the proposal. Thirteen commenters, primarily high-volume users of electronic payment services, supported the proposed fee schedule, while 35 respondents opposed it. At the same time, 21 commenters favored the concepts underlying the proposal. These commenters believed that the proposed fee structure would result in a more equitable assessment of the cost of providing electronic services across the various classes of users, but they questioned the level of the proposed fees or suggested alternative fee structures.

Opponents of the proposal believed that the fixed fees would substantially increase the costs of using Federal reserve services for low and medium volume users; inhibit growth in the use of electronic services; discourage use of more sophisticated data processing equipment; result in cross-subsidies among and within user classes, and negatively affect competition among depository institutions and between the Federal Reserve and privately operated funds transfer networks.

Transaction Fee

During the period January through July 1984, the Reserve Banks have reported a net revenue surplus of $4.4 million for the wire transfer of funds and net settlement. This surplus is attributable to Reserve Banks costs lower than orignally projected and a volume of transfers higher than projected. As a result, as previously announced, the Board believes it appropriate to implement the reduction in the basic transaction fee for originating or receiving a funds transfer from $0.65 to $0.60, effective September 27, 1984. (49 FR 35866)

Electronic Connection Fees

The comments received on the proposal to assess fixed monthly fees fell into four broad categories: (1) The impact of the proposed fee on users of electronic services; (2) the basic for establishing the proposed fees; (3) the equity of the proposal; and (4) its effect on the competitive environment.

1. Impact of Proposed Fees

An analysis of the impact on users of the wire transfer service indicated that only the highest volume users within the computer-interface and leased-line connection categories would have realized cost savings. On the other hand, the cost per transaction for low-volume users would have increased significantly.

It appears that the impact of the proposed fees might have caused on-line institutions that process fewer than one transfer per day to revert to off-line status, or some on-line institutions might have reconsidered the type of connection that they use. Therefore, the amount of the proposed monthly fee was re-evaluated.

Institutions considering a conversion from off-line to on-line status would consider not only the impact of the fixed monthly fee on their transaction costs, but also the cost of acquiring the hardware needed for an electronic connection, estimated at about $250 to $300 per month. Considering these two added costs, it would become cost effective for an off-line institution to establish an on-line connection when its volume of funds transfers reached a level of three to four transfers per day as opposed to a volume of two to three transfers per day under the current fee schedule. This small change would not appear to be a significant deterrent to the use of electronic connections, because depository institutions would likely consider other electronic services, in addition to the wire transfer of funds service, that are available to on-line institutions.

With respect to the proposal's impact on increasing the use of electronic transmissions for the ACH service, the proposed $45 monthly fee for a dial-up ACH connection [2] was higher than the current ground delivery fee of $1.75 per day or $36.75 per month. This disparity between the electronic connection fee

[1] Priced services include the automated clearing house, wire transfer of funds, net settlement, book-entry securities, check collection, definitive safekeeping, and noncash collection.

[2] The majority of ACH connections are dial-up connections rather than leased-line connections.

and the current ACH ground delivery fee will be addressed when 1985 fees for the ACH service are established.

2. Basis for Establishing Fees

The cost base used to develop the proposed fees included: (1) Intradistrict communications costs, which consist primarily of lines, modems, concentration equipment, and back-up facilities; (2) the costs of testing computer-interface connections; and (3) the cost of computer software necessary for on-line institutions using terminals to interface with the Federal Reserve.

The costs of intradistrict communications networks are directly attributable to providing electronic services to depository institutions. Thus, these costs are properly included in the cost base. On an institution basis, dedicated leased lines, which provide uninterruptable service to a single location, are typically the most costly, while dial-up lines are shared by a large number of users and are typically the least costly.

With respect to back-up connections, a variety of approaches are currently used to back up primary dedicated and multi-drop, leased-line connections. Because the Reserve Banks are in the process of re-evaluating the nature of their back-up facilities and the method by which charges for these facilities should be imposed, these costs are not covered by the revised fees.

Testing costs are incurred for computer-to-computer interfaces when an institution modifies its software or implements new software. Additionally, when the Reserve Banks implement new data communications protocols, install new software, or modify their software, institutions with computer interfaces must test with the Federal Reserve. Because testing expenses are not recurring monthly expenses and because depository institutions incur expenses when the Federal Reserve needs to test, testing costs are included in the revised cost base. Instead, the costs associated with testing will be monitored, and if testing cost for certain institutions exceed a normal range, consideration may be given to recovering such costs explicitly.

The cost of developing and maintaining the computer software provided by the Reserve Banks to institutions using terminals, like computer-interface testing expenses, are not on-going costs and are not directly related top the maintenance of an electronic connection. Therefore, it is appropriate to exclude these costs in determining the revised fees.

3. Equity of the Proposal

Assessing fixed fees for services whose cost structures consists of high proportion of fixed costs results in fee schedules that reflect the costs of serving both high and low-volume users of the service. Because the revised fee schedule eliminates costs that are not recurring monthly costs, these fees will be more equitable for both low and high-volume users of electronic services.

With respect to potential inequities that uniform fixed fees might create among institutions due to their locations, the Reserve Banks have designed their intradistrict communications networks in ways that tend to equalize the cost of serving institutions located in various geographic regions, including the extensive use of shared lines and the installation of concentration equipment. Fees for electronic payment services have been set at uniform levels to ensure that Federal Reserve fees do not adversely affect competition among depository institutions for national corporate customers.

4. Effect on Competitive Environment

Because the expected revenue would amount to about 10 percent of total costs, including the PSAF, for the wire transfer of funds service and the proposed reduction in the basic fee to originate or receive a wire transfer of funds would be only $0.05, it is unlikely that the proposed fee schedule would have had an adverse effect on competitive balance. Additionally, some privately operated networks assess fixed fees to their users.

With regard to the concern about competition among depository institutions, Federal Reserve fees are generally a small percentage of a depository institution's total costs. While the proposal would increase the costs incurred by some low-volume users of electronic services, modifying the composition of the cost base had reduced the per transaction impact across the various classes of users. Therefore, it is unlikely that the fixed monthly fees will negatively affect competition amoung depository institutions.

Alternative Fee Structures

Retaining the fee structure currently in place was compared with alternative fee structures proposed by commenters. These alternatives included implementing transaction fees that would vary by type of connection, and assessing each institution the actual costs of intradistrict communications networks, in conjunction with uniform transaction fees.

Fixed costs constitute a significant percentage on the total cost incurred in providing electronic services. Transaction fees based on average processing costs tend to assess high-volume users charges that are greater than the costs of providing services to them and to assess low-volume users charges that are less than the costs of the services provided. It was for this reason that the proposed changes to the current fee structure were made.

Implementing transaction fees that vary by type of connection would create incentives for depository institutions to upgrade their electronic connection in order to reduce the costs they incur in using Federal Reserve services. This is expected because institutions with computer-interface connections process high volumes of transactions and use fixed resources intensively, which would result in low transaction fees. Conversely, institutions with dial-up connections process low volumes of transactions and use fixed resources less intensively. Therefore, transaction fees for dial-up connections would be high. Fees for medium-volume, leased-line users would fall between the two extremes. Thus, institutions would have an economic incentive to upgrade their electronic connections. Such upgrades, however, would increase the Federal Reserve's costs of providing electronic services and over the long run also increase costs for all users of its services.

Assessing the actual costs of intradistrict communications networks to individual on-line institutions would appear to be unduly complex because of the number of shared lines linking depository institutions to the Federal Reserve.

Conclusion

The analysis of alternative fee structures for electronic services indicated that assessing fixed monthly fees to depository institutions based on the type of electronic connection with the Federal Reserve would result in a fee structure that more closely reflected the cost structure for electronic services and would be more equitable than the current fee structure.

Because intradistrict communications costs are directly attributable to the provision of electronic services, only the costs of the lines, modems, and concentration equipment as well as the administrative expenses incurred in managing the network were included in the cost base used to establish fixed fees. Further, because the type of line used to link a depository institution to the Federal Reserve is more directly

related to the service level provided to depository institutions than the type of equipment an institution installs, the fixed monthly fees will be assessed based on the type of line used.[3]

After consideration of comments received, the Board has approved the fee schedule appearing at the beginning of this notice. In order to provide depository institutions sufficient time to reassess the cost effectiveness of their current electronic connection with the Federal Reserve, and to provide them with sufficient opportunity to take these fees into account in planning for 1985, the Board has determined to establish an effective date for the electronic connection fee schedule of January 2, 1985.

By order of the Board of Governors of the Federal Reserve System, September 13, 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc. 24731 Filed 9-18-84; 8:45 am]

BILLING CODE 6210-01-M

The Chase Manhattan Corp.; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) 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 (12 CFR 225.21(a)) 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. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 9, 1984.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *The Chase Manhattan Corporation*, New York, New York; to engage *de novo* through its subsidiary, Chase Manhattan Financial Center, Inc., in operating an industrial loan and thrift company as authorized by Minnesota law including making and acquiring for its own account and for the account of others, secured and unsecured loans and other extensions of credit, such as consumer and business lines of credit, and installment loans; acting as insurance agent for credit life and disability insurance directly related to such lending activities; and the acceptance of deposits and similar instruments (other than "demand deposits").

Board of Governors of the Federal Reserve System, September 13, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-24736 Filed 9-18-84; 8:45 am]

BILLING CODE 6210-01-M

First National State Bancorp.; Application To Engage de Novo in Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)) 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 (12 CFR 225.21(a)), to engage *de novo* through a national bank subsidiary in deposit-taking, including the taking of demand deposits, and other activities specified below. The proposed subsidiary will not engage in commercial lending transactions as defined in Regulation Y. The Board has determined by order that such activities are closely related to banking. *U.S. Trust Company* (70 Federal Reserve Bulletin 371 (1984)). Although the Board is publishing notice of this application, under established Board policy the record of the application will not be regarded as complete and the Board will not act on the application unless and until a preliminary charter for the proposed national bank subsidiary has been submitted to the Board.

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 office of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Federal Reserve Bank or the office of the Board of Governors not later than October 11,1984.

A. **Federal Reserve Bank of New York** (A Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *First National State Bancorporation*, Newark, New Jersey; to engage through a national bank subsidiary, FNS Bank of New York, New York, New York, in consumer and mortgage lending, trust services and deposit-taking, including demand deposits; serving the New York City area.

[3] The types of connections are as follows:

Dedicated leased lines provide uninterruptable service to a single institution and are typically the most costly connections on an institution basis. Approximately 20 dedicated leased-line connections are currently in place.

Multi-drop leased lines provided uninterruptable service to a group of institutions that share a primary circuit. This type of connection is less costly on an institution basis. Nearly 1,200 multi-drop leased lines are current in place.

Dial-up lines are based on the telephone companies' WATS and 800 services. These are the least costly connections. Over 3,500 institutions obtain electronic services through the use of dial-up lines.

Board of Governors of the Federal Reserve System, September 13, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-24732 Filed 9-18-84; 8:45 am]

BILLING CODE 6210-01-M

Metropolitan Bancorp, 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 (12 CFR 225.14) 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. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank 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 October 11, 1984.

A. **Federal Reserve Bank of Clevland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Metropolitan Bancorp, Inc.*, Lima, Ohio; to acquire 100 percent of the voting shares of United National Bank, Convoy, Ohio.

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

1. *Junction City Bancshares, Inc.*, Junction City Arkansas; to become a bank holding company by acquiring at least 89 percent of the voting shares of Union State Bank, Junction City, Arkansas.

C. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Anchor Bankcorp, Inc.*, Wayzata, Minnesota; to acquire 97 percent of the voting shares of Exchange State Bank, St. Paul, Minnesota.

D. **Federal Reserve bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas Texas 75222:

1. *Georgetown National Bank Holding Company*, Georgetown, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of Georgetown National Bank, Georgetown, Texas.

E. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *CoBank Financial Corporation*, San Luis Obispo, California; to become a bank holding company by acquiring 100 percent of the voting shares of Commerce Bank of San Luis Obispo, N.A., San Luis Obispo, California.

Board of Governors of the Federal Reserve System, September 13, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-24733 Filed 9-18-84; 8:45 am]

BILLING CODE 6210-01-M

Sovran Financial Corp.; Application To Engage de Novo in Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)) 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 (12 CFR 225.21(a)), to engage *de novo* through a national bank subsidiary in the making of commercial loans, and other activities specified below. The proposed subsidiary will not engage in deposit-taking transactions as defined in Regulation Y. The Board has determined by order that such activities are closely related by banking. *U.S. Trust Company* (70 Federal Reserve Bulletin 371 (1984)). Although the Board is publishing notice of this application, under established Board policy the record of the application will not be regarded as complete and the Board will not act on the publication unless and until a preliminary charter for the proposed national bank subsidiary has been submitted to the Board.

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. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Federal Reserve Bank or the offices of the Board of Governors not later than October 11, 1984.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Sovran Financial Corporation*, Norfold, Virginia; to engage *de novo* through a national bank subsidiary, Sovran Bank (Maryland), N.A., Rockville, Maryland, in the acceptance of time and savings deposits (excluding NOW accounts), safe deposit business, making and servicing loans, trust company functions, leasing personal or real property, data processing, insurance sales, management consulting, issuance of money orders, savings bonds and travelers checks, real estate appraising, securities brokerage, and underwriting and dealing in government obligations and money market instruments; serving Rockville, Maryland, and surrounding areas.

Board of Governors of the Federal Reserve System, September 13, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-24734 Filed 9-18-84; 8:45 am]

BILLING CODE 6210-01-M

Texas Valley Bancshares, Inc.; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) 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 (12 CFR 225.21(a)) 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. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 8, 1984.

A. **Federal Reserve Bank Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Texas Valley Bancshares, Inc.*, Weslaco, Texas; to engage *de novo* through its subsidiary, Texas Valley Information Systems, Weslaco, Texas, in providing data processing services to businesses on their payables, receivables, inventory, accounting records, or any financial reports; data terminals to businesses to transmit their data to the computer center; businesses to prepare and imput their data to the data center; provide hardware and/or software for financial reporting to businesses; sales and service of microcomputers and software at the retail level; and training and education seminars in the use of microcomputers, data base terminals and other hardware.

Board of Governors of the Federal Reserve System, September 13, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-24735 Filed 9-18-84; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Child Support Enforcement

Child Support Enforcement Research and Demonstration Grants; Availability of Fiscal Year 1984 Grant Funds

On June 26, 1984, the Acting Director of the Office of Child Support Enforcement (OCSE) gave notice in the **Federal Register** (Vol. 49, No. 124, p. 26147) of the availability of fiscal year 1984 funds for child support enforcement research and demonstration (R&D) grants. Funding for those grants is authorized under Section 1110 of the Social Security Act. Program priorities for funding were: Study of Alternative Approaches to User Fees for Applicants of Non-AFDC Services (OCSE 84-1) and Evaluation of the Usage and Effectiveness of Medical Support Requirements (OCSE 84-2).

The closing date for receipt of applications for fisal year 1984 given in the previous **Federal Register** announcement was August 27, 1984. This notice extends the closing date of the above named grant applications to September 20, 1984. Applicants are referred to the previous announcement for application details. Pursuant to Section 2331 of the Deficit Reduction Act of 1984, Pub. L. 98-369, for-profit organizations may now apply for these grants.

Dated: September 13, 1984.

Martha A. McSteen,

Acting Director, Office of Child Support Enforcement.

[FR Doc. 84-24954 Filed 9-18-84; 8:45 am]

BILLING CODE 4190-11-M

Food and Drug Administration

Advisory Committees; Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

Meetings: The following advisory committee meetings are announced.

Vaccines and Related Biological Products Advisory Committee

Date, time, and place. October 4, 9 a.m., October 5, 8 a.m., Bldg. 29, Rm. 121, 8800 Rockville Pike, Bethesda, MD.

Type of meeting and contact person. Open public hearing, October 4, 9 a.m. to 10 a.m.; open committee discussion, October 4, 10 a.m. to 11 a.m.; closed presentation of data, October 4, 11 a.m. to 4:30 p.m.; closed committee deliberations, October 5, 8 a.m. to 9 a.m. and 1 p.m. to 4:45 p.m.; open committee discussion, October 5, 9 a.m. to 12 m.; Jack Gertzog, Center for Drugs and Biologics (HFN-31), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5455.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of vaccines and related biological products intended for use in the diagnosis, prevention, or treatment of human diseases.

Agenda—Open public hearing. Interested persons requesting to present data, information, or views, orally or in writing, on issues pending before the committee should communicate with the contact person.

Open committee discussion. On October 4, the committee will receive a general briefing on the kinds of issues it will be faced with in the future. On October 5, the committee will discuss the Finnish field trials with H. Influenzae Vaccine, Type B.

Closed committee deliberations. The committee will review trade secret or confidential commercial information relevant to pending investigational new drugs and license applications. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Ophthalmic Devices Panel

Date, time, and place. October 22 and 23, 9 a.m., Auditorium, 200 Independence Ave. SW., Washington, DC.

Type of meeting and contact person. Open public hearing, October 22, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 1 p.m.; closed committee deliberations, 2 p.m. to 5 p.m.; open public hearing, October 23, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 1 p.m.; closed committee deliberations, 2 p.m. to 3 p.m.; open committee discussion, 3 p.m. to 5 p.m.; George C. Murray, Center for Devices and Radiological Health (HFZ-460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7940.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices currently in use and makes recommendations for their regulation. The committee also reviews data on new devices and makes

recommendations regarding their safety and effectiveness and their suitability for marketing.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before September 20, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On October 22, the committee will discuss general issues relating to approvals of premarket approval applications (PMA's) for intraocular lenses (IOL's) and neodymium:yttrium-aluminum-garnet (Nd:YAG) lasers, and may discuss specific PMA's for these devices. The committee and FDA staff will discuss current knowledge and findings of Nd:YAG laser clinical experiences and will consider whether revisions to the guidance document are appropriate. If discussion of all pertinent IOL or Nd:YAG laser issues is not completed, discussion will be continued the following day. On October 23, the Committee will discuss PMA's for contact lenses and other ophthalmic devices and requirements for PMA approval. Copies of the revised draft guidelines for class III contact lenses may be obtained before the meeting by contacting George C. Murray (address above). Copies of these revised draft guidelines will also be available both days at the meeting.

Closed committee deliberations. On October 22, the committee will conduct reviews of PMA's for IOL's and Nd:YAG lasers. On October 23, the committee may discuss trade secret or confidential commercial information relevant to PMA's for contact lens or other ophthalmic devices. These portions of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1-hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Public hearings are subject to FDA's guidelines concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings. This guideline was published in the **Federal Register** of April 13, 1984 (49 FR 14723). These procedures are primarily intended to expedite media access to FDA's public proceedings, including hearings before a public advisory committee conducted pursuant to Part 14 of the agency's regulations. Under this guideline, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including the presentation of participants at a public hearing. Accordingly, all interested persons are directed to the guideline, as well as the **Federal Register** notice announcing issuance of the guideline, for a more complete explanation of the guideline's effect on public hearings.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA–305), Rm. 4–62, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94–409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a person nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from

public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

This notice is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA's regulations (21 CFR Part 14) on advisory committees.

Dated: September 14, 1984.

Mark Novitch

Acting Commission of Food and Drugs

[FR Doc. 84–24865 Filed 9–18–84; 8:45 am]

BILLING CODE 4160–01–M

Social Security Administration

Availability of Funding for FY 1984 Targeted Assistance Grants for Services to Refugees and Entrants in Local Areas of High Need

AGENCY: Office of Refugee Resettlement (ORR), SSA, HHS.

ACTION: Notice of availability of funding for FY 1984 targeted assistance grants for services to refugees and entrants in local areas of high need.

SUMMARY: This notice announces the availability of funds and award procedures for FY 1984 targeted assistance project grants for services to refugees and Cuban and Haitian entrants under the Refugee Resettlement Program (RRP) and Cuban/Haitian Entrant Program (CHEP).

Application Deadline: States should submit applications for grants under this notice at least 60 days prior to the time that the first qualifying county or local jurisdiction would require funds. No applications will be accepted later than April 1, 1985. Applications not meeting this requirement will not be considered and will be returned to the sending agency.

FOR FURTHER INFORMATION CONTACT: Sara Stone, Grants Management Office, Office of Refugee Resettlement, 330 C Street, SW., Room 1229, Switzer Building, Washington, D.C. 20201, Telephone (202) 245–1832.

Background Information

Original notices of proposed funding for refugee and entrant social services and targeted assistance were published in the **Federal Register** on February 13, 1984 (49 FR 5383), and February 28, 1984 (49 FR 7297), respectively. Subsequently, a question arose as to the total funding available for these activities in FY 1984 under the Second Continuing Resolution (Pub. L. 98–151). Pending final resolution of this question, ORR notified all States eligible to receive targeted assistance grants to submit applications by August 20, 1984, for the amounts which had been specified in the February 28 notice in order to assure that available funds could be awarded before the expiration of their availability at the end of FY 1984 (September 30, 1984).

In the Second Supplemental Appropriation Act, 1984, Congress has specified the funding amount available and has extended until September 30, 1985, the date by which ORR must award Targeted Assistance funds, including the targeted assistance grants funded under this notice.

Since it is no longer necessary either for ORR to award targeted assistance grants or for States to begin targeted assistance projects prior to October 1, 1984, we have extended the deadline for applications until April 1, 1985. If a State has previously submitted an acceptable application, it need now submit only a revised budget to that application and the additional information specified in Section IX, below, in order to qualify for the higher amount specified by this notice. However, if a State should choose to revise its application in order to take advantage of opportunities afforded as a result of the expanded authorization period, it may do so within the time constraints established above.

SUPPLEMENTARY INFORMATION:

I. Purpose and Scope

This notice announces the availability of funds for targeted assistance grants for services to refugees and Cuban and Haitian entrants in counties where, because of factors such as unusually large regfugee and entrant populations, high refugee and entrant concentrations, and high use of public assistance, there exists and can be demonstrated a specific need for supplementation of resources for services to this population.

ORR is making available under this notice a total of approximately $60,200,000 in funds for targeted assistance for refugees and entrants in local areas of high need.

Notice of proposed availability of funds was published in the **Federal Register** for public comment on February 28, 1984 (49 FR 7297). No major changes have been made in the program as a result of comment on the previously published proposal. However, several modifications and clarifications and some technical changes were made in response to comments.

Revisions which have been made include the following: (1) The funds allocated under this notice have been increased from $40,000,000 to approximately $60,200,000. (2) The amount of a local allocation which may be used for administrative costs has been increased from 10% to 15% for local areas eligible to receive allocations of $500,000 or less, with a sliding scale (described in Section IX, below) for local areas eligible to receive between $500,001 and $900,000 (in order to provide an increase in the absolute amount available for administration as allocations increase), and with local areas eligible to receive $900,001 or more remaining at the 10% figure proposed in the previous notice. (3) The previous notice proposed that non-employment-related activities, if proposed in a local plan to meet extreme and unusual need, be subject to ORR prior approval. The present notice removes this requirement and, instead, allows up to 15% of a local area's allocation to be used for non-employment-related services to meet extreme and unusual needs, provided such needs are clearly demonstrated and such use is approved by the State. A State may request a waiver in order to be able to allow a county to use more that 15% for non-employment-related services. ORR will approve such a request only in the most extreme circumstances of need. (4) A requirement has been added that a State consult with local targeted assistance entities in the development of the State's application.

The purpose of the targeted assistance grants is to provide to refugees and Cuban and Haitian entrants, through a process of local planning and implementation, direct services which are intended to result in economic self-sufficiency and reduced dependency, and to address extreme and unusual needs of these populations. Funds awarded under this program are intended to support projects which directly enhance refugee and entrant employment potential and increase the ability of refugees and entrants to find and retain jobs, and to provide special services, identified below, where essential to the adjustment of refugees/entrants in targeted assistance communities. Innovative approaches to accomplish these objectives are encouraged.

The award of funds to States under this targeted assistance program will be generally related to the existence and relative extent of refugee and entrant need in each qualifying county, as indicated by a qualificaiton and allocation formula (described in this notice), and to the completeness of applications as described in Section IX, below.

To be considered complete an application package must consist of a signed original and two copies. All application packages must be received by the U.S. Department of Health and Human Services, SSA, Office of Refugee Resettlement, Grants Management Office, Room 1229, Switzer Building, 300 C Street, SW., Washington, D.C. 20201.

Applications Delivered By Hand

An application that is hand-delivered should be taken to the U.S. Department of Health and Human Services, Social Security Administration, Office of Refugee Resettlement, Grants Management Office, Room 1229, Switzer Building, 330 C Street, SW., Washington, D.C. 20201.

The Grants Management Office will accept a hand-delivered application between 8:30 am and 5:00 pm Eastern Daylight Time daily, except Saturdays, Sundays, and Federal holidays.

Applications delivered by hand must be received no later than 5:00 p.m. of the application deadline specified by this notice.

Applications Delivered By Mail

A formal grant application sent by mail must be addressed as indicated above.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service Postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

If an application is sent through the U.S. Postal Service, the Director does not accept either of the following as proof of mailing: (1) A private metered postmark or (2) a mail receipt that is not dated by the U.S. Postal Service. Applicants should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, the applicant should check with its local post office. Applicants are encouraged to use registered or at least first class mail. Applications must be postmarked no later than the application deadline specified by this notice.

II. Discussion of Comments Received

Thirty-one comments were received in response to the notice of proposed availability of funds of FY 1984 targeted assistance. The comments supported the overall targeted assistance program as proposed in the February 28, 1984, notice. Most of the commenters expressed concern about specific aspects of the program as proposed and some included recommendations for particular revisions. These are summarized below and are followed in each case by the Department's response.

Adequacy of Formula Allocations

Comment: More than half of the commenters expressed dissatisfaction with the overall amount of funds which was indicated in the proposal as available for FY 1984 targeted assistance grants.

Response: The amount of funds which was stated as available for targeted assistance grants in the proposal was determined as part of an overall refugee program strategy for distributing resources according to recongizable needs of a national resettlement program. Originally approximately $20,000,000 was proposed to be set aside from TA funds in order to prevent service disruption which may have been caused by the mid-year announcement of social service funds much lower than that which States had anticipated. Since the publication of that proposal, the amount of funds available for refugee/entrant social services has increased from $44,400,000 to $71,700,000. This change removes the need for allocating targeted assistance funds to prevent serious disruption in State social service programs. Therefore, an amount equivalent to that available for targeted assistance in FY 1983—$60,200,000—is being announced under this notice for the combined refugee/entrant targeted assistance program.

Comment: Many commenters complained that the proposed formula and data base do not accurately reflect the true needs of their communities relative to others in the program. In particular, they argued for improvements through recognition of the following claims: (1) The proposal does not take into account time-expired refugees (i.e., refugees who have been in the U.S. more than 3 years); (2) the proposal does not take into account population changes which may have occurred since the previous year through secondary migration.

Response: As has been stated elsewhere (47 FR 42634 and 48 FR 24996), ORR has done, and continues to do, its best to use data which are both accurate and based upon measures which equitably reflect the needs of refugees and entrants. The limitations of data sources prevent ORR from obtaining valid and reliable measures of actual refugee and entrant populations in specific jurisdictions. This is in large part due to the inability of any existing data source to track movement of refugees within States as well as across State boundaries. We believe that the allocation approach which was presented in the proposal is a reasonable and fair means of determining overall relative need among targeted assistance areas nationally.

We would also point out that the retention of the FY 1983 targeted assistance allocation approach does, in fact, take into account time-expired refugees and entrants for purposes of FY 1984 funding. The FY 1980 refugee and entrant arrival cohort, which at over 350,000 individuals is by far the largest annual cohort and constitutes 46% of all refugees and entrants not yet eligible for citizenship, was included in the FY 1984 targeted assistance allocation precisely because of its size, the arrival rate which it represents, and the fact that most State and local governments feel an immediate need to provide targeted services of refugees and entrants in this group. Removal of this cohort from consideration would have significantly affected most targeted assistance areas, and would not have been responsive to ongoing refugee and entrant needs which were evident in FY 1983 targeted assistance plans.

We recognize that secondary migration has occurred in some areas since FY 1983 and that with the previously proposed amounts, which represented reductions in actual amounts available, this constituted a special unmet need. Under the current notice, amounts remain at the FY 1983 level, even though portions of the population in qualifying areas have availed themselves of targeted assistance programs already. We believe, therefore, that no additional amount is needed above the present increase of about 50% over the allocation levels proposed in the previous notice.

Allowable Services

Comment: Comments were received from a variety of agencies and interested parties regarding the desirability of allowing, without special waivers (which would have been required under the previous notice), the provision of some services not specifically related to client employment, but for which extreme and unusual need can be demonstrated. Most commenters stated that such flexibility should be available to the local targeted assistance authorities without being considered outside the legitimate scope of services of the program. However, some commenters also indicated that the employment focus of targeted assistance should be protected from diversion to a myriad of special interests and, therefore, that a ceiling should be established on the

percentage of funds that would be available for purposes other than employment.

Response: The Department recognizes that in many targeted assistance areas special circumstances do exist which are generally related to the adjustment of refugees and/or entrants in the community, but which cannot be resolved through additional support of employment services per se. While maintaining a recognition that the primary goal of targeted assistance is to provide specialized employment services for selected portions of the refugee/entrant population in local areas of high need, we agree with the suggestion that we should address other service needs that are critical to the adjustment of refugees and entrants. For this reason, the proposal has been amended to include non-employment services as allowable under a local targeted assistance plan. Included in this change are any services made available under section 412(c)(3) of the Immigration and Nationality Act (as amended by the Refugee Act of 1980, Pub. L. 96–212) to include health, mental health, education, and social services. The use of targeted assistance funds for this purpose is restricted to 15% of the local allocation amount unless a State requests and receives approval from ORR to use a larger percentage. Local targeted assistance plans may contain proposals for services to address extreme and unusual needs up to 15% without requesting ORR approval.

Comment: A few commenters requested further clarification as to the allowability of support services and the nature of their linkage to employment services.

Response: The Department's intent in allowing supporting services to be funded under targeted assistance is to reduce the possibility that primary employment services might not be utilized to full advantage by potential clients because of lack of access or other conflicts. The availability of day care, transportation, or other services which are specifically and absolutely necessary to enable refugees or entrants in the targeted population to participate in employment services is viewed as fundamental to the success of the targeted assistance program. These same services, however, should not be construed as allowable under targeted assistance if they are to be made available to the general refugee/entrant population. The section of this notice which relates to allowability of support services has been revised to comply with the commenters' request for clarification.

Application and Local Plan Development Process

Comment: A few commenters indicated that in order for State agencies and local entities to coordinate their roles in targeted assistance this year, there should be some discussion of concepts and intentions prior to the development of the State application. This consultation would help ensure that the local plan review criteria and other aspects of the State's application, once approved, would be more smoothly and successfully implemented.

Response: While the notice as proposed contained no provision which prevented State-local consultation during the development of State applications, we believe that it is an important element in the overall process of targeted assistance planning. Therefore, the proposal has been amended to include a provision that the State include in its application an assurance that it has consulted with the local targeted assistance entity during the development of that application.

Comment: Several commenters advised that the use of July 15, 1984, proposed in the February notice as a deadline for the receipt of targeted assistance applications from States, presupposed a specific publication date for a final notice. They suggested that, whatever the publication date, States should be allowed a full 60 days during which to develop their applications. A few commenters also stated that ORR should guarantee in this notice a specific number of days (30 was suggested) during which ORR would review State applications and award the State targeted assistance grant.

Response: We agree that an adequate period for the development of applications is essential. Therefore, we allowed more than 60 days from our direct notification to States on June 6 until a due date of August 20 and have subsequently been able to extend the period until the later date specified by this notice. ORR regrets that it cannot guarantee the award of a State's targeted assistance grant within a particular time, since such a commitment would presuppose the completeness and allowability of State applications. ORR will make every effort to review and make awards for acceptable State grant applications on a timely basis and to notify a State as soon as possible if problems arise during the review of its application.

Reporting Requirements

Comment: A few commenters noted the advantages of greater specificity and standardization in the targeted assistance reporting requirements. One commenter provided a list of key outcome measures for consideration and also included a list of suggested definitions for those data elements.

Response: We agree that greater specificity of data elements, to include definition of measures, would avoid confusion among grantees and subgrantees and improve ORR's ability to report on the program. In the proposal, ORR specifically requested comment on a list of six data elements which were thought to clarify the reporting requirements that exist for the current targeted assistance program (Form ORR 12, OMB No. 0960–0334). Positive repsonse to this in both written comment and in subsequent discussions with representatives of State and local governments has led us to conclude that the use of more specific reporting guidelines is warranted. ORR will seek the necessary approval from the Office of Management and Budget (OMB) for issuing such guidelines. These reporting guidelines will not be in effect unless and until they are approved by OMB.

Administrative Costs

Comment: Several comments were received regarding the need for a higher percentage allowance for local administrative costs. One commenter argued that the amounts allowed for State (as opposed to local) administrative costs should have a numerical cap which would have the effect of reducing the percentage for States with large targeted assistance grants.

Response: We have concluded that the 10% level of funding previously proposed for local administration of FY 1984 targeted assistance programs could be inadequate in areas which receive small awards. Therefore, we have revised the provision in this notice relating to local administrative costs to allow a variable rate according to the size of the amount allocated to the locality by the formula. Thus, any local area with an allocation of $500,000 or less will be allowed to claim up to 15% of its allocation amount for administration. For each $100,000 increment above $500,000, the local administration allowance would be one (1) percentage point less (e.g., up to $600,000 would be allowed 14%). Local targeted assistance areas with allocations of $900,001 or more would be allowed to claim up to 10%, as was previously the rule for all areas. We believe that this schedule will provide funds at a level necessary to carry out the full responsibilities of administering the local targeted assistance program.

We do not agree with the suggestion that State administrative allowances, which were proposed at 5% of the State's grant award, be reduced or capped. The FY 1984 targeted assistance program requires the assumption of considerable responsibility on the part of the State in order that the program be implemented and monitored properly. The proposed amount is appropriate to this task.

Comment: Many commenters requested clarification of the allowability of planning costs, for both States and local administering agencies.

Response: Planning costs may be claimed by State administering agencies as pre-award costs, provided that they are directly attributable to local consultation, application development, and other activities specifically related to these. Planning costs will be considered administrative costs and will be included in the administrative ceiling as provided in this notice. States are authorized to charge these costs against their FY 1983 targeted assistance grants *prior* to the issuance of FY 1984 targeted assistance awards. Upon issuance of those awards, such charges must be offset from the FY 1984 targeted assistance administrative budget.

Local planning costs will also be considered administrative costs and should be included in the local administrative cost ceiling as indicated in this notice. The period during which local planning costs would be allowed is to be defined by the State in its application to ORR.

III. Authorization

Targeted assistance projects will be funded under the authority of section 412(c) of the Immigration and Nationality Act (INA), as amended by the Refugee Act of 1980 (Pub. L. 96–212), 8 U.S.C. 1522(c), and section 501(a) of the Refugee Education Assistance Act of 1980 (Pub. L. 96–422), 8 U.S.C. 1522 note, insofar as it incorporates by reference with respect to Cuban and Haitian entrants the authorities pertaining to assistance for refugees established by section 412(c) of the INA, as cited above.

IV. Eligible Grantees

The Department is limiting eligible grantees to those agencies of State governments which are responsible for the refugee program under 45 CFR 400.5. Eligibility for targeted assistance funds for services to Cuban and Haitian entrants is limited to States which have an approved State plan under the Cuban/Haitian Entrant Program (CHEP).

Under this notice, State agencies will submit a single application on behalf of all county governments of the qualified counties in that State. The application will contain assurances, plans, and descriptive information pertaining to the State's role as grantee and to its implementation of the FY 1984 targeted assistance program through the review and approval of county targeted assistance plans and the transfer of targeted assistance funds to qualified counties.

Subsequent to the acceptance of the State's application by ORR, local targeted assistance plans which are developed by the county government or other designated entity would be submitted to and reviewed by the State. These plans would propose targeted assistance projects based upon the special needs and capabilities of the targeted refugee and entrant populations, and must give due consideration to the availability of local employment opportunities and outcomes of previously funded projects. Such plans must be developed in cooperation with voluntary refugee resettlement agencies, the business community, refugees and entrants, and public officials in that area.

In the absence of a statewide county system, or in the absence of an appropriate county-level refugee program agent or agency and with the concurrence of the county government, the State may designate a city or other governmental entity or may procure for the services either a private for-profit or nonprofit organization, to administer the targeted assistance funds for a qualified local area.

In submitting its application, the State agency must provide assurances (described in Section IX, below) that targeted assistance funds will be made available to counties in a timely manner, in allocated amounts, and for purposes most appropriate to the nature and extent of need as indicated by each county in its targeted assistance plan. In this regard, the State review of county plans is intended to ensure that targeted assistance programs address identifiable needs in a programmatically sound manner. It is not intended, however, that the local determination of needs and responses to those needs would be removed through a State's exercise of its review responsibility under this program.

The State agency is also required to assure that amounts allocated to counties or other qualifying local entities under targeted assistance would not be used to offset funds that have otherwise been obligated to such jurisdictions.

A State's application must also include a description of its plan for the review and approval of county targeted assistance plans; its specifications and requirements for county plans with regard to identification of priority services and target populations, procurement, monitoring and evaluation, and reporting; and a timetable of its process for implementing the FY 1984 targeted assistance program. States may apply for a grant of up to eighteen months. Grant periods must begin no later than September 30, 1985.

Applications submitted in response to this notice are not subject to review by State and areawide Clearinghouses under Executive Order 12372, "Intergovernmental Review of Federal Aid Programs."

V. Qualification and Allocation Formula

The Director of ORR considers any county which qualified for targeted assistance funds in FY 1983 (as announced for refugees at 48 FR 24986, June 3, 1983, and for entrants at 48 FR 34127, July 27, 1983) as qualified for funds available under this proposal. The Director is making $60,193,534 in funds available to States with qualified counties on an allocation basis in direct proportion to the total amount allocated to each State under both refugee and entrant targeted assistance programs in FY 1983. The amount allocated for each qualified county is also in direct proportion to each county's FY 1983 allocation. No deviation from the amounts allocated for counties may be made by a State without written concurrence from the affected county.

This qualification and allocation approach is believed to be most appropriate for the FY 1984 targeted assistance program for several reasons: First, the basic purpose of the targeted assistance program for this year is the same as was the purpose of the FY 1983 program. Second, the needs of refugees in targeted assistance areas, as identified in the county plans for the FY 1983 program, are extensive. Even a completely successful implementation of the FY 1983 program would not reduce those needs to a degree which would remove the necessity of continuing the program. Third, those areas which qualified for targeted assistance funds in FY 1983 are areas which continue to receive large numbers of refugees through the family reunification priority of new arrivals. This tends to maintain the service and employment market problems associated with the scale of the local resettlement which largely contributed to the need for targeted assistance initially. Finally, as described below, no other counties or county areas would have qualified under the formula

this year (even with some liberalizing adjustments) that did not already qualify last year.

For the FY 1984 targeted assistance program, an initial list of counties was developed and screened according to the qualification criteria used in FY 1983. All counties that received awards for targeted assistance in FY 1983 for either refugees or entrants were included. In addition, ORR consulted with State refugee program officials to obtain their suggestions of additional counties for consideration. ORR also screened data on refugee arrivals in FY 1983 to identify counties that might have received significant numbers of refugees for the first time. A list of 70 counties (including Washington, D.C.) was derived from this review.

Analysis of the new data for the 70 counties indicated that no jurisdiction would qualify in FY 1984 that had not previously received targeted assistance funds in FY 1983. Further tests were performed to determine whether any area had approached qualification during the past year. This was found not to be the case. Therefore, a continuation of FY 1983 qualification was determined to be most appropriate for targeted assistance in FY 1984.

Under the previous, FY 1983, refugee targeted assistance program, a two-stage formula for qualification for, and allocation of, targeted asistance funds was utilized. The first stage of the formula defined the qualification of counties for targeted assistance through the use of four equally-weighted criteria which had been selected to collectively indicate local conditions and problems which the proposed program was intended to address. In order to qualify for application for targeted assistance funds, a county (or group of adjacent counties within the same Standard Metropolitan Statistical Area, or SMSA) was required to be above the median or above a selected cutoff point of jurisdictions for which data were reviewed in three of the four following criteria: (1) The number of refugees placed in the county during Federal fiscal years 1980–1982; (2) the ratio of the overall county population to the refugees in item (1), above; (3) the number of refugees in the county who were receiving cash assistance under the programs of aid to families with dependent children program (AFDC), including the unemployed parent (UP) portion of that program, and refugee cash assistance (RCA) on October 1, 1982; and (4) the ratio of refugees in item (3) to the number of refugees in item (1). A county which placed above the cutoff point in any three of the above categories qualified to apply for targeted assistance funds. It was then included in the list of qualifying localities for determination of its targeted assistance allocation.

The second stage of the FY 1983 targeted assistance formula was designed to reflect the relative level of need for funds among those counties which qualified to apply under the formula's first stage. The relative degree of need of each qualified locality was indicated by the number of refugees residing in that locality who were not self-sufficient. The Department thus noted the following single criterion as the basis for the allocation of targeted assistance funds among the eligible counties: The number of refugees residing in the county who had been in the United States 36 months or less and who were receiving cash assistance under AFDC, AFDC-UP, or RCA on October 1, 1982. (These data were adapted to represent refugee need for targeted assistance on a basis which makes some adjustment for the variation in caseloads caused by State-to-State assistance program differences. Estimates were calculated to provide funds to qualifying counties in States which do not have AFDC-UP, or in which refugee inclusion under AFDC-UP is non-existent or minimal, in order to provide an equitable level of funding in all qualifying localities, regardless of differences in Federal-State assistance program availability.) A county's allocation was, therefore, the proportion of available funds which equaled that county's proportion of all such refugee recipients residing in all counties which had qualified to apply for targeted assistance funds under the first stage of the formula.*

ORR believes that the adoption of this same approach for targeted assistance in FY 1984 is desirable because the circumstances of need remain parallel with last year and because program continuity under circumstances of ongoing need has been a major concern of commenters on previous **Federal Register** notices of funding availability published by ORR.

While recognizing that differing views may exist, we believe that these measurable criteria comprise good indicators of high-need counties and that the proposed cutoff points established a reasonable basis for identifying those counties which had and still have the greatest need for targeted assistance funds. The basic intent of the targeted assistance program remains: To concentrate available funds in those areas where there are appreciable numbers fo unemployed and dependent refugees and entrants on whose behalf special self-support efforts are required.

* Targeted assistance funds were allocated for entrants to qualifying counties on a per capita basis because other types of data that might have indicated need were not available for all areas and therefore could not be utilized uniformly.

VI. Allocation Amounts

The allocation amounts available for FY 1984 refugee and entrant targeted assistance are shown in Table 1.

TABLE 1.—COUNTIES WHICH QUALIFY FOR THE FY 1984 TARGETED ASSISTANCE PROGRAM AND ALLOCATION AMOUNTS

County, state	Allocation amount
Alameda CA	$1,483,669
Contra Costa CA	424,217
Fresno CA	819,281
Los Angeles CA	7,492,324
Merced CA *	1,000,000
Orange CA	3,333,843
Riverside/San Bernardino CA	423,226
Sacramento CA	1,269,875
San Diego CA	2,484,814
San Francisco CA [b]	1,928,314
San Joaquin CA	1,281,378
Santa Clara CA	2,481,839
Stanislaus CA	231,842
Denver CO [c]	500,518
Washington DC	54,738
Broward FL	832,484
Dade FL	14,458,016
Hillsboro FL	261,618
Palm Beach FL	345,833
Honolulu HI	551,152
Cook/Kane IL	2,588,995
Sedgwick KS	540,500
Orleans LA [d]	421,467
Montgomery/Prince Georges MD	512,735
Middlesex MA	405,046
Suffolk MA	929,612
Hennepin MN	653,096
Ramsey MN	918,292
Jackson MO [e]	316,209
Essex NJ	138,747
Hudson NJ	928,433
Union NJ	186,377
New York NY [f]	2,071,504
Multnomah OR [g]	1,407,416
Philadelphia PA	963,382
Providence RI	688,095
Harris TX	1,129,253
Salt Lake UT [h]	343,292
Arlington VA	594,897
Fairfax VA [i]	717,333
King/Snohomish WA	1,713,650
Pierce WA	366,222

* Merced County, which received a seperate targeted assistance grant for this amount in FY 1983, is included in the FY 1984 targeted assistance program for purposes of administrative efficiency, and will be included in California's State targeted assistance application.
[b] Includes Marin and San Mateo Counties.
[c] Includes Adams, Arapahoe, and Boulder Counties.
[d] Includes Jefferson Parish.
[e] Includes Wyandotte County, KS.
[f] Includes the five boroughs.
[g] Includes Clackamas and Washington Counties and Clark County, WA.
[h] Includes Davis and Utah Counties.
[i] Includes the independent cities of Alexandria, Fairfax, and Falls Church.

VII. Allowable Activities

Allowable activitiesunder the FY 1984 targeted assistance program include any activity permissible under section 412(c) of the INA which is directly related to the furtherance of refugee economic self-sufficiency by aiding refugees in finding and retaining jobs, increasing refugee

employability potential, and/or enhancing refugee job market possibliities. Creative approaches to such activities are encouraged. Allowable activities include, for example, job development, job placement, business and employer incentives (such as on-site employee orientation and vocational English training, or bilingual supervisor assistance), business technical assistance, short-term job training specifically related to opportunities in the local economy, and on-the-job training. Use of targeted assistance funds for venture capital, either as grants or loans, to provide working capital associated with the acquisition of land, buildings, equipment or the operating budget for a business (except in the case of equipment or business operating budgets required for a specific traiing activity) is specifically not allowed. Proposals which include voluntary corporate participation and a generally high degree of business and refugee group involvement are especially welcomed.

Stipends or needs-based payments to program participants are allowed if no other source of support is available to them and it can be demonstrated that support is essential to their participation in a job preparation or training project. In any case, no more than 30% of funds used for this program component are allowed to be used for such payments. Essential support services, such as day care and transportation, are allowable only when it is demonstrated that they are directly related to the employment of those idetified as the target populations, or are a necessary component in the employability plan of those targeted assistance clients.

Also allowable are other services which are not directly related to the employement of individual clients but which are nonetheless identified and demonstrated in the county plan to be essential services in addressing extreme and unusual needs of the refugee and/or entrant population in the targeted assistance area. Subject to State review and approval, a maximum of 15% of the allocation amount for each area maybe used in funding these services. In the event that the State wishes to support a local area's request to allocate more than 15% of its funds for non-employment-related services, the State must seek formal approval of ORR. Since ORR discourages such arrangements, only the most extreme need will be considered adequate justification to support the requests. Allowable services under this special needs provison could include any activity allowable under section 412(c)(3) of the INA. In order to justify the provision of services for extreme and unusual needs, a county plan must identify the target population and clearly demonstrate the nature and extent of the needs, and must describe how the use of targeted assistance funds for the proposed purposes contributes to the adjustment of the refugee/entrant population in the community.

VIII. Application and Implementation Process

Under the FY 1984 targeted assistance program, States apply for and receive grant awards on behalf of qualified counties in the State. The State agency will, in turn, receive, review, and determine the acceptability of individual county targeted assistance plans. On the basis of the acceptability of these county plans, the State will award the appropriate amount of funds to each qualified county or local administering entity.

States are allowed to submit applications to ORR at any time from the date of previous written notification to States until the application deadline specified by this anouncement. Reasonable and identifiable planning costs may be incurred by the State during this period. The award of funds to States with acceptable applications will then be made as soon as possible after such determination, but in any case by September 30, 1985.

Upon notification of the acceptability of its application and the award of funds, a State will notify the qualified counties in its jurisdiction that it is able to review proposed county plans for the use of FY 1984 targeted assistance funds. Due dates, consultation and review procedures, and other aspects of the process of county plan development and submission must be established by the State and included in a timetable in its own application to ORR. However, a State is required to award the appropriate allocation amount to a county in sufficient time to allow continuity of services which were initiated with FY 1983 funds and which the State determined to be acceptable in its county plan review.

States may apply for a grant of up to eighteen months, with the grant period ending no later than March 31, 1987. Except for planning, application preparation and review, procurement processes, and funding for new or expanded activities, States and local areas must use funds awarded under the FY 1983 targeted assistance awards prior to using funds issued under FY 1984 targeted assistance awards.

It should be noted that in instances where a State will act as the local administering entity and/or provider of direct services, ORR will receive, review, and determine acceptability of individual, local targeted assistance plans. This review process will parallel that of the normal State review of county-administered plans. ORR requests that States which are administering local targeted assistance programs submit their plans to ORR for review and approval at least 60 days prior to the desired date of program implementation.

IX. Application Content

In applying for targeted assistance funds, a State agency is required to provide the following:

1. Assistance that targeted assistance funds will not be used to offset funding otherwise available to counties or local jurisdictions from the State agency in its administration of other programs—e.g., social services, cash and medical assistance, etc.

2. Assurance that the State has consulted with targeted assistance entities (counties) in its development of State application guidelines.

3. A description of the State's guidelines for the required content of county targeted assistance plans. Acceptable county plans must minimally include the following:

a. Procedures for carrying out a local planning process for determining targeted assistance priorities and service strategies. All local targeted assistance plans will be developed through a planning process that involves, in addition to presentatives of the local planning agency, representatives of the private sector (for example, private employers, Private Industry Council, Chamber of Commerce, etc.), leaders of refugee/entrant community-based organizations, voluntary resettlement agencies where such exist, and other public officials associated with social services and employment agencies.

b. Assurance that all services will be provided by qualified providers (public or private, non-profit or for-profit, agencies or individuals).

c. Identification of refugee/entrant populations to be served by targeted assistance projects, including approximate numbers of clients to be served, a description of characteristics and needs of targeted populations, priortization of refugee/entrant clients to be served, and justification for the designation of specific client populations.

d. Identification and justification of specific strategies to meet needs of targeted populations. These should be justified where possible through analysis of strategies and outcomes from projects previoulsly implemented under the FY 1983 targeted assistance program, the regular refugee social service programs, and any other services available to the refugee population.

e. Relationship of proposed FY 1984 targeted assistance projects to FY 1983 funded projects. Identify procedures which will prevent any duplication of services to individual clients should any components of the two grants overlap.

f. Relationship of targeted assistance projects to other services available to refugees/entrants in the county including State-allocated ORR social service programs.

g. Justification for support services as they relate to the removal of barriers to employment of the specified targeted populations.

h. Analysis of available empoyment opportunities and relationship of targeted assistance strategies to local employment opportunities. Examples of acceptable analyses of employment opportunities might include a review of studies conducted by the city/county or State institutions on employment opportunity forcasts which would be appropriate to the refugee population, surveys of presently effective employment service providers, and employers or potential employers of refugee clients.

i. Statement of projected performance outcomes for each program component including the number of full-time unsubsidized job placements, placements with at least 90 days' retention on the job, etc., at six and twelve month periods.

j. Monitoring and oversight responsibilities to be carried out by county or qualifying local jurisdiction.

k. Reporting requirements including at a minimum, the frequency of submissions and data elements outlined in (i) above.

l. Justification for any service not directly related to the employment of individual clients as addressing extreme and unusual needs of the refugee and/or entrant population. Adequate justification must include a discussion of the extent of extreme and unusual need and indicate number of refugees/entrants to be served, absence of or limited availability of necessary resources, and the expected results from the provision of the proposed services without specific ORR prior approval, a maximum of 15% of the allocation amount for each targeted area is allowed.

m. Program component summary which includes a justification for the projected allocation for the component, including relationship of funds allocated to numbers of clients served, characteristics of clients, projected outcomes and cost per placement. In addition, the program component summary should describe specific services or activities inclusive of equipment for training purposes and stipends (if applicable), duration of training and services, ancillary services or subcomponents such as day care or language training, and any other activities relevant to determining the basis for the projected cost of the component. Such justification shall constitute the basis for determing the reasonablenees of the costs of the services in relationship to client needs and outcomes.

n. Assurance that the local administrative budget will be limited to the amount available as indicated in the schedule below:

TABLE 2.—SCHEDULE OF ALLOWABLE ADMINISTRATIVE COST AMOUNTS

Allocation amount for local targeted assistance area	Allowable percentage for administrative costs (percent)	Maximum amount for administrative costs
$500,000 or below	15	$75,000
500,001 to $600,000	14	84,000
$600,001 to $700,00	13	91,000
$700,001 to $800,000	12	96,000
$800,001 to $900,000	11	99,000
$900,001 and above	10	(1)

(1) Depends on allocation.

Note.—The Targeted Assistance grants are cost-based awards. Neither a State nor a county is "entitled" to a certain amount for administrative costs. Rather, administrative cost requests should be based on and defended as projections of actual needs. The amounts shown above reflect only the maximum which may be claimed.

o. Assurance from States that elect to administer the program directly or otherwise to provide direct service to the refugee/entrant population (with the concurrence of the county), that the State will not request or use targeted assistance funds for program services in the target area for which it will serve as administering entity until the local targeted assistance plan has been reviewed and approved by ORR. The State must provide ORR with the same information required above under Point 3 for review and prior approval. The State should provide ORR with this plan at least 60 days prior to the date of desired program implementation.

4. A description of the process for awarding funds to the local area, to include:

a. An identification of the local administering entity, procedures for selection of such if other than local government, and award instrument to be used.

b. Assurance that any deviation from having the qualified county administer the TA grant occurs with the concurrence and approval of the designated county or qualified local jurisdiction.

c. A workplan which describes major activities and timetables for their completion, including identification of the period during which local entities could incur planning costs.

d. Procedures for the review and approval of local plans. At a minimum, these procedures must enable the State to ensure that all elements required under (3) above have been met and that an objective review process is carried out consistent with State requirements.

e. A timetable indicating the approximate dates by which qualifying counties shall receive FY 1984 funds.

f. Assurance that no county will receive funds for new or continuing projects until such time as funds for such continuing projects have been obligated and demonstrable evidence (based on at least 6 months project activity) exists that such projects should be continued or expanded, should the county so decide.

g. Other requirements which the State considers appropriate to assure an orderly funding process which accommodates the need to provide timely funding without prematurely funding projects or activities for which FY 1983 funds could be used, where limited project activity has occurred, or where performance assessments cannot be made.

5. A description of the State's plan for monitoring and evaluating the targeted assistance programs. Plan must minimally include the following:

a. Provision for consolidating program data to measure overall progress of program—i.e., number of persons being removed from cash assistance, number of persons in target populations securing employment with 90-day retention.

b. Provision for verifying and assessing quality of data submitted, corrective actions to be taken, and followup.

c. Provision for relating program data with financial data to determine service costs as well as cost effectiveness of service components.

d. Provision for timely submission of complete, accurate, and unduplicated

outcome data on all components of individual targeted assistance plans so that categories or types of projects can be tracked and assessed.

e. Description of State's plan for fiscal and programmatic monitoring of local projects.

f. Description of the State's procedures for reviewing changes in county plans which require prior approval in accordance with 45 CFR Part 74, Subpart L, and the appropriate cost principles. The State agency shall assume with the receipt of its FY 1984 targeted assistance award all programmatic responsibility for issues relating to FY 1983 awards to qualifying local jurisdictions. These responsibilities shall cover determinations about modifications to an approved scope of work and amendments to grant awards. Where modifications involve grant period or carry-over the State agency shall require the concurrence of ORR in order to effect such changes in either FY 1983 and 1984 awards.

6. Projected line item and budget justification of State administrative costs not to exceed 5% of the total award.

7. Assurance that the State will adhere to the provisions of its approved Cost Allocation Plan for Public Assistance Programs as mandated under 45 CFR Part 95, Subpart E.

8. Assurance that the State make available to the county or designated local entity not less than 95% of the amount of its formula allocation for purposes of implementing the activities proposed in its plan.

9. Assurance that the State will not support county administrative costs in excess of those amounts allowed under this Notice.

10. Assurance that the State will follow or mandate that its subrecipients will follow appropriate procurement standards in the acquisition of services. Applicable standards are outlined in Subpart P of the Department's grants administration regulations 45 CFR Part 74. In essence, this subpart provides that agencies of government (e.g., State, county) follow the provisions of Attachment O of OMB Circular A–102 and that non-profit organizations follow provisions of Attachment O of OMB Circular A–110. Both attachments are included as appendices to 45 CFR Part 74. The exception would involve a situation in which an agency of government (e.g., State, county) sought to acquire services from another agency of government (e.g., county or county welfare agency). In such cases, the procurement standards of the agency of government (State, county) acquiring the services would apply.

11. The following additional information is required from States which have already filed applications for the amounts which were specified in the February 28 notice: (1) A revised projected line item budget and justification of State administrative costs not to exceed 5% of the total award, reflecting the higher amounts specified in this notice; and (2) any revision in the grant period applied for in conformity with this notice.

X. Review, Technical Assistance, and Award Procedure

Applications will be reviewed on a non-competitive basis to determine acceptability. Such determination will be based on the completeness of the submission (according to the requirements of section IX, above). The Department will provide technical assistance to the applicant if it is necessary in order to develop a proposal which warrants the award of funds at the proposed allocation amount and if such assistance if requested by the applying State agency. Final determination as to the acceptability of applications is at the discretion of the Director of ORR.

IX. HHS Regulations That Apply

The following HHS regulations apply to grants under this Notice:

42 CFR Part 441, Subparts E and F, Services: Requirements and limits applicable to specific services—Abortions and Sterilizations,

45 CFR Part 16, Department grant appeals process,

45 CFR Part 74, Administration of grants,

45 CFR Part 75, Informal grant appeals procedures,

45 CFR Part 80, Nondiscrimination under programs receiving Federal assistance through the Department of Health, Education, and Welfare effectuation of Title VI of the Civil Rights Act of 1964,

45 CFR Part 81, Practice and procedure for hearings under Part 80 of this title,

45 CFR Part 84, Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance,

45 CFR Part 95, Subpart E, General Administration—Grant Programs (Public assistance and medical assistance)—Cost Allocation Plans.

XII. Reporting and Recordkeeping

Section IX of this announcement establishes application and reporting requirements that require review and approval by OMB under the Paperwork Reduction Act and 5 CFR Part 1320.

Applications for these grants are to be submitted on Form SSA–96 (with recently redesigned face page, form 424) which has current OMB approval (0960–0184). In completing Form SSA–96, States must address the criteria listed in Section IX.

Financial reporting is to be provided semiannually on Standard Form 269 (80–R0180). These reporting requirements directly follow Departmental grants administration regulations at 45 CFR Part 74.

ORR currently requires grantees to report semiannually on their oversight of the implementation of county plans for targeted assistance, and expects to issue guidelines regarding specific data elements on services provided and employment objectives achieved with these guidelines as indicated under section 3507 of the Paperwork Reduction Act of 1980 and 5 CFR Part 1320. Grantees will be notified at such time as this approval is provided.

(No Catalog of Federal Domestic Assistance number has been assigned)

Dated: September 7, 1984.

Phillip N. Hawkes,

Director, Office of Refugee Resettlement.

[FR Doc. 84–24786 Filed 9–18–84; 8:45 am]

BILLING CODE 4190–11–M

Refugee Resettlement Program; 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: Final notice.

SUMMARY: This notice establishes the formula for allocation to States of FY 1984 funds for social services under the Refugee Resettlement Program (RRP). The formula yields the allowable allocation of FY 1984 refugee and Cuban/Haitian entrant social service funds for each State participating in the RRP.

EFFECTIVE DATE: September 18, 1984.

FOR FURTHER INFORMATION CONTACT: David Howell (202) 245–1923.

SUPPLEMENTARY INFORMATION: Notice of the proposed formula for the allocation of FY 1984 social service funds was published in the **Federal Register** on February 13, 1984 (49 FR 5383). Since that date, the Congress has clarified that the amount available for funding for refugee/entrant social services during FY 1984 is $71,700,000, rather than $44,400,000 as originally announced.

This increased amount removes the necessity of creating a hold-harmless supplement through the use of targeted assistance funds, as anticipated in the proposal. No other major changes have been made in the formula allocations as a result of comment on the previously published proposal. However, one modification (the addition of a hold-harmless provision under the MAA allocation) and some technical changes were made.

I. Amounts Available for Allocation

The Office of Refugee Resettlement (ORR) will make available $71,700,000 in FY 1984 refugee/entrant social service funds and $77,500,000 in FY 1984 refugee/entrant targeted assistance funds. (A total of $4,000,000 of the FY 1984 appropriation of $81,500,000 in targeted assistance funds was approved by Congress for reprogramming to a separate budget category for Preventive Health Care.) This determination has been made based upon a clarification by Congress that the amount of funds available under the Second Continuing Resolution for FY 1984 (Pub. L. 98–151) for social services and targeted assistance be at the same level as in FY 1983. Funding allocations for targeted assistance are announced in a separate notice.

Of the total of $71,700,000 in social service funds, the Director of ORR will make available to States during FY 1984 $70,205,739 for purposes of providing social services to refugees and entrants. Separate announcements have been made for additional funds not included in this notice.

All allocation figures include both refugees and entrants, since both populations may be served through funds addressed in this notice.

Of the $70,205,739 covered by this notice, the Director will allocate funds directly to States in the following manner:

- $60,000,000 will 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.
- $290,576 of the available social services funds will be allocated to States which have particular needs associated with small refugee/entrant populations in order to provide a floor of $75,000 for States with fewer than 500 refugees/entrants.
- $6,598,475 of the available social service funds will be used to assure that, under the revised allocations, no State's allocation is below the proposed amount announced in the notice of February 13.
- $3,316,688 of the available social service funds will be allocated to each State on the basis of its proportion of the 3-year refugee/entrant population (including a $5,000 floor and funds to hold harmless those States which received MAA incentive grants from ORR in FY 1983) in order to provide targeted service funds as an incentive for States to fund refugee/entrant mutual assistance associations (MAA's). States have been notified that a written assurance that these funds will be used for MAA's is required in order for a State to receive these funds. Separate guidance has been provided to States regarding this assurance.

The amount of social service funds being allocated under the formula is $60,290,576 (including adjustments to provide a minimum of $75,000 to each State, but excluding the separately-formulated MAA incentive supplements), an amount more than $3,000,000 greater than the $57,012,067 announced for formula allocation in the February 13 notice of proposed availability of funds for refugee and entrant social services. Nevertheless, a few States would receive less under the FY 1984 formula than had been announced in the February 13 proposal. This change results from the fact that a few States have considerably lower 3-year population bases (FY 1981–1982–1983) as applicable to the FY 1984 formula than they had as applicable to the FY 1983 formula, and the fact that the amounts indicated in the previous proposal were determined by providing a hold-harmless level of funding equal to 90% of each State's FY 1983 formula award amount.

We believe that reductions which would result from application of the FY 1984 population base reflect a reduced level of need for social service funds on the part of the affected States, relative to that of other States in the program. In this sense, we believe that it would have been both appropriate and fair to follow the formula allocation schedule if early notice had been provided. However, some States would receive a lower amount under the FY 1984 allocation formula in this notice than the amount expected under the February proposal (equal to 90% of their FY 1983 awards) due to changes in the population base, as indicated above. These States would experience reductions in relation to the funding amounts which they had anticipated and against which they had been planning throughout most of the current fiscal year if the FY 1984 formula were strictly followed. Therefore if a State is scheduled in this notice for a formula allocation lower than its hold-harmless amount as previously announced in the February 13 notice, ORR is providing a supplementary amount, $6,598,475, that will bring the actual FY 1984 social service award to the higher, previously announced, level. See Table 1, below.

ORR also 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, $3,316,688 in social service funds will be awarded specifically for these organizations as an optional award to any State which would use the funds for this purpose and has complied with the Guidelines issued by the Director on July 2, 1984, for participation in this program.

The approximately $1,500,000 remaining in social service funds will 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, as described in the previous notice.

II. Discussion of Comments Received

Twenty-six comments were received during the public comment period in response to the notice of the proposed formula for the allocation to States of FY 1984 funds for social services for refugees and Cuban/Haitian entrants. Many of the commenters expressed concern about the proposed approach to social service allocations and some included recommendations for particular changes. These are summarized below and are followed in each case by the Department's response.

Comment: Some commenters objected to the amount of funds ($44.4 million) which was announced as available for social serivces in FY 1984.

Response: In order to provide a context for the discussion of the proposed formula for social service allocations, the notice included a statement of available funds under the Second Continuing Resolution for FY 1984 (Pub. L. 98–151). The notice indicated that the Continuing Resolution (CR) level for social services had been calculated by the Department based on the same assumptions as were used in the FY 1983 budget request. This calculation produced a CR level of $44.4 million, which is $27.3 million below the FY 1983 level.

Since the publication of the notice of proposed availability of funds, the Congress clarified its intent that the amount available for social services

under the Continuing Resolution in FY 1984 is $71,700,000.

Comment: Most of the commenters who objected to the social service funding level, above, disagreed with the necessity of using targeted assistance funds to prevent a severe reduction in available social service funding. The proposal stated that about $16.6 million of available targeted assistance funds would be used to provide States with allocation adjustments, if necessary, to help maintain service program stability. While not all commenters objected to the idea of providing an adjustment, most stated that such an allocation should not be necessary (given their a priori disagreement with the funding level) and that they did not want targeted assistance funds to be used for that purpose.

Response: As a result of the change in the amount of available funds from $44,400,000 to $71,700,000, the need to use targeted assistance funds to ensure social service program stabilitly no longer exists. This part of the proposal has been removed from the present announcement.

Comment: A few commenters expressed dissatisfaction with the population base used in the formula. Those commenters stated that the 3-year base is too short and does not provide sufficient funds for refugees who have been in the country longer than three years.

Response: The Department has argued elsewhere (47 FR 22566; 47 FR 42634; 48 FR 24996; as well as the proposal under discussion at 49 FR 5383) that the 3-year population base is a sound approach to social service allocation because (1) it reflects population trends over a period of time in which refugees have the greatest need for services, (2) it is not subject to the instability of short-term biases, (3) it provides some incentive for States to use their program funds for priority services, and (4) it is consistent with program policies and priorities of ORR to provide services to refugees in order that they become self-sufficient as quickly as possible. The Department continues to believe that the 3-year population base is most appropriate for the allocation of social service funds.

It should be noted that an extension of the population base to a longer period would not have the effect that most of the commenters (who are from States with relatively few Cuban or Haitian entrants) appear to anticipate since the inclusion of the more than 130,000 entrants who arrived in FY 1980 would result in a lower social service formula allocation to most States.

The Department believes that the targeted assistance allocations provide the most appropriate means of addressing needs based on longer term populations.

Comment: Several commenters indicated that they found the proposed amounts to be inequitable. They cited differences in State percentages of refugees versus percentages of funding amounts as evidence that the proposal, by using the 90% (of the FY 1983 formula allocation) hold-harmless, does not distribute funds on the basis of population alone.

Response: The formula allocation of $60,000,000 under the present notice removes the need for the types of formula adjustments which led to such concern.

Comment: A few commenters objected to the proposed use of approximately $3,300,000 for the purpose of providing incentive funds for States to involve refugee mutual assistance associations (MAA's) in service delivery. Others supported the proposal strongly but believed that in cases where the proposed formula would allow an amount to a State lower than that which it received in FY 1983 under a national competitive program for the same purpose, the previous, higher, amount should be continued.

Response: Although in many areas little involvement of refugee mutual assistance associations has been achieved, the Department believes that the development of this service resource is an important part of the continued progress of refugees. Ethnicity-based self-help is a well-established and proven phenomenon of many groups throughout the United States. The use of refugee program funds to further this kind of activity for recently-arrived refugee groups, at a State's discretion, is a simple and effective means of encouraging the programmatic involvement of those groups in their own adjustment.

The Department does not intend to discourage those States which have previously worked with MAA's to include them in current service activities. Therefore we concur with the recommendation to provide FY 1984 funding for those States at a level not less than the amount they received under the MAA incentive grant program in FY 1983. We have thus added funds to the national MAA allocation total and have amended the allocations to the eleven States which otherwise would have suffered losses.

III. Allocation Formula

Of the funds available for FY 1984 for social services, $60,000,000 will be allocated to States in accordance with the formula specified below. A State's allowable allocation will be calculated as follows:

1. The total amount of funds determined by the Director to be available for this purpose; divided 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, adjustments will be made to provide a floor and to provide no less than the amount announced at 49 FR 5385, February 13, 1984, Table 1, in order to prevent service disruption.

5. MAA incentive award supplements are allocated on the same 3-year population basis as that used in the social service formula. These funds will be made available contingent upon letters of assurance from States.

While the formula is based on the 3-year refugee and entrant population, social service programs are not limited to refuges who have been in the U.S. only three years. States may provide services without regard to an indiviudal 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.)

IV. Basis of Refugee and Entrant Population Estimates

The population estimates for the allocation of funds in FY 1984 are based on data from the ORR Refugee Data System, adjusted as of October 1, 1983, for estimated secondary migration. The data base includes refugees of all nationalities as well as Cuban and Haitian entrants resettled after 9/30/80. Slight changes have been made in the estimated State refugee population totals since the publication of the proposed formula on February 13, 1984, to reflect new data received. Two States submitted late data on secondary migration on Form ORR–11, so a new set of adjustments for secondary migration was calculated and applied to all States. Two States submitted convincing evidence of larger time-eligible populations than had been estimated previously, and their population estimates were revised accordingly.

For fiscal year 1984, ORR's formula allocations to the States for support services for refugees are based on the numbers of refugees who arrived and on the numbers of 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 10/1/80 and 9/30/83 who are thought to be living in each State as of 10/1/83. The population estimates for the FY 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 11,912 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 are, therefore, 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 and entrants (col. 1), excluding those matching-grant refugees discussed above; the formula amounts which the population estimates yield (col. 2); the additional allocations required to provide a minimum $75,000 floor and to assure that no State receives less than the amount previously announced (col. 3); the allocation amounts (col. 4) after allowing for the minimum amounts and the adjustment so that no State receives less than the amount announced at 49 FR 5385, February 13, 1984, Table 1; and, the amounts available as an incentive to States to use MAA's as service providers (col. 5).

V. Allocation Amounts

The following allocation amounts are available 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 ALLOCATIONS, BY STATE, FOR FY 1984

State	Formula population (1)	Social service formula amount (2)	Additional allocation to reach proposed level [a] (3)	Total allocation (4)	MAA incentive award (5)
Alabama	1,255	$230,770	$0	$230,770	$11,539
Arizona	2,674	491,696	0	491,696	35,000
Arkansas	1,187	218,266	0	218,266	10,922
California	104,367	19,191,049	0	19,191,049	959,825
Colorado	5,144	945,881	0	945,881	47,306
Connecticut	4,071	748,577	0	748,557	37,431
Delaware	69	12,688	[c] 62,312	75,000	5,000
Dist. Columbia	2,075	381,552	0	381,552	75,000
Florida	20,219	3,717,878	[b] 5,022,787	8,740,665	185,906
Georgia	5,190	954,339	0	954,339	72,072
Hawaii	2,182	401,227	[b] 65,838	467,065	20,071
Idaho	639	117,500	0	117,500	5,874
Illinois	13,043	2,398,352	0	2,398,352	119,962
Indiana	1,551	285,199	0	285,199	14,256
Iowa	2,909	534,908	[b] 78,988	613,896	26,755
Kansas	4,335	797,122	0	797,122	39,861
Kentucky	949	174,503	[b] 7,026	181,529	8,755
Louisiana	4,724	868,651	0	868,651	43,435
Maine	898	165,125	0	165,125	8,260
Maryland	4,595	844,931	0	844,931	42,246
Massachusetts	9,721	1,787,502	0	1,787,502	89,393
Michigan	5,698	1,047,751	0	1,047,751	52,498
Minnesota	7,875	1,448,058	[b] 629,563	2,077,621	75,000
Mississippi	807	148,392	0	148,392	7,423
Missouri	3,283	603,679	0	603,679	30,186
Montana	192	35,305	[b] 54,695	90,000	5,000
Nebraska	1,033	189,948	0	189,948	9,501
Nevada	1,103	202,820	0	202,820	10,144
New Hampshire	408	75,023	0	75,023	5,000
New Jersey	4,678	860,193	[b] 256,507	1,116,700	43,030
New Mexico	1,123	206,498	[b] 46,854	253,352	10,332
New York	18,402	3,383,768	0	3,383,768	169,259
North Carolina	2,412	443,520	0	443,520	22,183
North Dakota	645	118,603	0	118,603	5,936
Ohio	4,205	773,217	0	773,217	75,000
Oklahoma	3,628	667,118	0	667,118	46,809
Oregon	6,456	1,187,132	[b] 171,747	1,358,879	74,695
Pennsylvania	9,988	1,836,598	0	1,836,597	91,882
Rhode Island	4,177	768,069	0	768,069	75,000
South Carolina	1,135	208,704	0	208,704	10,438
South Dakota	436	80,172	[b] 9,828	90,000	20,000
Tennessee	2,648	486,915	0	486,915	24,348
Texas	23,554	4,331,120	0	4,331,120	216,649
Utah	3,603	662,521	[b] 2,350	664,871	66,900
Vermont	240	44,131	[c] 30,869	75,000	5,000
Virginia	10,768	1,980,024	0	1,980,024	99,021
Washington	12,448	2,288,944	0	2,288,944	114,595
West Virginia	203	37,328	[c] 37,672	75,000	5,000
Wisconsin	3,191	586,762	[b] 291,987	878,749	75,000
Wyoming	108	19,859	[c] 55,141	75,000	5,000
Guam	55	10,113	[c] 64,887	75,000	5,000
Totals	326,299	60,000,000	6,889,051	66,889,051	3,316,688

[a] As proposed at 49 FR 5385, February 13, 1984, Table 1.
[b] Amount allocated to provide no less than the amount announced at 49 FR 5385, February 13, 1984, Table 1.
[c] Amount allocated to provide a $75,000 floor to States with fewer than 500 refugees/entrants.

VI. 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)

Dated: September 7, 1984.

Phillip N. Hawkes,

Director, Office of Refugee Resettlement.

[FR Doc. 84-24786 Filed 9-18-84; 8:45 am]

BILLING CODE 4190-11-M

National Institutes of Health

National Cancer Institute; Meeting of National Cancer Advisory Board and Board Subcommittees

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Cancer Advisory Board, September 24-26, 1984, National Cancer Institute, James A. Shannon Building (Building 1), Wilson Hall, Third Floor, National Institutes of Health, Bethesda, Maryland 20205. Meetings of Subcommittees of the Board will be held September 23-25 at the times and places listed below. Portions of the Board meeting and its Subcommittees will be open to the public to discuss committee business as indicated in the notice. Attendance by the public will be limited to space available.

Portions of these meetings will be closed to the public as indicated below in accordance with the provisions set forth in section 522b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winfred Lumsden, the Committee Management Officer, NCI, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will provide summaries of the meetings and rosters of Board members, upon request.

Mrs. Barbara S. Bynum, Executive Secretary, National Cancer Advisory Board, National Cancer Institute, Building 31, Room 10A03, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5147) will furnish substantive program information.

This notice was not published within the customary scheduled period because of the time frame involved in setting up the meeting and the agenda.

Name of Committee: *National Cancer Advisory Board.*

Dates of meeting: September 24-26, 1984.

Place of meeting: James A. Shannon Building (Building 1), Wilson Hall, Third Floor, National Institutes of Health.

Open:

September 24, 8:30 a.m.—recess.

September 26, 8:30 a.m.—adjournment.

Agenda

Reports on activities of the President's Cancer Panel and the Director's Report on the National Cancer Institute; the White House and Health Science Policy; New NCI Mechanisms Update; the NIH Peer Review Appeals System; NCAB Subcommittee Structure; and reports of the Subcommittees of the Board.

Closed session: September 25, 8:30 a.m.—recess.

Closure reason: To review grant applications.

Name of Committee: *Subcommittee on Cancer Control and the Community.*

Date of meeting: September 23, 1984.

Place of meeting: Building 31, A Wing, Conference Room 11A10, National Institutes of Health.

Open: September 23, 6:30 p.m.—adjournment.

Agenda

To discuss DRGs—impact on cancer care and patients on clinical trial.

Name of Committee: *Subcommittee on Special Actions for Grants.*

Date of meeting: September 25, 1984.

Place of meeting: James A Shannon Building (Building 1), Wilson Hall, Third Floor, National Institutes of Health.

Closed: September 25, 8:30 a.m.—recess.

Closure Reason: To review grant applications.

(Catalog of Federal Domestic Assistance Program Numbers: 13.392, project grants in cancer construction. 13.393, project grants in cancer cause and prevention. 13.394, project grants in cancer detection and diagnosis. 13.395, project grants in cancer treatment. 13.396, project grants in cancer biology. 13.397, project grants in cancer centers support. 13.398, project grants in cancer research manpower. 13.399, project grants and contracts in cancer control)

Dated: September 12, 1984.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 84-25053 Filed 9-18-84; 11:40 am]

BILLING CODE 4140-01-M

Meeting of National Arthritis, Diabetes, and Digestive and Kidney Diseases Advisory Council

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the National Arthritis, Diabetes, and Digestive and Kidney Diseases Advisory Council and its subcommittees on September 25 and 26, 1984 in Conference Room 10, Building 31, National Institutes of Health, Bethesda, Maryland. The meeting will be open to the public September 25 from 8:30 a.m. to 12:00 p.m. to discuss administration, management, and special reports. Attendance by the public will be limited to space available.

Meeting of the full Council and its subcommittees will be closed to the public as indicated below in accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, for the review, discussion and evaluation of individual grant applications. These applications and the discussion could reveal confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The following subcommittees will be closed to the public on September 25, 1984, from 1:00 p.m. to adjournment: Arthritis, Musculoskeletal and Skin Diseases; Diabetes, Endocrine, and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney, Urology and Hematology. The full Council meeting will be closed to the public on September 26, from 8:30 a.m. to approximately 12:00 p.m.

The full Council will then be open for the reports of the Division Directors on September 26 from approximately 1:00 p.m. to adjournment at 3:30 p.m.

Further information concerning the Council meeting may be obtained from Dr. Walter Stolz, Acting Executive Secretary, National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases, Westwood Building, Room 637, Bethesda, Maryland 20205 (301) 496-7277.

A summary of the meeting and roster of the members may be obtained from the Committee Management Office, NIADDK, Building, 31, Room 9A47, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-5765.

(Catalog of Federal Domestic Assistance Program No. 13.846-849, Arthritis, Bone and Skin Diseases; Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney Diseases, Urology and Hematology Research, National Institutes of Health)

Dated: September 12, 1984.

Betty J. Beveridge,

NIH, Committee Management Officer.

[FR Doc. 84-25052 Filed 9-18-84; 11:40 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F-81470]

Notice of Proposed Withdrawal and Opportunity for Public Meeting, Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice provides an opportunity for public comment pursuant to a proposed withdrawal and reservation of lands requested by the United States Coast Guard on May 31, 1983, for a radio facility to support icebreaker, search and rescue communications, C–130 aircraft support and environmental protection activities.

EFFECTIVE DATE: September 19, 1984; comments must be received on or before December 18, 1984.

ADDRESS: Comments and meeting requests should be sent to: Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

FOR FURTHER INFORMATION CONTACT: Mary Jane Clawson, Alaska State Office, (907) 271–5060.

SUPPLEMENTARY INFORMATION: Coast Guard, Department of Transportation, filed an application to withdraw the following described land from settlement, sale, location, or entry under the general public land laws, including the mining laws, subject to valid existing rights:

Umiat Meridian

T. 23 N., R. 18 W.,

Beginning at a True Point of Beginning located approximately 2,527.5 ft. West of the U.S. Coast and Geodetic Survey Station "Pt. Barrow South Base" as outlined in PLO 2344 and on the southern boundary of Tract "A" of the U.S. Air Force Reserve: Thence West approximately 2,160 ft. along the southern boundary of Tract "A" to the southwest corner of Tract "A"; Thence West approximately 2,700 ft. to a point; Thence South 4,800 ft. to a point; Thence East 4,860 ft. to a point; Thence North 4,800 ft. to the True Point of Beginning.

The area described contains approximately 536 acres located near Point Barrow, Alaska.

The purpose of the proposed withdrawal is to maintain a radio facility to support icebreaker, search and rescue communications, C–130 aircraft support, and environmental protection activities.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the undersigned officer within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR Part 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the lands will be segregated as specified above unless the application is denied or canceled, or the withdrawal is approved prior to that date. The temporary uses which will be permitted during this segregative period are licenses, permits, cooperative agreements, or other discretionary land use authorizations of a temporary nature.

The temporary segregation of the lands in connection with a withdrawal application or proposal shall not affect administrative jurisdiction over the lands, and the segregation shall not have the effect of authorizing any use of the lands by the applicant agency.

Mary Jane Clawson,

Chief, Branch of Lands.

[FR Doc. 84–24798 Filed 9–18–84; 8:45 am]

BILLING CODE 4310–JA–M

[F–81469]

Notice of Proposed Withdrawal and Opportunity for Public Meeting, Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice provides an opportunity for public comment pursuant to a proposed withdrawal and reservation of lands requested by the National Oceanic and Atmospheric Administration, on May 16, 1983, for a Geophysical Monitoring for Climatic Change Observatory.

EFFECTIVE DATE: September 19, 1984; comments must be received on or before December 18, 1984.

ADDRESS: Comments and meeting requests should be sent to: Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

FOR FURTHER INFORMATION CONTACT: Mary Jane Clawson, Alaska State Office, (907) 271–5060.

SUPPLEMENTARY INFORMATION: On May 16, 1983, the National Oceanic and Atmospheric Administration, U.S. Department of Commerce, filed an application to withdraw the following described public land from settlement, sale, location, or entry under the general public land laws, including the mining laws, subject to valid existing rights:

Umiat Meridian

T. 23 N., R. 18 W.,

Beginning at corner No. 1, approximately 18 chains N. 22°18' W. from the USC&GS "Point Barrow-South Base 1945 Monument." From the initial point South 37.88 chains to corner No. 2; East 30.3 chains to corner No. 3; North 37.88 chains to corner No. 4; West 30.3 chains to corner No. 1, the place of beginning.

The area described contains approximately 115 acres, near Point Barrow, Alaska.

The purpose of the proposed withdrawal is for the Geophysical Monitoring for Climatic Change Observatory.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the undersigned officer within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR Part 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the lands will be segregated as specified above unless the application is denied or canceled, or the withdrawal is approved prior to that date.

The temporary segregation of the lands in connection with a withdrawal application or proposal shall not affect

administrative jurisdiction over the lands.

Mary Jane Clawson,

Chief, Branch of Lands.

[FR Doc. 84-24799 Filed 9-18-84; 8:45 am]

BILLING CODE 4310-JA-M

[N-39138]

Order Providing for Opening of Lands; Nevada

September 10, 1984.

1. In a donation of land made under Sec. 205 of the Federal Land Policy Management Act of October 21, 1976 (90 Stat. 2755; 43 U.S.C. 1715) the following land, including minerals, has been conveyed to the United States:

A parcel of land situated in the N½ of the NW¼ of Section 25, T. 18 N., R. 24 E., M.D.B. & M., and being more particularly described as follows:

Beginning at the section corner common to sections 23, 24, 25 and 26, T. 18 N., R. 24 E., M.D.B . & M., thence due East for a distance of 2258.31 feet, thence South 68°59' West for a distance of 2419.25 feet, thence due North for a distance of 867.64 feet, to the point of beginning, containing 22.28 acres, more or less.

A parcel of land situated in the SE¼ of the SE¼ of the SE¼ of Section 23, T. 18 N., R. 24 E., M.D.B. & M., and being more particularly described as follows:

Beginning at the section corner common to sections 23, 24, 25 and 26, T. 18 N., R. 24 E., M.D.B. & M., thence due North for a distance of 203.64 feet, thence South 68°59' West for a distance of 583.71 feet, thence due North 89°24' East for a distance of 544.91 feet, to the point of beginning, containing 1.27 acres, more or less.

These lands are located in Lyon County, Nevada.

2. Upon acceptance of title, the subject land became part of the public lands administered by the Bureau of Land Management. At 9:00 a.m. on October 19, 1984 the land described above shall be open to operation of the public land laws generally, subject to valid existing rights and the requirements of applicable laws. All valid applications received prior to 9:00 a.m. on Octobber 19, 1984 shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 9:00 a.m. on October 19, 1984, the land will be open to location and entry under the United States mining laws and to applications and offers under the mineral leasing and material sale laws.

4. Inquiries concerning the lands should be addressed to the District Manager, 1050 E. William Street, Suite 335, Carson City, NV 89701.

William J. Malencik,

Deputy State Director, Operations.

[FR Doc. 24801 Filed 9-18-84; 8:45 am]

BILLING CODE 4310-HC-M

Notice of Realty Action; Exchange of Public Lands; Cibola County, NM

AGENCY: Bureau of Land Management, Albuquerque District Office, Interior.

ACTION: Notice of realty action on proposed land exchange.

SUMMARY: This notice is to advise the public that the Albuquerque District of the Bureau of Land Management (BLM) is proposing to exchange 160 acres of public land in Cibola County, New Mexico for 160 acres of private land in the same section.

SUPPLEMENTARY INFORMATION: The BLM has determined that the 160 acres of public land described below are suitable for exchange under Sec. 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716.

T. 8 N., R. 16 W., NMPM
Sec. 28, E½E½.

In exchange for these lands the Federal Government will obtain 160 acreas of private land from Norman Allen and his wife Aurora Vighi Allen described as follows:

T. 8 N., R. 16 W., NMPM
Sec. 28, S½NW¼, W½SW¼.

The purpose of this exchange is for the BLM to acquire the Ojo Pueblo Cultural Site, which is currently on the New Mexico Register of Historic Places and eligible for the National Register. No mineral values will be exchanged.

This exchange is consistent with recommendation L.6.1. In the BLM Management Framework Plan that was approved on February 1, 1983. That recommendation identified these public lands as being suitable for disposal. The public interest will be well served by making this exchange. The value of the lands to be exchanged is approximately equal, but the area will be adjusted or money will be used to equalize the values upon completion of the final appraisal.

This Notice of Realty Action will also be published once a week for three consecutive weeks in a newspaper of general circulation in the area of the lands to be transferred in the proposed exchange.

The terms and conditions applicable to this exchange are:

(1) A right-of-way shall be reserved thereon for ditches and canals constructed by the authority of the United States Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

(2) All mineral deposits shall be reserved in the lands so patented and to its persons authorized by, the rights to prospect for, mine and remove such deposits, from the same under applicable law.

(3) All the geothermal steam and associated geothermal resources shall be reserved on the land so patented, and to it, or persons authorized by it, the right to prospect for, mine and remove such deposits, upon compliance with the conditions and subject to the provisions and limitations of the Act of December 24, 1920 (84 Stat. 1566).

(4) A right-of-way 50 feet in width and approximately 1,320 feet in length shall be reserved across the public lands being conveyed in this exchange for use as a road by the United States of America, its licensees and permittees, including the right of access for the general public to other lands owned, administered or controlled by the United States.

The publication of this notice in the Federal Register will segregate the public lands described above to the extent that they will not be subject to appropriation under the public land laws, including the mining laws.

Detailed information concerning the exchange, including the environmental analysis and the record of public discussions, is available for review at the Albuquerque District Office, Rio Puerco Resource Area, 3550 Pan American Freeway, N.E., Albuquerque, New Mexico 87107.

For a period of 60 days interested parties may submit comments to the District Manager at (P.O. Box 6770) 505 Marquette, N.W., Albuquerque, New Mexico 87197. Any adverse comments will be evaluated by the State Director who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director this realty action will become the final determination of the Department of the Interior.

Michael F. Reitz,

District Manager (Acting).

[FR Doc. 84-24800 Filed 9-18-84; 8:45 am]

BILLING CODE 4310-FB-M

Filing of Plat of Survey; Montana

SUMMARY: Plat of survey of the lands described below accepted August 15, 1984, will be officially filed in the Montana State Office effective 8 a.m. on November 7, 1984.

Prinicipal Meridian, Montana
T. 4 N., R. 31 E.

This plat, in two sheets, represents the dependent resurvey of a portion of the First Standard Parallel North through Ranges 30 and 31 East; portions of the south, east, and west boundaries; and a portion of the subdivisional lines; and the survey of the subdivision of sections 10, 12, 18, 24 and 34, Township 4 North, Range 31 East, Principal Meridian, Montana. The area described is in Yellowstone County.

This survey was requested by the Lewistown District Office to facilitate their administrative needs.

EFFECTIVE DATE: November 7, 1984.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 222 North 32nd Street, P.O. Box 36800, Billings, Montana 59107.

DATED: September 5, 1984.

Linda M. Wagner,

Chief, Branch of Records.

[FR Doc. 84-24774 Filed 9-18-84; 8:45 am]

BILLING CODE 4310-DN-M

[C-38719]

Colorado; Invitation for Coal Exploration License Application; Getty Coal Co.; Correction

The Notice of Invitation for coal exploration license application published Monday, August 6, 1984, page 31344, contains an incorrect land description in the second column (FR Doc. 84-20706). The description of lands in Sec. 24, T. 4 N., R. 87 W., 6th P.M. included in the application should read:

Sec. 24, all the S½S½NW¼NW¼, S½N½S½S½, S½S½S½, and that part of the S½S½NE¼SE¼ and the N½N½SE¼SE¼ lying south of a line beginning at the southwest corner of the N½N½SE¼SE¼ of Sec. 24, thence N. 63°16' W. approximately 1473 feet to the northeast corner of the S½S½NE¼SE¼ of said section; and that portion of lands lying below the bottom of the Wadge coal seam in the SW¼NW¼, S½S½NE¼SW¼, NW¼SW¼, N½N½S½SW¼, S½N½NE¼SE¼, N½S½NE¼SE¼, S½S½NW¼SE¼, N½N½SW¼SE¼, and that part of the S½S½NE¼SE¼ and the N½N½SE¼SE¼ lying north of the line described herein.

Evelyn W. Axelson,

Chief, Mineral Leasing Section.

[FR Doc. 84-24773 Filed 9-18-84; 8:45 am]

BILLING CODE 4310-JB-M

National Public Lands Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Meeting of the National Public Lands Advisory Council.

SUMMARY: Notice is hereby given that the National Public Lands Advisory Council will meet October 18–20, 1984. The meeting will be held at the Sally Port Inn, 2000 North Main, Roswell, New Mexico. Meeting hours on Thursday, October 18, will be from 3:30 to 5:00 p.m., following the Council's field tour of public lands in New Mexico. On Friday, October 19, the meeting hours will be 8:00 a.m. to 5:00 p.m., and on Saturday, October 20, the Council will meet from 8:00 a.m. to 12:00 noon. The proposed agenda for the meeting is:

Thursday, October 18: Afternoon meeting of Council subcommittees (Energy and Minerals, Renewable Resources, Lands, and Legislative/Administrative) following Council field tour.

Friday, October 19: Morning: Address by Assistant Secretary of the Interior for Land and Minerals Management; Panel discussion on oil, gas and potash development on the public lands; Panel discussion on user cooperation on the public lands; Meetings of Council subcommittees.

Afternoon: Public statement period; Report on previous Council resolutions and setting of dates and locations for future Council sessions; Meetings of Council subcommittees.

Saturday, October 20: Morning: Final meetings of Council subcommittees; Discussion of subcommittee recommendations and passing of Council resolutions.

All meetings of the Council will be open to the public. Opportunity will be provided for members of the public to make oral statements to the Council, beginning at 1:30 p.m., Friday, October 19. Speakers should address specific national public lands issues on the meeting agenda and are encouraged to submit a copy of their written testimony prior to oral delivery. Please send written comments by October 12 to the Bureau of Land Management's New Mexico State Office at the address listed below. Depending on the number of people who wish to address the Council, it may be necessary to limit the length of oral presentations.

DATES: October 18, 19 and 20—Council Meeting. October 19—Public Statements.

ADDRESS: Copies of public statements should be mailed by October 12 to: Director, New Mexico State Office (912), Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87504.

FOR FURTHER INFORMATION CONTACT: Karen Salter, Washington, D.C. Office, BLM. Telephone (202) 343-2054; or Sally Wisely, Public Affairs Chief, New Mexico State Office, BLM, Telephone (505) 988-6316.

SUPPLEMENTARY INFORMATION: The Council advises the Secretary of the Interior through the Director, Bureau of Land Management, regarding policies and programs of a national scope related to public lands and resources under the jurisdiction of the Bureau.

Dated: September 14, 1984.

Robert F. Burford,

Director.

[FR Doc. 84-24843 Filed 9-18-84; 8:45 am]

BILLING CODE 4310-84-M

[AA-6661-C]

Alaska Native Claims Selection; Eklutna, Inc.

On August 16, 1984, Decision to Issue Conveyance (DIC) was issued to Eklutna, Inc., for the surface estate of certain lands in the vicinity of Eklutna, notice of which was published in the **Federal Register** (49 FR 32801–32802).

The purpose of this decision is to vacate in its entirety the DIC of August 16, 1984, due to errors in adjudication. A new decision will be issued at a later date.

Olivia Short,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 84-24781 Filed 9-18-84 8:45 am]

BILLING CODE 4310-84-M

[F-14944-B]

Alaska Native Claims Selection; Tozitna, Ltd.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that the decision to issue conveyance (DIC) to Tozitna, Limited, notice of which was published in the **Federal Register** (49 FR 31500) on August 7, 1984, is amended by deleting certain third-party interests.

Upon issuance, the amended DIC will be published once a week, for four (4) consective weeks, in the TUNDRA TIMES. Copies of the amended DIC can be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest which is adversely affected by the decision shall have until October 19, 1984 to file an appeal on the issue in the amended DIC. However, parties receiving service by certified mail shall have 30 days from the date of receipt to

file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Convenyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements in 43 CFR Part 4, Subpart E (1983)(as amended, 49 FR 6371, February 21, 1984) shall be deemed to have waived their rights.

Except as amended, the decision, notice of which was given August 7, 1984, is final.

Helen Burleson,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 84-24780 Filed 9-18-84; 8:45 am]

BILLING CODE 4310-JA-M

Utah; Classification Decision for State Indemnity Selection

1. The following described lands have been examined and found suitable for transfer to the State of Utah.

They are hereby classified for indemnity selection pursuant to sections 2275 and 2276 of the Revised Statutes as amended (43 U.S.C. Secs. 851, 852), and the regulations thereunder (43 CFR 2621):

T. 26 S., R. 22 E., SLM, Utah
Sec. 6, SE¼NW¼.

Containing 40 Acres.

2. The purpose of the indemnity selection is to allow the State of Utah to secure the benefits they are entitled to from a land grant made by Congress under the provisions of Section 6 of the Utah Statehood Act of July 16, 1894, (28 Stat. 109).

If there are no adverse comments received, it will be held that the lands are classified 60 days from date of publication of this notice in the **Federal Register** and this classification action will become the final determination of the Department of the Interior. Classification is pursuant to Title 43 Code of Federal Regulation, Subpart 2400 and section 7 of the Act of June 28, 1934.

4. Any existing grazing use authorized by license or permit from the Bureau of Land Management will be terminated if the lands are transferred out of Federal ownership. The State shall honor all leases, permits, contracts, and terms and conditions of user agreements on United States' lands.

5. Detailed information concerning the indemnity selection and proposed transfer to the State of Utah is available for review at the Utah State Office, Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111 (801–524–4245).

Dated: September 11, 1984.

Roland G. Robison,

State Director.

[FR Doc. 84-24782 Filed 9-18-84; 8:45 am]

BILLING CODE 4310-DQ-M

Utah; Initial Classification Decision for State Indemnity Selection

The following described lands (U-52762) have been examined and found suitable for transfer to the State of Utah.

They are hereby classified for indemnity selection pursuant to Sections 2275 and 2276 of the revised Statutes as amended (43 U.S.C. 851, 852), and the regulations thereunder (43 CFR Part 2621):

Salt Lake Meridian, Utah

T. 2 S., R. 4 E.,
Sec. 7, lots 17, 18, 19, 20, 22, 23, 26, 27;
Sec. 18, lots 1, 2, 3, 4, 9, 17, 18, 20, 21, 22.

All public lands within the following legal description:

T. 2 S., R. 4 E.,
Sec. 10, SE¼NW¼;
Sec. 11, SW¼NE¼SW¼, SE¼NW¼SW¼, NE¼SW¼SW¼, SE¼SW¼;
Sec. 14, S½SW¼;
Sec. 15, NW¼NW¼, SE¼;
Sec. 22, W½SE¼NE¼, E½SW¼NE¼, NE¼NE¼;
Sec. 23, NW¼NW¼

Approximately 558.37 acres.

The purpose of the indemnity selection is to allow the State of Utah to secure the benefits they are entitled to under the provisions of section 6 of the Utah Statehood Act of July 16, 1984 (28 Stat. 109).

Any existing grazing use authorized by license or permit from the Bureau of Land Management will be terminated if the lands are transferred out of Federal ownership. The State shall honor all leases, permits, contracts, and terms and conditions of user agreements on United States' lands.

If and when selections are approved and certified to the State, the selected lands will be subject to all valid existing rights. Furthermore, any lands encumbered with a mineral lease or permit are subject to a reservation to the United States of all oil and gas, coal, and potash, with the right of the lessee to utilize as much of the surface as is necessary for proper mining operations, until the lease or permit is terminated.

Should an entire mineral lease or permit be encompassed by the area of the selection, the state of Utah will succeed to the position of the United States. The following described parcels of lands have been determined to be unsuitable for indemnity selection under the Act:

Salt Lake Meridian, Utah

T. 2 S., R. 3 E.,
Sec. 13, NE¼NW¼.

All public lands within the following legal description:

T. 2 S., R. 4 E.,
Sec. 9, SE¼SE¼;
Sec. 10, W½SW¼;
Sec. 10, S½NE¼;
Sec. 11, N½NW¼SW¼, SW¼NW¼SW¼;
Sec. 14, NE¼, NE¼NW¼, NW¼SW¼;
Sec. 15, SW¼NW¼, W½SW¼;
Sec. 22, NW¼NW¼;
Sec. 23, SW¼NW¼;
Sec. 24, lot 2, SE¼NW¼, NE¼SW¼, SE¼SW¼.

The above lands are encumbered with valid mining claims.

T. 2 S., R. 5 E.,
Sec. 6, lot 5.

The above land is private, not Federal land.

Approximately 245.11 acres.

Detailed information concerning the indemnity selection and proposed transfer to the State of Utah is available for review at the Utah State Office, Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111 (801–524–4245).

Dated: September 11, 1984.

Roland G. Robison,

State Director.

[FR Doc. 84-24783 Filed 9-18-84; 8:45 am]

BILLING CODE 4310-DQ-M

Minerals Management Service

Development Operations Coordination Document; Exxon Co., U.S.A.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Exxon Company, U.S.A. has submitted a DOCD describing the activities it proposes to conduct on Leases OCS 016 and 026, Blocks 30 and 31, West Delta Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Grand Isle, Louisiana.

DATE: The subject DOCD was deemed submitted on September 10, 1984.

ADDRESSES: A copy of the subject DOCD is available for public review at

the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Mr. Michael J. Tolbert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838-0875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to Sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised Section 250.34 of Title 30 of the CFR.

Dated: September 10, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 84-24776 Filed 9-18-84; 8:45 am]

BILLING CODE 4310-MR-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-204]

Certain Pull-Type Golf Carts and Wheels Therefor; Notice of Investigation

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on August 8, 1984, under section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, on behalf of Ajay Enterprises Corporation, 1501 E. Wisconsin Street, Delavan, Wisconsin 53115, and Spherex, Incorporated, Shepherds Island, Seabrook, New Hampshire 03872. The complaint alleges unfair methods of competition and unfair acts in the importation of certain pull-type golf carts and wheels therefor into the United States, or in their sale, by reason of alleged (1) reverse passing off; (2) false and deceptive advertising; (3) pirating of trade dress; and (4) infringement of the claim of U.S. Letters Patent Des. 259,195. The complaint further alleges that the effect or tendency of the alleged unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complainants request that the Commission institute an investigation and, after a full investigation, issue a permanent exclusion order and a permanent cease and desist order.

FOR FURTHER INFORMATION CONTACT: Robert D. Litowitz, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, telephone 202-523-4693.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in § 210.12 of the Commission's Rules of Practice and Procedure (19 CFR 210.12).

Scope of Investigation

Having considered the complaint, the U.S. International Trade Commission, on September 5, 1984, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain pull-type golf carts and wheels therefor into the United States, or in their sale, by reason of alleged (1) passing off; (2) false and deceptive advertising; (3) common law trademark infringement; and (4) infringement of the claim of U.S. Letters Patent Des. 259,195, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are—

Ajay Enterprises Corporation, 1501 E. Wisconsin Street, Delavan, Wisconsin 53115

Spherex, Incorporated, Shepherds Island, Seabrook, New Hampshire 03872

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Ren Shyan Enterprise Co., Ltd., 137-1 Hua Cheng Road, Hsin Chuang, Taipei, Hsien, Taiwan

Diversified Products, Inc., 309 Williamson Avenue, Opelika, Alabama 36802

(c) Robert D. Litowitz, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street, NW., Room 126, Washington, D.C. 20436, shall be the Commission investigative attorney, a party to this investigation; and

(3) For the investigation so instituted, Janet D. Saxon, Acting Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding officer.

Responses must be submitted by the named respondents in accordance with § 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to § 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secreatary, U.S. International Trade Commission, 701 E Street, NW., Room 156, Washington, D.C. 20436, telephone 202-523-0471.

By order of the Commission.

Issued: September 10, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-24824 Filed 9-18-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-174]

Certain Woodworking Machines; Notice of Receipt of Initial Determination Terminating Respondent on the Basis of Consent Order Agreement

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial

determination from the presiding officer in the above-captioned investigation terminating the following respondent on the basis of a consent order agreement:

CTT Tools, Inc.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on September 12, 1984.

Copies of the initial determination, the consent order agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

Written Comments

Interested persons may file written comments with the Commission concerning termination of the aforementioned respondent. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, D.C. 20436, no later than 10 days after publication of this notice in the **Federal Register.** Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202–523–0176.

By order of the Commission.

Issued: September 12, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–24823 Filed 9–18–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 731–TA–148 (Final)]

Fresh Cut Roses From Colombia; Determination

On the basis of the record [1] developed in investigation No. 731–TA–148 (Final), the Commission determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)), that an industry in the United States is not materially injured or threatened with material injury,[2] nor is the establishment of an industry in the United States materially retarded, by reason of imports from Colombia of fresh cut roses, provided for in item 192.18 of the Tariff Schedules of the United States (TSUS), which the Department of Commerce has found are being, or are likely to be, sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this final investigation, effective March 14, 1984, following a preliminary determination by the Department of Commerce that imports of fresh cut roses from Colombia are being, or are likely to be, sold in the United States at LTFV. Commerce's preliminary determination was published in the **Federal Register** on March 14, 1984.

Notice of the institution of the Commission's investigation and of the public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the **Federal Register** of April 4, 1984 (49 FR 13440). The hearing was held in Washington, D.C. on July 30, 1984, and all persons who requested the opportunity were permitted to appear in person or through counsel. The Commission's determination in this investigation was made in an open "Government in the Sunshine" meeting held on August 28, 1984.

On September 30, 1983, petitions were filed with the Commission and the U.S. Department of Commerce by counsel on behalf of Roses, Inc. The petitions alleged that fresh cut roses imported from Colombia were being, or were likely to be, sold in the United States at LTFV, and that such imports were causing material injury or the threat thereof to the U.S. industry producing fresh cut roses. Accordingly, the Commission instituted investigation No. 731–TA–148 (Preliminary) to determine whether there was a reasonable indication that an industry in the United States was materially injured or was threatened with material injury, or whether the establishment of an industry was materially retarded, by reason of imports of such merchandise.

In November 1983 the Commission notified the Commerce Department of its affirmative determination with respect to the preliminary investigation of imports from Colombia. Notice of the Commission's preliminary determination was published in the **Federal Register** of November 25, 1983 (48 FR 53188). As a result, Commerce continued its investigation into alleged LTFV sales of fresh cut roses from Colombia. Commerce's final determination with respect to LTFV imports from Colombia was published in the **Federal Register** of August 1, 1984 (49 FR 30765).

The Commission transmitted its report on this investigation to the Secretary of Commerce on September 10, 1984. A public version of the Commission's report, Fresh Cut Roses from Colombia (investigation No. 731–TA–148 (Final), USITC Publication 1575, September 1984), contains the views of the Commission and information developed during the investigation.

By order of the Commission.

Issued: September 10, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–24825 Filed 9–18–84; 8:45 am]

BILLING CODE 7020–02–M

[1] The "record" is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] Commissioner Eckes dissenting and Vice Chairman Liebeler not participating.

[Investigation No. 731–TA–200 (Preliminary)]

Radial Ply Tires for Passenger Cars From the Republic of Korea; Determination

On the basis of the record [1] developed in the subject investigation, the Commission unanimously determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is no reasonable indication that an industry in the United States is materially injured, or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports from the Republic of Korea of new (not including recapped)

[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

pneumatic radial tires of rubber or plastics for passenger cars, provided for in item 772.51 of the Tariff Schedules of the United States, which are alleged to be sold in the United States at less than fair value (LTFV).

Background

On July 20, 1984, counsel for The Armstrong Rubber Co., Cooper Tire & Rubber Co., The Firestone Tire & Rubber Co., The B.F. Goodrich Co., and The Goodyear Tire & Rubber Co., filed a petition with the U.S. International Trade Commission and the U.S. Department of Commerce alleging that imports of new radial ply tires for passenger cars are being sold in the United States at LTFV and that such imports are causing material injury, or threatening to cause material injury, to the domestic industry producing such merchandise. Accordingly, effective July 20, 1984, the Commission instituted a preliminary antidumping investigation under section 733(a) of the Tariff Act of 1930 to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise.

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the Federal Register on July 31, 1984 (49 FR 30605). The conference was held in Washington, D.C., on August 13, 1984, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its report on the investigation to the Secretary of Commerce on September 4, 1984. A public version of the Commission's report, *Radial Ply Tires For Passenger Cars From the Republic of Korea* (investigation No. 731-TA-200 (Preliminary), USITC Publication 1572, 1984), contains the views of the Commission and information developed during the investigation.

By order of the Commission.

Issued: September 4, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-24826 Filed 9-18-84; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-237; Sub-1X]

Pend Oreille Valley Railroad Inc.; Discontinuance of Service Exemption; in Pend Oreille County, WA

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of 49 U.S.C. 10903 *et seq.* the discontinuance of service by Pend Oreille Valley Railroad, Inc. over 61.1 miles of track between Newport and Metalline Falls in Pend Oreille County, WA.

DATES: This exemption will be effective on September 19, 1984. Petitions to reopen must be filed on October 9, 1984.

ADDRESSES: Send pleadings to Docket No. AB-237 (Sub-No. 1X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: Fritz R. Kahn, 1660 L St., NW., Suite 1000, Washington, DC 20036.

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: September 12, 1984.

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

James H. Bayne,

Secretary.

[FR Doc. 84-24779 Filed 9-18-84; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importation of Controlled Substances, Elkins-Sinn, Inc.; Application; Extension of Time for Filing Comments

On July 27, 1984, a notice of the filing of an application for registration as an importer of the Schedule II controlled substance Fentanyl (9801) by Elkins-Sinn, Inc. was published in the Federal Register in accordance with 21 CFR 1311.42 (49 FR 30258). The period for comments, objections, or requests for hearing closed on August 30, 1984.

Due to the interest expressed by other pharmaceutical manufacturers, the comment period will be extended to Friday, September 28, 1984. Written comments, objections or requests for a hearing should be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, 1405 I Street, NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203).

Dated: September 14, 1984.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 84-24757 Filed 9-19-84; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Visual Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Visual Arts Advisory Panel (Overview Section) to the National Council on the Arts will be held on October 4-5, 1984, from 9:30 a.m.-5:00 p.m. in Room M-07 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, DC.

A portion of this meeting will be open to the public on October 4 from 9:30 a.m.-12:00 noon and from 2:30-5:00 p.m. and on October 5 from 9:30 a.m.-5:00 p.m. to discuss Visual Artists Fellowships, Art in Public Places, Visual Artists Organizations and FY 86 Guidelines.

The remaining sessions of this meeting on October 4 from 12:00 noon-1:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National

Endowment for the Arts, Washington, D.C. 20506, or call (202) 682–5433.

Dated: September 13, 1984.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 84–24737 Filed 9–18–84; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Subcommittee on Human Factors; Meeting

The ACRS Subcommittee on Human Factors will hold a meeting on October 10, 1984, Room 1167, 1717 H Street NW., Washington, DC.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Wednesday, October 10, 1984—1:00 p.m. Until the Conclusion of Business

The Subcommittee will explore experience levels of reactor operators, especially at new plants scheduled to begin operation in the near future. Updates on other activities such as the training and qualifications package and the Human Factors Program Plant may be appropriate.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their respective consultants, and other interested persons regarding this review.

Further information about 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 ACRS staff member, Mr. Richard Major (telephone 202/634–1413) between 8:15 a.m. and 5:00 p.m., e.d.t. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: September 14, 1984.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 84–24790 Filed 9–18–84; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–255]

Consumers Power Co.; Consideration of Issuance of Amendment to Provisional Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Provisional Operating License No. DPR–20 issued to Consumers Power Company (the licensee), for operation of the Palisades Plant located in Van Buren County, Michigan.

The proposed amendment would (1) modify the Technical Specifications for Palisades to add the radiological effluent technical specifications (RETS) necessary to implement the requirements of 10 CFR Part 50 Appendix I in accordance with the licensee's application for amendment dated July 31, 1984. The submittal replaces the request for amendment dated June 4, 1976 and March 12, 1979 which was noticed in the Monthly **Federal Register** on August 23, 1983 (48 FR 38398). The amendment provides new Technical Specification sections for the Appendix A Technical Specifications defining limiting conditions for operation and surveillance requirements for radioactive liquid and gaseous effluent monitoring, for concentration, dose and treatment of liquid, gaseous and solid wastes, and for total dose. The existing Technical Specifications on "Effluent Release" and "Environmental Monitoring Program" and the Special Technical Specifications on radiological effluents and monitoring have been reformatted and included in the revised Appendix A Technical Specifications.

The proposed amendment also modifies Technical Specification change requests that are awaiting NRC approval. It replaces (2) Section 3.0.1, 3.0.2, 3.0.3 and 3.0.4 of the licensee's August 21, 1980 change request, that was noticed in the monthly **Federal Register** Notice on November 22, 1983 (48 FR 52810), by adding a revised section delineating the applicability of the Limiting Conditions for Operation. The proposed amendment also modifies (3) the licensee's November 5, 1982 change request that was noticed in the monthly **Federal Register** Notice on November 22, 1983 (48 FR 52811) by locating all process monitor operability and surveillance requirements in the appropriate tables generated as part of the RETS.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance concerning the application of standards of no significant hazard consideration determination by providing certain examples (April 6, 1983, 48 FR 14870). One of the examples (ii) of actions likely to involve no significant hazards considerations relates to a change that constitutes an additional limitation, restriction, or control not presently included in the technical specification: for example, a more stringent surveillance requirement.

The licensee's proposed amendment would add limiting conditions for operation and surveillance requirements not presently included in the Technical Specifications. The proposed amendment, therefore, falls within the category of the cited example and the staff proposes to determine that the amendment would involve a no significant hazards consideration determination.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By October 19, 1984, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject provisional operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition shall specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspects of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, not withstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment unitl the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W. Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-600 [in Missouri (800) 342-6700]. The Western Union operator should be given Datagram Indentification Number 3737 and the following message addressed to Walter A. Paulson: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Judd L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the Kalamazoo Public Library, 315 South Rose Street, Kalamazoo, Michigan 49006.

Dated at Bethesda, Maryland, this 13th day of September, 1984.

For the Nuclear Regulatory Commission.

Walter A. Paulson,

Acting Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 84-24793 Filed 9-18-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-369 and 50-370]

Duke Power Co.; McGuire Nuclear Station, Units 1 and 2; Notice of Environmental Assessment and Finding of No Significant Impact

Environmental Assessment

Identification of Proposed Action: The amendment would permit the increase in the licensed storage capacity from 500 spent fuel assemblies to 1463 spent fuel assemblies for each McGuire spent fuel pool. This would extend the full core discharge capability for each generating unit from the year 1990 to the year 2010.

The Need for the Proposed Action: On April 17, 1977, President Carter issued a

policy statement on commercial reprocessing of spent nuclear fuel which effectively eliminated reprocessing as part of the relatively near term nuclear fuel cycle. On October 18, 1977, the Generic Environmental Statement for Mixed Oxide proceedings were deferred indefinitely. The combined effect of this national policy was to leave operating nuclear plants, like McGuire, without a repository in the near-term for the spent fuel previously generated or being generated. Thus, additional reracking of the McGuire spent fuel pools to further increase its storage capacity is required in order to provide onsite spent fuel storage capacity until offsite storage or disposal capacity is available.

Environmental Impacts of the Proposed Action

A. Radiation Exposure

Occupational Exposure: The licensee has estimated that the radiation doses incurred by workers taking part in the McGuire 1 & 2 spent fuel pool modification will be 15 person-rems. This is a small fraction of the total annual dose from routine occupational radiation exposure at the plant. Operation of the plant with additional spent fuel in the spent fuel pool is not expected to increase the occupational dose by more than 1% of the present average total collective annual occupational dose at this facility.

Public Exposure: The staff has completed an analysis of radiation exposure experience, based on estimate source terms and assessment of public doses resulting from 38 prior spent fuel pool modifications at 37 plants.

Estimated doses to a hypothetical maximally exposed individual at the boundary of a plant site, during such modifications, have fallen within a range of 0.00004 to 0.1 millirem per year, with an average dose of 0.02 millirem per year. Similarly, estimated total doses to the population within a 50-mile radius of these plants have fallen within a range from 0.0001 to 0.1 person-rem per year, with an average population dose of 0.006 person-rem per year. Doses at these levels are essentially unmeasurable.

Based on the manner in which the licensee will perform the modification; our previous evaluation of their radiation protection/as low as reasonable achievable (ALARA) program during the licensing process; the radiation protection measures proposed for the modification task, including radiation, contamination, and airborne radioactivity monitoring; and relevant experience from other operating reactors that have performed similar spent fuel pool modifications, the staff concludes that adequate radiation protection measures have been taken to assure worker protection, and the McGuire spent fuel pool modification can be performed in a manner that will ensure that doses to workers and the general public will be ALARA.

Additionally, we have estimated the increment in onsite occupational dose during normal operations after the pool modification as a result of the proposed increase in stored fuel assemblies. This estimate is based on information supplied by the licensee for occupancy times and for dose rates in the spent fuel area from radionuclide concentrations in the spent fuel pool (SFP) water. The spent fuel assemblies themselves contribute a negligible amount to dose rates in the pool area because of the depth of water shielding the fuel. Based on present and projected operations in the spent fuel pool area, we estimate that the proposed modification should add less than one percent of the total annual occupational radiation exposure at both units. The small increase in radiation exposure should not affect the licensee's ability to maintain individual occupational doses to as low as is reasonably achievable levels and within the limits of 10 CFR Part 20. Thus, we conclude that storing additional fuel in the two pools will not result in any significant increase in doses received by workers.

Based on this review of historical data, we conclude that for the proposed spent fuel pool expansion at McGuire, the additional dose to the total body that might be received by an individual at the site boundary, and by the population within a 50-mile radius, respectively, would be less than or equal to 0.1 millirem and 0.1 person-rem per year, respectively. These doses are very small compared to annual exposure to natural background radiation in the United States, which varies from about 70 millirems per year to about 300 millirems per year depending on geographical location. (Reference: "Natural Radiation Exposure in the United States," Donald T. Oakley, U.S. Environmental Protection Agency, Office of Radiation Programs (ORP/SID 72-1), June 1972).

B. Radioactive Wastes

The plant contains radioactive waste treatment systems designed to collect and process the gaseous, liquid and solid waste that might contain radioactive material. The radioactive waste treatment systems are evaluated in the Final Environmental Statement (FES) dated April 1976. There will be no change in the waste treatment systems described in Section 3.2.3 of the FES because of the proposed spent fuel pool (SFP) rerack.

Radioactive Material Released to the Atmosphere: The present licensed storage capacity is 500 spent fuel assemblies for each SFP. The proposed amendments would increase the licensed storage capacity to 1463 spent fuel assemblies for each SFP. This would extend the full core discharge capability for each generating unit from the year 1990 to the year 2010.

With respect to releases of gaseous materials to the atmosphere, the only radioactive gas of significance which could be attributable to storing additional spent fuel assemblies for a longer period of time would be the noble gas radionuclide Krypton-85 (Kr-85). Experience has demonstrated that after spent fuel has decayed 4 to 6 months, there is no longer a significant release of fission products, including Kr-85, from stored spent fuel containing cladding defects. To determine the average annual release of Kr-85, we assume that all of the Kr-85 released from any defective fuel discharged to the SFP will be released prior to the next refueling. The enlarged capacities of the pools has no effect on the calculated average annual quantities of Kr-85 released to the atmosphere each year.

Iodine-131 releases from spent fuel assemblies to the SFP water will not be significantly increased because of the expansion of the fuel storage capacity since the Iodine-131 inventory in the fuel will decay to negligible levels between refuelings.

Most of the tritium in the SFP water results from activation of boron and lithium in the primary coolant and this will not be affected by the proposed changes. A relatively small amount of tritium is contributed during reactor operation by fissioning of reactor fuel and subsequent diffusion of tritium through the fuel and the Zircaloy cladding. Tritium release from the fuel essentially occurs while the fuel is hot, that is, during operations and, to a limited extent, shortly after shutdown. Thus, expanding the SFP capacity will not significantly increase the tritium activity in the SFP.

Storing additional spent fuel assemblies is not expected to increase the bulk water temperature during normal refuelings above the value of 150°F used in the design analysis. Therefore, it is not expected that there will be any significant change in the annual release of tritium or iodine as a result of the proposed modifications from that previously evaluated in the FES.

Solid Radioactive Wastes: The concentration of radionuclides in the pool water is controlled by the filters and the demineralizer and by decay of short-lived isotopes. The activity is highest during refueling operations when reactor coolant water is introduced into the pool, and decreases as the pool water is processed through the filters and demineralizer. The increase of radioactivity, if any, due to the proposed modification, should be minor because of the capability of the cleanup system to continuously remove radioactivity in the SFP water to acceptable levels.

We do not expect any significant increase in the amount of solid waste generated from the SFP cleanup systems due to the proposed modification. The amount of solid waste is assumed to increase by one resin bed (50 cubic feet) and one spent filter cartridge (10 cubic feet) per year due to the increased operation of the SFP cleanup system for each unit. The annual average volume of solid waste shipped offsite for burial from a typical PWR is approximately 20,000 cubic feet. If the storage of additional spent fuel does increase the amount of solid waste by an average of about 60 cubic feet (120 cubic feet solidified) per year per generating unit, the increase in total waste volume shipped from the McGuire Nuclear Station would be less than 1% and would not have any significant additional environmental impact.

If the present spent fuel racks to be removed from the SFP of Unit 1 because of proposed modification are contaminated, they may be disposed of as low level solid waste (approximately 14,000 cubic feet). We also assumed that approximately 325 filters from the portable vacuum cleaner (approximately 1,600 cubic feet of waste) will need to be disposed of because of the rerack. Therefore, we have estimated that approximately 16,000 cubic feet of solid radwaste will be removed from Unit 1 because of the proposed modifications. Averaged over the lifetime of the station, this would increase the total waste volume shipped from the station by less than 2%. This will not have any significant additional environmental impact.

Radioactive Material Released to Receiving Waters: There should not be a significant increase in the liquid release of radionuclides from the plant as a result of the proposed modifications. Because the SFP cooling and cleanup systems operate as a closed system, only water originating from cleanup of SFP floors and resin sluice water need be considered as potential sources of radioactivity.

It is expected that neither the quantity nor activity of the floor cleanup water will change as a result of these modifications. The SFP demineralizer resin removes soluble radioactive materials from the SFP water. These resins are periodically sluiced with water to the spent resin storage tank. The amount of radioactivity on the SFP demineralizer resin may increase slightly due to the additional spent fuel in the pool, but the soluble radioactive material should be retained on the resins. If any radioactive material is transferred from the spent resin to the sluice water, it will be removed by the liquid radwaste system. After processing in the liquid radwaste system, the amount of radioactivity released to the environment as a result of the proposed modification would be negligible.

Alternative Use of Resources: This action does not involve the use of resources not previously considered in connection with the Nuclear Regulatory Commission's Final Environmental Statement dated April 1976 related to this facility.

Agencies & Persons Consulted: The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact: The Commission has determined not to prepare an environmental impact statement for the proposed license amendment.

Based upon this environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the request for amendment dated February 17, 1984, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28242.

Dated at Bethesda, Maryland, this 14th day of September 1984.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 84-24795 Filed 9-18-84; 8:45 am]

BILLING CODE: 7590-01-M

[Docket No. 50-346]

Toledo Edison Co. and the Cleveland Electric Illuminating Co.; Notice of Denial of Amendment to Facility Operating License No. NPF-3 and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) has denied, in part, a request by the licensees for an amendment to Facility Operating License No. NPF-3, issued to Toledo Edison Company and The Cleveland Electric Illuminating Company for operation of the Davis-Besse Nuclear Power Station, Unit No. 1, located in Ottawa County, Ohio.

The licensees' application for amendment was dated November 5, 1982, and was modified by submittals dated July 1, 1983 and August 18, 1983. Notice of consideration of issuance of an amendment in response to a portion of this application was published in the **Federal Register** on February 24, 1984 (49 FR 7045). No comments were received and the amendment was issued on July 18, 1984. The February 24, 1984 notice indicated that a portion of the licensees' application was not being considered at that time but would be considered separately.

The amendment as proposed by the licensees would have (a) changed the period of time allowed to bring the facility to hot standby and shutdown modes (unless otherwise specified in individual technical specifications) when a Limiting Condition for Operation is not satisfied, (b) added a new Limiting Condition for Operation which delineates additional conditions to be satisfied for continued operation when a normal or emergency power source is unavailable, (c) clarified the requirement to perform a required surveillance within the specified time interval to meet operability requirements and (d) allowed a 12-hour grace period delaying immediate shutdown requirements in the event a required surveillance is missed due to administrative error. On July 18, 1984, Amendment 71 was issued modifying the Technical Specifications as considered in the February 24, 1984 **Federal Register** Notice (changes a, b, and c above).

The Commission has determined, however, that the request to allow a grace period for a missed surveillance has limited applicability and is subject to possible misinterpretation. Therefore, the Commission has decided to deny the licensees' request. The licensees were notified of the Commission denial and the reasons for the denial by letter.

By October 19, 1984 the licensees may request a hearing with respect to the denial described above, and any person whose interest may be affected by this proceeding may file a written petition for leave to intevene.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., by the above date.

Copies of any petitions should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Gerald Charnoff, Edq., Shaw, Pittman, Potts, and Trowbridge, 1800 M Street N.W., Washington, D.C. 20036.

For further details with respect to this action, see (1) the application for amendment dated November 5, 1982, as supplemented July 1, 1983, and August 18, 1983, and (2) the Commission's letter to Toledo Edison Company dated September 12, 1984, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio. A copy of Item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 12th day of September 1984

For the Nuclear Regulatory Commission.

Sydney Miner,

Acting Chief Operating Reactors Branch No. 4 Division of Licensing.

[FR Doc. 84-24794 Filed 9-18-84; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Federal Prevailing Rate Advisory Committee; Open Committee Meeting

According to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on:

Thursday, October 4, 1984
Thursday, October 11, 1984
Thursday, October 18, 1984
Thursday, Octoer 15, 1984

These meetings will start at 10 a.m. and will be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street, NW, Washington, D.C.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives from five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives from five Federal agencies. Entitlement to membership of the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the Prevailing Rate System and other matters pertinent to establishing prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management.

These scheduled meetings will start in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would unacceptably impair the ability of the Committee to reach a consensus on the matters being considered and would disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public because of a determination made by the Director of the Office of Personnel Management under the provisions of Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Committee publishes for the Office of Personnel Management, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations, and related activities. These reports are available to the public, upon written request to the Committee's Secretary.

The public is invited to submit material in writing to the Chairman on Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information on these meetings may be obtained by contacting the Committee's Secretary, Office of Personnel Management, Federal Prevailing Rate Advisory Committee, Room 1340, 1900 E Street, NW., Washington, D.C. 20451, (202) 632-9710.

Dated: September 13, 1984.

William B. Davidson, Jr.,

Chairman, Federal Prevailing Rate Advisory Committee.

[FR Doc. 84-24725 Filed 9-18-84; 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-21316; File No. SR-AMEX-84-25]

Self-Regulatory Organizations; Proposed Rule Change by American Stock Exchange, Inc.; Relating to AUTOCLEAR ODD-LOT

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 29, 1984, the American Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule 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 of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange, Inc. has determined to establish as a permanent floor-wide enhancement to the Exchange's Post Execution Reporting (PER) system the AUTOCLEAR ODD-LOT program, which uses universal contra clearing names in the reporting and comparison of odd-lot market orders executed through PER.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

The Exchange plans to implement a permanent floor-wide enhancement to the AUTOCLEAR system (see SR-AMEX-84-1 and Amendment 1 thereto), which uses universal contra clearing names in the reporting and comparison of equity market and limit orders executed through the Post Execution Reporting (PER) system. The new feature, called AUTOCLEAR ODD-LOT, will provide an automatic comparision of odd-lot market orders processed through PER.

Currently, AUTOCLEAR provides an automatic comparison of executed post-opening market orders of up to 300 shares and limit orders of up to 500 shares (the present PER parameters) by substituting universal contras for actual clearing names of the parties in the reporting and comparision procedures. Universal contras are presently used by the Exchange for round-lot market and limit orders processed by the AUTOPER system and for trades executed through the Intermarket Trading System and Opening Automated Reporting Services ("OARS"). In view of the efficiencies afforded by automatic comparison, the Exchange has determined to extend AUTOCLEAR service to the comparison procedures for odd-lot market orders processed through PER.

AUTOCLEAR ODD-LOT will submit clearance input for odd-lot transactions for participating firms as well as the specialist. The system will also automatically report to the Exchange each odd-lot purchase and sale on behalf of the specialist as required by Rule 191.

The Exchange expects AUTOCLEAR ODD-LOT to benefit participating member organizations by virtually eliminating uncompared trades, or "DK's" for odd lot executions. The program will be gradually phased-in until all specialist units participating in the AUTOCLEAR program are included.

(2) Basis

The implementation of AUTOCLEAR ODD-LOT is consistent with section 6(b) of the Act in general and furthers the objectives of section 6(b)(5) in particular in that it is designated to facilitate transactions in securities and perfect the mechanism of a free and open market. Further, by eliminating uncompared trades, the use of universal contras will afford more accurate reporting of small routine orders and will thus result in more efficient and effective market operations, consistent with section 11A(a)(1)(B) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will create no burden on competition and in fact will enhance the Exchange's competitive status by providing the Exchange with a faster, more efficient, and more accurate order-handling system.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule 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 submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th 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 by October 10, 1984.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: September 12, 1984.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-24743 Filed 9-18-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-21317; File No. SR-AMEX-84-22]

Self-Regulatory Organizations; Proposed Rule Change; American Stock Exchange, Inc.; Relating to Changes to Rule 481 (Advertising, Market Letters, Sales Literature, Research Reports and Writing Activities), Paragraph 9495 (Commentary) (Standards for Advertising, Market Letters, Sales Literature, Research Reports, Radio, Television and Writing Activities), Paragraph 9496 (Commentary) (Outside Writing, Speaking, Teaching Activities), Rule 425 ("Long" Sales), and Rule 323 (Keeping Copies of Guide)

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice if hereby given that on August 13, 1984, the American Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

(a) The American Stock Exchange, Inc. ("Amex" or the "Exchange") is proposing to amend Rule 481 and delete Paragraphs 9495 and 9496 (Commentary) to update and consolidate Exchange requirements and standards governing member organizations' communications with the public; to delete Rule 425 to eliminate an out-of-date rule governing "long" sales; and to amend Rule 323 to eliminate the requirement that members and member organizations retain current Amex Guides in every branch office.

II. Self-Regulatory Organization's Statement of the Terms of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

(1) Purpose

Communication With the Public.—Amex Rule 481 requires that all communications to the public by Exchange members and member organizations be reviewed by member organization management prior to dissemination in light of Exchange standards provided in Paragraph 9495. Specifically, each advertisement, market letter, research report and all sales literature prepared by a member or member organizations for general distribution to the public must be approved in advance by a member, allied member or a competent authorized delegate and retained for a three year period. Research reports are subject to dual approval requirements and must also be approved or prepared by a supervisory analyst acceptable under the provisions of Rule 343 (Supervisory Analysts).

Paragraph 9495 (Commentary) sets forth standards for advertising, market letters, sales literature, research reports, radio, television and writing activities, and establishes guidelines for speeches and lecture activities made to the public by personnel of member organizations.

Paragraph 9496 (Commentary) defines criteria for outside" [1] writing, broadcasting, speaking and teaching activities of member organization personnel.

It is proposed that Paragraph 9495 be amended and consolidated into Rule 481 to streamline Exchange requirements and standards for member organizations' communications with the public and to eliminate outdated or duplicative provisions Paragraph 9496 would be redundant and is proposed to be deleted.

The major changes resulting from this proposal would be: (1) To replace specific definitions of such terms as advertisements, market letters, and sales literature with the term "communications" thereby eliminating confusion as to in which category specific communications belong; (2) to permit *one* person, a supervisory analyst, to approve research reports rather than two as currently required;[2] (3) and to permit, in instances where a supervisory analyst does not have technical expertise in a particular product area, the basic analysis contained in a research report to be *co-approved* by a product specialist designated by the member organization.

This last proposal is intended to alleviate concerns of supervisory analysts whose expertise is limited to securities, by allowing their firm to designate a "co-approver" with expertise in the subject matter of the report. These changes will simplify administrative procedures for members and member organizations.

In addition, general and specific standards for all communications presently listed in Paragraph 9495.10 would be consolidated into Rule 481. The general standards are revised to specify that no communication shall contain untrue statements, omissions of material facts, false or misleading statements, promises of specific results, exaggerated or unwarranted claims etc. Additional minor revisions are made to update the specific standards. For example, when a communication recommends the purchase or sale of a specific security, disclosure will now be required if the member organization or its employees involved in the preparation or issuance of a communication have *positions* in any securities or options of the recommended issuer or if a member, allied member or employee is a director of a corporation whose security is being recommended. Other changes in language are made to conform to the uniform SRO rule concerning options communications and past performance. (See, *e.g.* Amex Rule 991.04(c)).

"Standards for Speaking Activities" currently in Paragraph 9495 Commentary .20 will be deleted and replaced by Commentary .20 to Rule 481 (Other Communication Activities), which will require member organizations to establish specific written procedures for supervision and approval of such activities.

Long Sales.—Amex Rule 425 specifies the conditions under which a customer is deemed to be "long" and eligible to effect a long sale of a security. For example, the customer may be "long" the security in his account at the member organization or another broker-dealer. If the customer does not comply with the specified conditions and fails to deliver the stock sold to the selling member organization within a "reasonable" period of time, the firm is required to buy in the customer, *i.e.*, close the transaction by purchasing securities of like kind and quantity. The rule was adopted in 1968 at a time when failure to deliver was a serious problem resulting from customer delays in making prompt deposit of securities sold. Today, however, the establishment of securities depositories and improved automated clearance and settlement procedures have greatly alleviated the problem. Further, in 1972, the Securities and Exchange Commission adopted Rule 15c3–3(m) which requires that if the securities which are sold are not delivered *within 10 days*, rather than a "reasonable" time period, the customers are to be "bought in". Therefore, a specific Exchange rule addressing this problem is no longer necessary and it is proposed that Rule 425 be rescinded.

Keeping Copies of Guide.—Amex Rule 323 requires members and member organizations maintaining customer offices to maintain in each branch office a current copy of the American Stock Exchange Guide. Member firms have questioned the necessity and cost of maintaining updated guides at each branch office, pointing out that, as a practical matter, branch offices rely either on their firm's internal supervisory manuals or their compliance and other supervisory personnel for assistance with the Exchange's rules. It is proposed that this requirement be deleted and Rule 323 be amended to require each member and member organization to keep and maintain only one current copy of our Guide.

(2) Basis

The proposed amendments are consistent with Section 6(b) of the Exchange Act, in general, in that they are designed to ensure that the Exchange's rules remain up-to-date and are consistent with Sections 6(b)(1) and 6(b)(5), in particular, in that they help enforce compliance with Exchange rules and eliminate regulation not related to the purposes of this Act.

[1] "Outside" writing or broadcasting activities are those "other than in the regular conduct of a securities business."

[2] Since the competency of supervisory analysts is tested by the Exchange their review is sufficient for approval of research reports.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed amendments create no new regulations and will not impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule 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 5th 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 by October 10, 1984.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

September 13, 1984.

[FR Doc. 84-24819 Filed 9-18-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-21321; File No. SR-AMEX-84-27]

Self-Regulatory Organizations; Proposed Rule Change by the American Stock Exchange, Inc. Relating to Modification of the Oil and Gas Index

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 September 4, 1984, the American Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange, Inc. ("AMEX" or the "Exchange") proposes to modify its Oil and Gas Index ("XOI") by (i) changing the index from a market weighted index to a price weighted index, and (ii) reducing the number of component stocks.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

First, the Exchange proposes to change XOI from a market-weighted to a price weighted index. However, the Exchange does not anticipate that the pattern of movement of the new index will diverge substantially from that of the present index (based on historical data).[1] Further, the Exchange proposes to reduce the number of component stocks from twenty-nine to fifteen, to include within the index only the larger oil producing companies with the least diversification. Thus, companies which engage in substantial gas exploration, production and drilling activities have been deleted from the index to make it a purer oil index. The index will be called the "Oil Index."

The Exchange believes that changing to a price weighted calculation will reduce distortions in the index which have, any may arise from special situations in component stocks, such as mergers and acquisitions. Price weighting may reduce the distortions that can otherwise arise in a market weighted index by substantially reducing the impact of the highest weighted stocks in such an index. For example, in the Oil and Gas Index, Exxon (which currently has the highest percentage weighting of all the component stocks) represents approximately 20% of the index. However, in the price weighted Oil Index, the highest priced stock would be Sun Company, representing only 8.7% of the index value. (Calculations as of 8/29/84.)

The proposed component stocks of the new index are:

Amerada Hess (AHC)
Atlantic Richfield (ARC)
British Petroleum (BP)[2]
Chevron (CHV)
Exxon (XON)
Mobil (MOB)
Occidental Petroleum (OXY)
Philips Petroleum (P)
Royal Dutch (RD)
Standard Oil of Indiana (SN)
Standard Oil of Ohio (SOH)
Sun Company (SUN)
Texaco (TX)
Texas Oil & Gas (TXO)
Unocal Corporation (UCL)

The stocks which are proposed to be deleted are:

Apache Corporation (APA)
Diamond Shamrock (DIA)
Imperial Oil, Ltd. Cl. A (IMO.A)
Inexco Oil (INX)
Kerr McGee (KMG)
Louisiana Land (LLX)
Mesa Petroleum (MSA)
Mitchell Energy (MND)

[1] Graphs depicting the price movement of the original Oil & Gas Index and the proposed Oil Index are available for inspection in the Commission's Public Reference Room and at the principal office of Amex.

Noble Affiliates (NBL)
Pennzoil (PZL)
Pogo Producing (PPP)
Sabine Corporation (SAB)
Shell Oil (SUO)
Superior Oil (SOC)
Tosco Corporation (TOS)

The smaller number of component stocks and the change to price weighting is expected to facilitate those investors and traders wishing to hedge their options positions with a small group of component stocks.

In order to implement the modification to the index with the least potential investor confusion, the Exchange may delist outstanding April XOI series which have no open interest. After the October expiration, this will leave the Janaury XOI series outstanding. The Exchange plans to change the symbol for the outstanding series to XOZ, the "Z", as always, alterting the investing public that an adjustment has been made. At the same time, the Exchange will begin to disseminate the new price-weighted index (as well as XOZ), which will be based on the sum of the component stocks on August 27, 1984 divided by 4.631. The Oil Index value was 125 at the close of the market on August 27, 1984. (The Oil and Gas Index closed at 116.56 on that day.) The exchange also plans to list a full range of expiration months—November and December, 1984 and January, April and July, 1985—for the Oil Index as soon as Commission approval is received.

All rules applicable to price weighted industry indices would apply to the listing and trading of the Oil Index, and thus no rule changes are required. Accordingly, position and exercise limits will remain at 8,000 contracts.

The propsed changes are consistent with the requirements of the Securities Exchange Act of 1934 (the "1934 Act") and rules and regulations thereunder applicable to the Exchange in that they provide for the orderly introduction of the Oil Index.

Therefore, the proposed rule changes are consistent with Section 6(b)(5) of the 1934 Act, which provides in pertinent part, that the rules of the Exchange be designed to promote just and equitable principles of trade and to protect the investing public.

B. Self-Regulatory Organization's Statement on Burden on Competiton

The AMEX believes that the proposed rule changes will not impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange's Stock Selection and New Products Committees, both composed of members and representatives of member firms, endoresed the proposed rule change.

No written 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 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 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 by October 10, 1984.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: September 13, 1984.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-24821 Filed 9-18-84; 8:45 am]
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[Release No. 23418; (70-7020)]

Mississippi Power & Light Co.; Notice of Proposed Issuance and Sale of First Mortgage Bonds

September 13, 1984.

Mississippi Power & Light Company ("MP&L"), P.O. Box 1640, Jackson, Mississippi 39205, an electric utility subsidiary of Middle South Utilities, Inc., a registered holding company, has filed a proposal with this Commission pursuant to Sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50 promulgated thereunder.

MP&L proposes to issue and sell, subject to Rule 50 under the Act as modified by HCAR No. 22623, not more than $105 million aggregate principal amount of its first mortgage bonds to be issued in one or more series from time to time not later than December 31, 1985. The bonds will be issued under MP&L's Mortgage and Deed of Trust, dated as of September 1, 1944, to Irving Trust Company, Trustee, as heretofore supplemented and as to be further supplemented.

MP&L also intends to establish one or more new series of its Preferred Stock, Cumulative, $100 Par Value, which will consist in the aggregate of not more than 250,000 shares, and proposes to issue and sell, in one or more sales from time to time not later than December 31, 1985, said preferred stock, subject to Rule 50 under the Act as modified by HCAR No. 22623. MP&L may include provisions for an adjustable dividend rate for one or more series of the preferred stock.

It is stated that MP&L believes that the sale(s) of one or more series of bonds and/or preferred stock may require the assistance of underwriters, dealers, or agents, depending on market conditions at the time of the offering thereof, or that a private placement of one or more series of bonds and/or preferred stock may result in more favorable terms to the company than would result from a public offering. Accordingly, MP&L may amend its proposal to seek an exception from Rule 50 so that it may offer such series of bonds and/or preferred stock through either a negotiated public sale(s) or a private sale(s).

The net proceeds derived from the issuance and sale of bonds and/or

preferred stock will be used for the financing in part of MP&L's construction program and for other corporate purposes.

The proposal and any amendments thereto are available for public inspection through the Commission Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by October 10, 1984, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant at the address 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 proposal, as filed or as it may be amended, may be authorized.

For the Commission, by the Office of Public Utility Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-24820 Filed 9-18-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 14157; 811-3123]

APPA—Great Century Money Market Fund, Inc.; Filing of Application for an Order Declaring That Applicant Has Ceased To Be an Investment Company

September 12, 1984.

Notice is hereby given that APPA—Great Century Money Markey Fund, Inc. ("Applicant") 292 Madison Avenue, New York, NY 10017, registered as an open-end, diversified, management investment company under the Investment Company Act of 1940 ("Act"), filed an application on June 26, 1984, for an order, pursuant to section 8(f) of the Act, declaring that it has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the complete text of the relevant provisions.

Applicant, incorporated under the laws of the State of Maryland, states that it filed its Notificatin of Registration on Form N-8A on December 17, 1980. Applicant also states that its registration statement, filed under the Securities Act of 1933, was declared effective on June 11, 1981, and an initial public offering commenced immediately thereafter.

The application indicates that Applicant's board of directors resolved, at a special meeting held on February 10, 1983, to approve the proposed Plan of Liquidation and Dissoulstion, which, on April 29, 1983, the majority of Applicant's shareholders also approved. Applicant states that, subsequent thereto, distributions were made to all shareholders at a net asset value of $1.00 per share.

The application further indicates that Applicant has no assets, debts, or outstanding liabilities remaining, and it is not a party to any litigation or administrative proceeding. Applicant states that it had no securityholders at the time of filing of the application. Applicant further states that within the last 18 months it has not transferred any of its assets to a separate trust, and that it is not now engaged, nor does it propose to engage, in any business activity other than that necessary to wind-up its affairs.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than October 8, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the spcific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attoney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own moton.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirly E. Hollis,

Acting Secretary.

[FR Doc. 84-24787 Filed 9-18-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 14158; 812-5918]

John Hancock U.S. Government Guaranteed Mortgages Trust et al.; Application for an Order Exempting Applicants

September 12, 1984.

In the Matter of John Hancock U.S. Government Guaranteed Mortgages Trust, John Hancock Place, P.O. Box 111, Boston, MA 02117 and John Hancock Distributors, Inc., John Hancock Place, P.O. Box 21, Boston, MA 02117.

NOTICE IS HEREBY GIVEN that John Hancock U.S. Government Guaranteed Mortgages Trust (the "Fund"), a diversified, open-end investment company registered under the Investment Company Act of 1940 (the "Act"), and John Hancock Distributors, Inc. ("Distributor"), underwriter for shares of the Fund (collectively, "Applicants"), filed an application on August 10, 1984, for an order of the Commission, pursuant to section 6(c) of the Act, exempting Applicants from the provisions of section 22(d) of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and the rules thereunder for further information as to the provisions which are relevant to a consideration of this application.

The Fund was organized in 1980 by John Hancock Advisers, Inc. ("Adviser"), an indirect, wholly-owned subsidiary of John Hancock Mutual Life Insurance Company ("John Hancock"), a Massachusetts mutual life insurance company. Distributor, a wholly-owned subsidiary of Adviser, has entered into an underwriting agreement with the Fund.

Applicants request exemption from section 22(d) of the Act to permit funds derived from death claims and matured endowments of fixed dollar policies and from proceeds of variable and universal life insurance policies issued by John Hancock and John Hancock Variable Life Insurance Company, to be applied to the purchase of shares of the Fund within the first 60 days after the date of the check in payment of such insurance at a sales charge equal to one-half the rate otherwise applicable. Applicants state that pursuant to the underwriting agreement, the sales charge ranges from 8% to 1% as a percentage of the offering price depending upon the amount invested.

Applicants assert that purchasers of shares of the Fund who apply insurance proceeds of a fixed dollar insurance policy, matured endowment, or a variable or universal life insurance policy to make the purchase of shares of the Fund have paid premiums on such policies that include a sales expense component larger than the sales charge applicable to the purchase of shares of the Fund. Applicants also represent that less selling effort and expense is involved in applying the proceeds of such policies to the purchase of shares of the Fund than in making an initial sale of such shares. Applicants further assert that one-half of the normal sales

charge appropriately reflects the selling effort and expense involved.

Applicants submit that the policy underlying section 22(d) of providing for the orderly distribution of mutual fund shares would not be frustrated by the granting of the requested exemption because the class of people involved is well-defined by factors external to the distribution process such as the availability of certain death benefits. Applicants further submit that the requested exemption is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act.

NOTICE IS FURTHER GIVEN that any interested person wishing to request a hearing on the application may, not later than October 8, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-24785 Filed 9-18-84; 8:45 am]

BILLING CODE 8010-01-M

[File No. 22-13233]

Standard Oil Co.; Application and Opportunity for Hearing

September 13, 1984.

Notice is hereby given that Standard Oil Company, an Indiana corporation (the "Company") has filed an application pursuant to clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939, as amended (the "Act"), for a finding by the Securities and Exchange Commission (the "Commission") that the successor trusteeship of Citibank, N.A. ("Citibank") under indentures of the Company dated January 15, 1968 (the "1968 Indenture") and as of August 1, 1974 (the "1974 Indenture"), the trusteeship of Citibank under the indenture of the Company dated as of August 1, 1977 (the "1977 Indenture") and the trusteeship of Citibank under an indenture dated as of February 1, 1983 (the "1983 Indenture") among Amoco Australia Limited (since renamed BP Oil Distribution Limited), Amoco Holdings Pty. Limited, as guarantor (Amoco Holdings Pty. Limited, since renamed BP Oil Distribution Holdings Proprietary Limited, or any other company assuming the obligations of guarantor under the 1983 Indenture being the "Primary Guarantor"), and Citibank is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Citibank from acting as successor trustee under the 1968 and 1974 Indentures or as trustee under the 1977 and 1983 Indentures.[1] The 1968, 1974 and 1977 Indentures were heretofore qualified under the Act.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest it shall within ninety days after ascertaining that it has such conflicting, interest, either eliminate such conflicting interest or resign. Subsection (1) of such Section provides, in effect, with certain exceptions that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture under which other securities of the same issuer are outstanding, it the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under such qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under either of such indentures.

In support of its application the Company alleges that:

1. The Company has outstanding as of August 8, 1984 $144,166,000 aggregate principal amount of its 6 percent Debentures Due 1998 (the "6% Debentures") issued under the 1968 Indenture between the Company and the First National Bank of Chicago ("FNBC"). FNBC was subsequently succeeded by Northern Trust Company ("Northern Trust") as successor trustee under the 1968 Indenture. The 6% Debentures were registered under the Securities Act of 1933, as amended (the "Securities Act") (File No. 2-27988), and the 1968 Indenture was qualified under the Act (File No. 22-4854).

2. The Company has outstanding as of August 8, 1984 $83,293,000 aggregate principal amount of its Floating Rate Notes Due 1989 (the "Floating Rate Notes") issued under the 1974 Indenture between the Company and FNBC. FNBC was subsequently succeeded by Northern Trust as successor trustee under the 1974 Indenture. The Floating Rate Notes were registered under the Securities Act (File No. 2-51667), and the 1974 Indenture was qualified under the Act (File No. 22-7999).

3. The Company has outstanding as of August 8, 1984 $400,000,000 aggregate principal amount of its 7⅞% Debentures Due 2007 (the "7⅞% Debentures") issued under the 1977 Indenture between the Company and Citibank. The 7⅞% Debentures were registered under the Securities Act (File No. 2-59457), and the 1977 Indenture was qualified under the Act (File No. 22-9282).

4. Pursuant to the 1983 Indenture and the guarantee agreement dated as of February 1, 1983 (the "Guarantee Agreement"), Amoco Austrialia Limited issued $50,000,000 aggregate principal amount of 9-⅞% Bearer Notes due 1990, which are guaranteed by the Primary Guarantor (the "Guaranteed Notes"), which guarantee is jointly and severally guaranteed by Amoco Internation Finance Corporation and the Company. As of August 8, 1984 $50,000,000 aggregate principal amount of the Guaranteed Notes were outstanding. Inasmuch as the Guaranteed Notes were offered and sold outside the United States, its territories and possessions to persons who are not nationals or residents thereof, the Guaranteed Notes were not registered under the Securities Act and the 1983 Indenture, under which Citibank acts as Trustee, was not qualified under the Act.

5. Northern Trust, on May 18, 1984, gave written notice to the Company of its intention to resign as trustee under the 1968 and 1974 Indentures. The Company has requested Citibank to accept appointment as successor trustee under the 1968 and 1974 Indentures.

6. Section 7.08 of the 1974 Indenture provides in part as follows:

(a) If the Trustee has or shall acquire any conflicting interest, as defined in this Section 7.08, it shall, within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting

[1] An application pursuant to section 310(b)(1)(ii) of the Act in connection with Citibank's trusteeship under the 1977 Indenture and the 1983 Indenture was granted by the Commission by order dated April 5, 1983.

interest or resign in the manner and with the effect specified in Section 7.10. * * * .

(c) For the purpose of this Section 7.08 the Trustee shall be deemed to have a conflicting interest if

(1) The Trustee is trustee under another indenture under which any other securities * * * of the Company, are outstanding * * * *provided* that there shall be excluded from the operation of this paragraph any other indenture or indentures under which other securities * * * of the Company, are outstanding if

(i) This Indenture and such other indenture or indentures are wholly unsecured and such other indenture or indentures are hereafter qualified under the Trust Indenture Act of 1939, unless the the Securties and Exchange Commission shall have found and declared by order pursuant to subsection (b) of Section 305 or subsection (c) of Section 307 of the Trust Indenture Act of 1939 that differences exist between the provisions of this indenture and the provisions of such other indenture or indentures which are so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Trustee from acting as such under this Indenture and such other indenture or indentures, or

(ii) The Company shall have sustained the burden of proving, on application to the Securities and Exchange Commission and after opportunity for hearing thereon, that the trusteeship under this Indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Trustee from acting as such under one of such Indentures; *provided, further,* that there shall be excluded from the operation of this paragraph * * * the Indenture dated January 15, 1968, under which the Company's 6% Debentures Due 1968 are outstanding;

Section 7.08 of the 1968 Indenture and Section 7.08 of the 1977 Indenture are substantially the same as section 7.08 of the 1974 Indenture, except for reference to the 1968 Indenture.

7. Citibank's acting as successor trustee under both the 1968 and 1974 Indentures is permitted by (1) Section 7.08 of the 1974 Indenture because of the explicit reference to the 1968 Indenture contained therein, and (2) Section 7.08 of the 1968 Indenture because both of these indentures are wholly unsecured and the 1974 Indenture was qualified after the date of the 1968 Indenture.

8. Acceptance by Citibank of the appointment as successor trustee under the 1968 Indenture and the 1974 Indenture may involve Citibank in a conflict of interest (a) within the meaning of Section 7.08 of the 1977 Indenture with respect to the 1968 and 1974 Indentures since such section does not explicitly exclude from the operation of paragraph (c)(1) thereof the 1968 and 1974 Indentures and (b) within the meaning of Section 7.08 of the 1968 and 1974 Indentures with respect to the 1983 Indenture since the 1983 Indenture has not been qualified under the Act and is not the subject of any other proceeding of the Commission.

9. The Company's obligations with respect to the 6% Debentures, the Floating Rate Notes, the 7⅛% Debentures and the Guaranteed Notes are wholly unsecured and rank on parity with each other. The only material differences between the provisions of the 1968 and 1974 Indentures and the 1977 and 1983 Indentures, and between the rights of holders of the 6% Debentures and the Floating Rate Notes, and the holders of the 7⅛% Debentures and the Guaranteed Notes, relate to the fact that the Company is the guarantor with respect to the Guaranteed Notes but is the primary obligor under the 1968 and 1974 Indentures, and also relate to aggregate principal amounts, dates of issue, denominations, events of default, maturity and interest payment dates, interest rates, redemption or prepayment procedures, Trustee's reports, restrictions on transferability, provisions relating to the non-United States offering of the Guaranteed Notes, sinking fund provisions, and other provisions of a similar nature. Any such differences and any other differences in the provisions of the 1968 and 1974 Indentures and the 1977 and 1983 Indentures are unlikely to cause any conflict of interest between the respective trusteeships of Citibank under said Indentures.

10. The Company is not in default under the 1968, 1974, 1977 or 1983 Indentures.

11. The Company has waived (a) notice of hearing, (b) hearing on the issues by its application and (c) all rights to specify procedures under the Commission's Rules of Practice with respect to the application.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application which is on file in the offices of the Commission at 450 Fifth Street, NW., Washington, D.C. 20549.

NOTICE IS FURTHER GIVEN that an order granting the application may be issued by the Commission at any time on or after October 8, 1984, unless prior thereto a hearing upon the application is ordered by the Commission, as provided in clause (ii) of Section 310(b)(1) of the Act. Any interested person may, not later than October 8, 1984 at 5:30 P.M., Eastern Standard Time, in writing, submit to the Commission his views or any additional facts bearing upon this application or the desirability of a hearing thereon. Any such communication or request shall be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting a hearing, the reasons for such request, and the issues of fact and law raised by the application which he desires to controvert.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-24765 Filed 9-18-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21314; File No. SR-MSRB-84-13]

Self-Regulatory Organization; Filing and Immediate Effectiveness of Proposed Rule Change by the Municipal Securities Rulemaking Board

September 12, 1984.

The Municipal Securities Rulemaking Board ("MSRB") on September 7, 1984, submitted copies of a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder, to amend MSRB Rule G-4, which concerns statutory disqualifications, by replacing a reference to a rescinded Commission rule with a reference to the currently applicable rule. Specifically, the proposed rule change would refer to Rule 19d-3 under the Act instead of former Rule 15b8-2 under the Act, a rescinded SECO rule, as the basis for applying for relief from certain disqualifications.

This proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act. At any time within sixty days of filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Publication of this notice is expected to be made in the **Federal Register** during the week of September 17, 1984. Interested persons are invited to submit written comments concerning the submission within 21 days from the date of publication in the **Federal Register.** Persons submitting written comments should file six copies with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549.

Comments should refer to File No. SR-MSRB-84-13.

Copies of the submission and all related items, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendments also will be available at the MSRB.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority. 17 CFR 200.30-3(a)(12).

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-24784 Filed 9-18-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21320; Filed No. S7-820]

Self-Regulatory Organization; Receipt of an Amendment to the Options Price Reporting Authority Plan

September 13, 1984.

On August 27, 1984, the participants in the Options Price Reporting Authority ("OPRA") submitted to the Commission, pursuant to Rule 11Aa3-2 under the Securities Exchange Act of 1934 ("Act"), an amendment to the "Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information,"[1] which was submitted to the Commission pursuant to section 11A(a)(3)(B) of the Act ("OPRA Plan").[2]

I. Description of the Amendment

OPRA proposes to establish a new fee to be imposed upon those OPRA Subscribers who have indirect access (via a vendor-supplied feed) to the high speed OPRA feed or to a comparable bulk feed of OPRA information. OPRA indicates that the fee will not apply to subscribers who receive processed OPRA information from a vendor under a typical service agreement whereby the processed information is accessed by the subscriber via vendor-supplied interrogation or display devices, nor will it apply to subscribers who access OPRA information via a direct connection to the OPRA processor and who are subject to the OPRA Direct Access Charge. The new fee is proposed to be established at a monthly rate of $100.00.

II. Purpose of the Amendment

OPRA indicates the purpose of the proposed Indirect Access Fee is to allocate fairly OPRA's administrative costs among those persons whose indirect access to a bulk feed of OPRA information imposes special costs upon OPRA, but who are not subject to the Direct Access Charge.

III. Manner of Implementation of the Amendment

The proposed new fee will be implemented by amending Section 3 of the existing Vendor Agreement[3] to prohibit vendors from providing a bulk feed to subscribers unless the subscriber has entered into a contract with OPRA.[4]

IV. Request for Comment

Pursuant to Rule 11Aa3-2(c)(3) under the Act, the amendment became effective upon filing with the Commission. The Commission, however, may summarily abrogate the amendment within 60 days of its filing and require refiling and approval of the amendment by Commission order pursuant to Rule 11Aa3-2(c)(2), if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, perfect the mechanisms of, a national market system, or otherwise in furtherance of the purposes of the Act. In order to assist the Commission in determining whether to abrogate the amendment and to require refiling and further review, interested persons are invited to submit their comments to Shirley E. Hollis, Acting Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549, within 21 days from the date of publication of this notice in the Federal Register. The amendment to the OPRA Plan will be available for public inspection in the Commission's public reference room. All communications should refer to File No. S7-820.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.[5]

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-24760 Filed 9-18-84; 8:45 am]

BILLING CODE 8010-01-M

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[1] *See* Securities Exchange Act Release No. 17638 (March 18, 1981).

[2] The Commission previously, by order, granted registration to OPRA as a securities information processor. At that time, OPRA's functions were limited to the collection and dissemination of options last sale reports. *See* Securities Exchange Act Release No. 12035 (January 22, 1976), 41 FR 4369. In order to comply with the procedures of Rule 11Aa3-2 applicable to the establishment of fees of exclusive securities processors, OPRA has filed this fee as a Plan amendment under the Rule.

[3] *See* Exhibit A of OPRA's submission filed August 27, 1984 ("Plan Amendment").

[4] *Id.* Exhibit B.

[5] 17 CFR 200.30-3(a)(27).

[Release No. 21315; File No. SR-SCCP-84-6]

Self-Regulatory Organization; Filing and Order Approving on an Accelerated Basis a Proposed Rule Change of Stock Clearing Corporation of Philadelphia

September 12, 1984.

The Stock Clearing Corporation of Philadelphia ("SCCP") on August 17, 1984, submitted a proposed rule change to the Commission pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1). The Commission is publishing notice of the proposed rule change to solicit comments. Also, the Commission believes that Commission approval of the proposal on an accelerated basis is necessary to enable SCCP municipal securities broker and dealer participants to comply with recent Municipal Securities Rulemaking Board initiatives requiring use of clearing agency automated comparison systems.[1]

The proposal enables SCCP to provide its participants with automated comparison services for municipal securities transactions. SCCP has entered into a Trade Comparison Linkage Agreement ("Agreement") with the National Securities Clearing Corporation ("NSCC"). This agreement enables SCCP to link its automated municipal securities comparison system to NSCC's automated municipal securities comparison system.[2]

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[1] As of August 1, 1984, municipal securities brokers and dealers or their clearing agents that participate in registered clearing agencies that provide automated comparison services must use those services to compare certain municipal securities transactions. *See* Municipal Securities Rulemaking Board ("MSRB") Rule G-12, as approved by the Commission in Securities Exchange Act Release No. 20365 (November 14, 1983), 48 FR 52531 (November 18, 1983).

[2] *See* Securities Exchange Act Release No. 20976 (May 18, 1984), 49 FR 22426 (May 29, 1984), which permanently approved implementation of NSCC's Municipal Bond Processing System, including its Municipal Comparison Only Member ("MCOM") feature. NSCC acts as the central processing hub for all registered clearing agencies linked to its Municipal Bond Processing System. In addition, the linkages enable municipal securities brokers and dealers at one clearing agency to compare trades with other municipal brokers and dealers at other clearing agencies. Other registered clearing agencies that are linked to NSCC's Municipal Securities Processing System include Pacific Clearing Corporation ("PCC") and Midwest Clearing Corporation ("MCC") (*see* Securities Exchange Act Release No. 21120 (July 6, 1984), 49 FR 28490 (July 12, 1984)); and The Depository Trust Company (*see* Securities Exchange Release Nos. 21164 (July 23, 1984), 49 FR 30267 (July 27, 1984) and 21279 (August 31, 1984), 49 FR 35456 (September 7, 1984).

Under the proposal, SCCP participants each day submit to SCCP trade data on municipal securities transactions. SCCP then transmits this data to NSCC for comparison. The results of NSCC's comparison processing are transmitted back to SCCP, which uses this data to make daily reports to SCCP participants reflecting their compared trades, uncompared trades and advisory trades. SCCP participants then use NSCC's efficient supplemental comparison procedures to resolve uncompared trades.[3] Trade resolution inputs are submitted to SCCP, transmitted by SCCP to NSCC, and the results of NSCC's processing are transmitted back to SCCP and, through SCCP, to its participants.

The proposal provides that compared trades must settle on a trade-for-trade basis.[4] SCCP sends to its participants Receive/Deliver Tickets on T+4 that include necessary trade information and delivery instructions. If both sides of the trade are SCCP and Philadelphia Depository Trust Company ("Philadep") participants, SCCP's proposal enables those participants to book-entry settle Philadep-eligible municipal securities issues. If the *contra* side to the compared trade is not an SCCP participant but is a participant of another clearing agency that provides automated municipal securities comparison services, the *contra* side will receive its Receive/Deliver Tickets from its clearing agency. Those parties then must settle the transaction under applicable MSRB rules.[5]

SCCP states in its filing that its proposal is consistent with Section 17A of the Act because it will provide automated comparison services for the first time to SCCP municipal securities broker and dealer participants and will enable those participants to comply with MSRB Rule G–12. For these reasons, SCCP has requested accelerated approval of its proposal.

The Commission agrees with SCCP that the proposal is consistent with Section 17A of the Act and therefore should be approved. Implementation of SCCP's automated municipal securities comparison system and its link to NSCC's Municipal Bond Processing System completes the configuration of the National Municipal Securities Comparison System. SCCP now joins DTC, MCC, PCC and NSCC in providing the municipal securities industry with uniform, automated, efficient municipal securities comparison services. Thus, SCCP participants now will be able to use efficient automated comparison services for their municipal securities trades. No longer will they need to use antiquated manual comparison procedures for most municipal securities trades.[6] The Commission notes, however, that SCCP's proposal is only SCCP's first step to automate municipal securities processing. SCCP intends in the near future to upgrade its municipal securities processing system to provide comparison services to MCOMs [7] and to enable participants to use SCCP's continuous net settlement system ("CNS") to settle municipal securities transactions.[8] The Commission also believes that the proposal will not burden SCCP participants. Indeed, most SCCP participants are familiar with the proposed municipal securities comparison procedures because they are almost identical to NSCC's OTC comparison procedures. Most SCCP participants participate in the OTC market and submit their OTC transactions for comparison through SCCP to NSCC's National OTC Comparison System, for which NSCC is the central information processor.

For the reasons stated below, the Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publishing notice of the filing. Accelerated approval will enable SCCP participants, at the earliest possible date, to use automated, efficient comparison services for municipal securities transactions as contemplated by MSRB Rule G–12.

You can submit written comment within 21 days after this Order is published in the **Federal Register**. Please refer to File No. SR–SCCP–84–6, and file six copies of your comment with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Material on the rule change, other than material that may be withheld from the public under 5 U.S.C. 552, is available at the Commission's Public Reference Room and at the principal office of SCCP.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84–24786 Filed 9–18–84; 8:45 am]

BILLING CODE 8010–01–M

[3] SCCP's initial and supplemental comparison procedures are nearly identical to NSCC's comparison procedures for over-the-counter ("OTC") transactions and equity transactions executed on national securities exchanges other than the New York and American Stock Exchanges. *See* NSCC Procedures Part II. C. Thus, SCCP participants can take advantage of such suplemental trade comparison mechanisms as demand As-of's.

[4] Under trade-for-trade settlement, parties to the trade settle directly with each other. SCCP does not net or guarantee settlement obligations. Regular-way compared trades submitted on the first business day after trade date ("T+1") settle on T+5. As-of trades, which are submitted on T+2 or later, settle two business days after the trade is compared.

[5] SCCP's proposal also enables its participants to use SCCP's Correspondent Delivery and Collection Service ("CDCS") for physically settling municipal securities transactions between SCCP participants and third parties that are not SCCP participants.

[6] An SCCP municipal securities broker or dealer participant that trades with a municipal securities broker or dealer that is not a direct or indirect clearing agency participant will be unable to use SCCP's automated trade comparison service. Under MSRB Rule G–12(f)(iii), a municipal securities broker or dealer, which clears a transaction through a clearing agent that is a clearing agency participant, is deemed to be a clearing agency participant regarding that transaction, *i.e.*, an indirect clearing agency participant.

[7] *See* note 2 *supra*.

[8] NSCC and MCC already provide CNS processing for certain municipal securities transactions.

Self-Regulatory Organization; Boston Stock Exchange Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

September 13, 1984.

In the Matter of Applications of the Boston Stock Exchange Incorporated; for unlisted trading privileges in certain securities; Securities Exchange Act of 1934.

The above named national securites exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

Midcom Corp.
Common Stock, No Par Value (File No. 7–7869)

Montana-Dakota Utilities Co.
Common Stock, $10.00 Par Value (File No. 7–7870)

Mary Kay Cosmetics
Common Stock, $.10 Par Value (File No. 7–7871)

Mesa Offshore Trust
Units of Beneficial Interest, No Par Value (File No. 7–7872)

McIntyre Mines, Ltd.
Common Stock, No Par Value (File No. 7–7873)
Mercury Savings & Loan Assoc.
Common Stock, $1.00 Par Value (File No. 7–7874)
Mission West Properties
Common Stock, No Par Value (File No. 7–7875)
Newpark Resources, Inc.
Common Stock, $2.00 Par Value (File No. 7–7876)
Nutri/Systems, Inc.
Common Stock, $.01 Par Value (File No. 7–7877)
Novo Industries A/S
American Depository Receipts, 10 Kroner (File No. 7–7878)
Nevada Power Co.
Common Stock, $1.00 Par Value (File No. 7–7879)
Triton Energy Co.
Common Stock, $1.00 Par Value (File No. 7–7880)
Orion Pictures Corp.
Common Stock, $.25 Par Value (File No. 7–7881)
Ozark Air Lines, Inc.
Common Stock, $.50 Par Value (File No. 7–7882)
Action Industries
Common Stock, $.10 Par Value (File No. 7–7883)

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before October 4, 1984, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84–24761 Filed 9–18–84; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organization; Philadelphia Stock Exchange; Application for Unlisted Trading Privileges and of Opportunity for Hearing

September 13, 1984.

In the Matter of Application of the Philadelphia Stock Exchange; for unlisted trading privileges in certain securities; Securities Exchange Act of 1934.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the common stock of:

Purolator Courier Corp.
Common Stock, $1.00 Par Value (File No. 7–7884)

This security is listed and registered on one or more other national securities exchanges and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before October 4, 1984, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if its finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84–24762 Filed 9–18–84; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Cleveland-Hopkins International Airport—FAA Acceptance of Noise Exposure Map Under 14 CFR Part 150

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its acceptance of noise exposure maps submitted by Cleveland-Hopkins International Airport (CLE) under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) and 14 CFR Part 150.

EFFECTIVE DATE: The effective date of the FAA's acceptance of the CLE noise exposure maps is July 3, 1984.

FOR FURTHER INFORMATION CONTACT: Michael C. Rose, Airports Planner, AGL–611.1, Federal Aviation Administration, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, (312) 694–7538.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has accepted the noise exposure maps for Cleveland-Hopkins International Airport effective July 3, 1984.

Under Section 103 of Title I of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA a noise exposure map which meets applicable regulations and which depicts noncompatible land uses as of the date of submission of such map, a description of projected aircraft operations, and the ways in which such operations will affect such map. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport.

Cleveland-Hopkins International Airport submitted to the FAA on November 17, 1983, and November 30, 1983, noise exposure maps, descriptions, and other documentation. It was requested that the FAA accept this material as a noise exposure map as described in Section 103(a)(1) of the Act. The FAA has completed its review of the noise exposure maps and related descriptions submitted by Cleveland-Hopkins International Airport. The specific maps under consideration are depicted in Exhibits 8 and 11 in the technical report titled, "FAR Part 150 Noise Exposure Map Project", prepared September 1983. The FAA has accepted these materials as the noise exposure maps for Cleveland-Hopkins International Airport effective July 3, 1984.

FAA's acceptance of an airport operator's noise exposure map is limited to the determination that the map was developed in accordance with the procedures contained in Appendix A of FAR Part 150. Such acceptance does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of the program.

Questions may arise concerning the precise relationship of specific properties to the noise exposure contours depicted on a noise exposure map submitted under Section 103 of the Act. It should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure map to resolve questions concerning, for example, which properties should be covered by the provisions of Section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's acceptance of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agnecies with which consultation is required under Section 103 of the Act. The FAA has relied on the certification by the airport operator, under Section 150.21 of FAR Part 150, that the statutorily required consultation has been accomplished.

Copies of the accepted noise exposure maps, and the FAA's evaluation of the maps, are available for examination at the following locations:

Federal Aviation Administration, National Headquarters, 800, 800 Independence Avenue, SW, Room 615, Washington, D.C. 20591

Federal Aviation Administration, Great Lakes Regional Office, AGL-600, 2300 East Devon Avenue, Des Plaines, Illinois 60018

Federal Aviation Administration, Detroit Airports District Office, East Willow Run Airport, 8800 Beck Road, Belleville, Michigan 48111

Cleveland-Hopkins International Airport, Department of Port Control, Terminal Building, 5300 Riverside Drive, Cleveland, Ohio 44135.

Questions may be directed to the individual named above under the heading "For Further Information Contact".

Issued in Des Plaines, Illinois, on September 7, 1984.

Peter A. Serini,

Acting Manager, Airports Division, Great Lakes Region.

[FR Doc. 84-24720 Filed 9-18-84; 8:45 am]

BILLING CODE 4910-13-M

Draft Advisory Circular 27-X, Certification of Normal Category Rotorcraft and Draft Change 2, Advisory Circular 29-2, Certification of Transport Category Rotorcraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting, availability of draft advisory circulars (AC), and request for comments.

SUMMARY: The proposed drafts of AC 27-X, Certification of Normal Category Rotorcraft, and Change 2, AC 29-2, Certification of Transport Category Rotorcraft, provide guidance material for demonstrating compliance with the requirements of Parts 27 and 29 of the Federal Aviation Regulations (FAR). The FAA is sponsoring a meeting and requesting comments from the public concerning the draft AC material.

DATES: Comments must identify file AC 27-X or AC 29-2, Change 2, and comments must be received by January 31, 1985.

The public meeting will be held January 10 and 11, 1985, beginning at 8:30 a.m. and adjourning at 4:30 p.m. each day.

ADDRESSES: The meeting will be held in the Training Room, Building 3B, FAA, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas. Comments may be mailed to FAA, Helicopter Policy and Procedures Staff, ASW-110, Aircraft Certification Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

FOR FURTHER INFORMATION CONTACT: Mr. John Swihart, Aerospace Engineer, Helicopter Policy and Procedures Staff, ASW-110, Aircraft Certification Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101 telephone (817) 877-2585 or FTS 734-2585.

SUPPLEMENTARY INFORMATION: Draft copies of proposed AC 27-X are being mailed to all known affected industry and government entities, both foreign and domestic. Draft copies of AC 29-2, Change 2, are not presently available, but the copies will be mailed to the concerned entities by late October. Any interested person not receiving a copy of draft AC 27-X or Change 2, AC 29-2, should contact the person named under **"FOR FURTHER INFORMATION CONTACT."**

Comments Invited

Interested persons are invited to submit comments on these proposed drafts. Comments received may be inspected at the offices of the Helicopter Policy and Procedures Staff, ASW-110, 2nd Floor, Building 3A, Room 235, Federal Aviation Administration, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas, between 8 a.m. and 4:30 p.m. on weekdays, except Federal holidays. The objective of the public meeting is to allow interested persons the opportunity to express their comments. Discussion of draft AC 27-X will begin at 8:30 a.m. on January 10, 1985, and it is anticipated that discussion of draft Change 2, AC 29-2, will begin on the morning of January 11, 1985.

Issued in Fort Worth, Texas, on September 10, 1984.

F. E. Whitfield

Acting Director, Southwest Region.

[FR Doc. 84-24722 Filed 9-18-84; 8:45 am]

BILLING CODE 4910-13-M

Nickel Cadmium Vented Rechargeable Aircarft Batteries (Non-Sealed, Maintainable Type); Availability of Technical Standard Order and Request for Commet

AGENCY: Federeal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: Proposed TSO-C107 prescribes the minimun performance standard that nickel cadmium vented rechargeable aircraft batteries (non-sealed, maintainable type) must meet in order to be identified with the marking "TSO-C107."

DATE: Comments must identify the TSO file number and be received on or before December 17, 1984.

ADDRESS: Send all comments on the proposed Technical Standard Order to: Federal Aviation Administration, Policy and Procedures Branch, AWS-110, Aircraft Engineer Division, Office of Airworthiness—File No. "TSO-C107.", 800 Independence Avenue, SW., Washington, D.C. 20591.

Or deliver comments to: Room 335, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Ms. Bobbie J. Smith, Policy and Procedures Branch, AWS-110, Aircraft Engineering Division, Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, Telephone (202) 426-8395.

Comments received on the proposed Technical Standard Order may be inspected, before and after the closing date for comments, at Room 335, FAA Headquarters Building (FOB-10A), 800 Independence Avenue, SW.,

Washington, D.C. 20591, between 8:30 a.m. and 5:00 p.m.

SUPPLEMENTARY INFORMATION:.

Comments Invited

Interested persons are invited to comment on the proposed TSO listed in this notice by submitting such written data, views, or arguments as they may desire. Communications should identify the TSO file number and be submitted to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Director of Airworthiness before issuing the final TSO.

How to Obtain Copies

A copy of the proposed TSO may be obtained by contacting the person under "For Further Information Contact." TSO–C107 references Society of Automotive Engineers, Inc. (SAE) Aerospace Standard (AS) 8033 dated February 15, 1981 for the minimum performance standard and Radio Technical Commission for Aeronautics (RTCA) Document No. DO–160A dated January 1980 for the environmental conditions and test procedures. SAE AS 8033 may be purchased from the Society of Automotive Engineers, Inc., Department 331, 400 Commonwealth Drive, Warrendale, Pennsylvania 15096. RTCA Document No. DO–160A may be purchased from the Radio Technical Commission for Aeronautics Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, D.C., 20005.

Issued in Washington, D.C. on September 10, 1984.

Thomas E. McSweeny,

Manager, Aircraft Engineering Division.

[FR Doc. 84–24723 Filed 9–18–84; 8:45 am]

BILLING CODE 4910–13–M

Water Survival Staff Study; Availability and Request for Comments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability and request for comments on FAA Water Survival Staff Study.

SUMMARY: The FAA staff study examines the history of air carrier water accidents and considers the magnitude of the problem as well as potential ameliorative measures. The study focuses on survivable accidents, since revised water survival equipment requirements or rescue procedures would have little effect in nonsurvivable accidents. The study reviews safety options such as improved ground-side rescue capability and on-board equipment which is accessible from outside the accident aircraft.

DATE: Comments should identify the "Water Survival Staff Study" and be received on or before November 19, 1984.

ADDRESS: Send all comments on the staff study to: Federal Aviation Administration, Office of Airworthiness, Technical Analysis Branch, AWS–120, 800 Independence Avenue SW., Washington, D.C. 20591.

Or deliver comments to: Room 335, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Dr. William Shepherd, Federal Aviation Administration, Office of Aviation Medicine, AAM–550, 800 Independence Avenue SW., Washington, D.C. 20591, Telephone: (202) 426–3433.

Comments received on the staff study may be inspected at Room 335, FAA Headquarters Building (FOB–10A), 800 Independence Avenue SW., Washington, D.C. 20591, between 8:30 a.m. and 4:30 p.m. daily (except holidays).

SUPPLEMENTARY INFORMATION:

Background

On December 17, 1980, the Airline Pilots Association (ALPA) transmitted to the FAA a petition for rulemaking dealing with the general question of post-crash water survival. The ALPA petition proposed regulatory revisions dealing with the Federal Aviation Regulations, Parts 1, 25, 121, 135, and 139. The staff study presents a summary of the ALPA petition. The ALPA petition was denied on November 30, 1982, citing the ongoing research program, which is the subject of the staff study report, and the need for further information before any regulatory action could be taken. The staff study was divided into three phases; (1) water landing scenario definition, (2) airport criteria analysis, and (3) equipment and procedures analysis. In addition, cost-benefit analyses were performed.

The study found that survivable water accidents are relatively rare, and are characterized by inadvertent, unplanned water contact, rather than planned ditchings. These accidents usually occurred close to an airport on approach or departure. Impact forces are usually high in this type of accident, since the aircraft is typically not configured for a water landing as would be the case in a planned ditching. Consequently, the aircraft fuselage would be expected to break up and sink rapidly leaving mobile survivors little time or ability to obtain on-board survival equipment. The study report recommends, among other things, that airport operators prepare for rapid water rescue in cases where signficant bodies of water lie adjacent to, or near their airports.

Comments Invited

To help mold FAA policy on overwater survival, the agency is interested in receiving comments on the staff study report and its findings. Interested persons are invited to submit such written data, views or arguments as they may desire. Comments should identify the "Water Survival Staff Study" and be submitted to the address above.

How To Obtain Copies

A copy of the Water Survival Staff Study may be obtained by contacting the person under **FOR FURTHER INFORMATION CONTRACT.**

Issued in Washington, D.C., September 12, 1984.

J. A. Pontecorvo,

Acting Director, Office of Airworthiness.

[FR Doc. 84–24721 Filed 9–18–84; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement; Martin, St. Lucie, and Indian River Counties, FL

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Rescind Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will not be prepared for a proposed highway project in Martin, St. Lucie, and Indian River Counties, Florida.

FOR FURTHER INFORMATION CONTACT: R.V. Robertson, District Engineer, Federal Highway Administration, 227 N. Bronough Street, Room 2015, Tallahassee, Florida 32301, Telephone (904) 681–7244.

SUPPLEMENTARY INFORMATION: A Notice of Intent to Prepare an Environmental Impact Statement (EIS) for a proposed highway project in Martin, St. Lucie, and Indian River Counties was issued on June 21, 1982 and published in the July 1, 1982 **Federal Register.** The proposed improvement would have provided for the reconstruction of U.S. Route 1 (State Road 5) from Cove Road in Martin County through St. Lucie County to 17th Street in Vero Beach in Indian River County, a distance of 37.5 miles.

This study was supposed to identify the transportation needs for this 37 mile corridor. Another purpose of the study

was to develop and evaluate the various alternatives for satisfying these needs. The FHWA and Florida Department of Transportation recently concluded that this environmental study was not the appropriate process to use to identify the transportation needs for this corridor. A transportation study will be conducted for this corridor to determine the transportation needs in lieu of the previous environmental study. For this reason, the Notice of Intent is hereby rescinded.

Issued on: September 6, 1984.

P.E. Carpenter,

Division Administrator, Tallahassee, Florida.

[FR Doc. 84-24777 Filed 9-18-84; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Department Circular Public Debt Series—No. 27-84]

September 13, 1984.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $8,500,000,000 of United States securities, designated Treasury Notes of September 30, 1986, Series Y-1986 (CUSIP No. 912827 RF 1). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent to the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

1.2. If the interest rate determined in accordance with this circular is identical to the rate on an outstanding issue of United States securities, and the terms and conditions of such outstanding issue are otherwise identical to the terms and conditions of the securities offered by this circular, this shall be considered an invitation for an additional amount of the outstanding securities and this circular will be amended accordingly. Payment for the securities in that event will be calculated on the basis of the auction price determined in accordance with this circular plus accrued interest from the last preceding interest payment date on the outstanding securities.

2. Description of Securities

2.1. The securities will be dated October 1, 1984, and will bear interest from that date, payable on a semiannual basis on March 31, 1985, and each subsequent 6 months on September 30 and March 31 until the principal becomes payable. They will mature September 30, 1986, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2. The securities are subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Securities registered as to principal and interest will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of registered and book-entry securities, and the transfer of registered securities will be permitted. Bearer securities will not be available, and the interchange of registered or book-entry securities for bearer securities will not be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20239, prior to 1:00 p.m., Eastern Daylight Saving time, Wednesday, September 19, 1984. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, September 18, 1984, and received no later than Monday, October 1, 1984.

3.2. The face amount of securities bid for must be stated on each tender. The minimum bid is $5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue being auctioned prior to the designated closing time for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent the face amount applied for, from a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate

will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.750. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.5. must be made or completed on or before Monday, October 1, 1984. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Thursday, September 27, 1984. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for allotted securities for their own accounts and for account of customers by credit to their Treasury Tax and Loan Note Accounts on or before Monday, October 1, 1984. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registed in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20239. The securities must be delivered at the expense and risk of the holder.

5.4. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, and to receive payment for and make delivery of securities on full-paid allotments.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Carole Jones Dineen,

Fiscal Assistant Secretary.

[FR Doc. 84-24789 Filed 9-18-84; 8:45 am]

BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 183
Wednesday, September 19, 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

COMMODITY FUTURES TRADING COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 49, Monday, August 27, 1984, p. 33971.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Monday, September 24, 1984, at 11:00 a.m.

CHANGES IN THE MEETING: The meeting on rule enforcement reviews has been rescheduled for Friday, September 28, 1984 at 11:30 a.m.

Jean A. Webb,

Deputy Secretary of the Commission.

[FR Doc. 84-24938 Filed 9-17-84; 2:50 pm]

BILLING CODE 6351-01-M

2

COMMODITY FUTURES TRADING COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 49 FR 33971, August 27, 1984.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m., Monday, September 24, 1984.

CHANGES IN THE MEETING: The meeting on the briefing on the National Futures Association has been rescheduled for Friday, September 28, 1984.

Jean A. Webb,

Deputy Secretary of the Commission.

[FR Doc. 84-24939 Filed 9-17-84; 2:50 pm]

BILLING CODE 6351-01-M

3

FEDERAL MARITIME COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: September 14, 1984, 49 F.R. 36190.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: September 19, 1984, 9:00 a.m.

CHANGE IN THE MEETING: The Commission meeting to be held on September 19, 1984 at 9:00 a.m. has been changed to September 20, 1984 at 9:00 a.m.

Francis C. Hurney,

Secretary.

[FR Doc. 84-24951 Filed 9-17-84; 3:53 pm]

BILLING CODE: 6730-01-M

4

FOREIGN CLAIMS SETTLEMENT COMMISSION

[F.C.S.C. Meeting Notice No. 11-84]

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

Date and Time

Tuesday, Sept. 25, 1984 at 10:30 a.m.

Subject Matter

Consideration of Final Decisions issued under the Second Czechoslovakian Claims Program, Proposed Decisions issued under the Vietnam Claims Program (Public Law 96-606), and decisions involving claims for prisoner of war compensation.

Subject matter listed above, not disposed of at the schduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 1111-20th Street, NW., Washington, D.C. Requests for information, or advance notices of intention to observe a meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 1111-20th Street, NW., Room 409, Washington, D.C. 20579. Telephone: (202) 653-6155.

Dated at Washington, D.C., on September 10, 1984.

Judith H. Lock,

Administrative Officer.

[FR Doc. 84-24952 Filed 9-17-84; 3:53 pm]

BILLING CODE: 4410-01-M

5

INTERNATIONAL TRADE COMMISSION

[USITC SE-84-44]

TIME AND DATE: 9:30 a.m., Tuesday, September 25, 1984.

PLACE: Room 331, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints:
   a. Dialyzers using patented telescoping for fluid lines (Docket No. 1094).
5. Investigation 731-TA-149 [Final] (Barium Chloride from the People's Republic of China) — briefing and vote.
6. Any items left over from previous agenda

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

[FR Doc. 84-24827 Filed 9-14-84; 4:27 pm]

BILLING CODE 7020-02-M

6

LEGAL SERVICES CORPORATION

Board of Directors Meeting

PREVIOUSLY ISSUED: September 4, 1984 (Published 49 FR 35069, September 5, 1984)

PREVIOUSLY ANNOUNCED TIME AND DATE: It will commence at 9:30 a.m. and continue until all official business is completed; Friday, September 14, 1984.

CHANGE IN NOTICE: Addition under **STATUS OF MEETING:**

By authority of Title 29 Section 523 of the District of Columbia Code (the District of Columbia Nonprofit Corporation Act), some members of the Board of Directors of the Legal Services Corporation participated in the meeting by means of conference telephone communication.

CONTACT PERSON FOR MORE INFORMATION: Thomas J. Opsut, Executive Office, (202) 272-4040.

DATE ISSUED: September 14, 1984.

Donald P. Bogard,

President.

[FR Doc. 84-24850 Filed 9-17-84; 10:09 am]

BILLING CODE 6820-35-M

federal register

Wednesday
September 19, 1984

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 32

Refuge Specific Hunting Regulations; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

Refuge Specific Hunting Regulations

AGENCY: Fish and Wildlife Service.
ACTION: Final rule.

SUMMARY: The Fish and Wildlife Service (Service) is revising 50 CFR Part 32 to delete the provision that requires the issuance of special hunting regulations on an annual basis. Also, the term "special regulations" is replaced by a more appropriate term "refuge specific regulations." General provisions concerning baiting and the use of tree stands for hunting on national wildlife refuges are added to § 32.2. In addition, refuge specific hunting regulations governing hunting on refuges replace the interim hunting regulations that were issued in 1982. This rule deletes § 32.5 which is duplicative of § 32.12 and was erroneously inserted into Part 32.

EFFECTIVE DATE: October 19, 1984.

FOR FURTHER INFORMATION CONTACT: James F. Gillett, Chief, Division of Refuge Management, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (telephone 202–343–4311).

SUPPLEMENTARY INFORMATION: 50 CFR Part 32 contains the provisions that govern hunting on national wildlife refuges. Hunting is regulated on refuges for three basic reasons: (1) To properly manage the wildlife resource, (2) to protect other refuge values, and (3) to ensure refuge user safety. On many refuges, the Service policy of adopting the State hunting regulations is often an adequate way of meeting these objectives, but on other refuges it is necessary for the Service to issue hunting regulations in addition to State regulations to ensure that the Service meets its management responsibilities.

Section 32.3 contains the provision that requires the publication of hunting regulations for a given refuge on an annual basis. These regulations are generally limited to one season and historically have not been permanently codified in Title 50 of the Code of Federal Regulations. The Service implemented this provision in 1960 when the Department of the Interior revised and reorganized Title 50 of the Code of Federal Regulations. Since then, the Service has added more than 100 refuges to the lists of areas open to hunting in Part 32. Also, the authority to issue these regulations has been centralized in the Office of the Assistant Secretary for Fish and Wildlife and Parks which ensures the standardization of these refuge hunting regulations throughout the National Wildlife Refuge System. For these reasons, the provision in § 32.3 that requires annual publication of refuge hunting regulations has become a costly administrative burden and has adversely affected their timely issuance. Therefore, the Service is deleting this provision and issuing the refuge specific hunting regulations listed in this rule. With the codification of these regulations, they will remain in place and control hunting activities on a given refuge, unless and until they are amended by subsequent regulations published in the **Federal Register.**

The hunting regulations that have been developed for individual refuges are referred to as "special regulation" in Part 32. These "special regulations" are similar in effect to any other regulation used to govern an activity or use on national wildlife refuges, and they have no "special" value as the term implies. Therefore, the Service proposes a technical amendment to change the term "special regulation" in Part 32 to "refuge specific regulations" to clarify the fact that these hunting regulations govern individual hunt programs on particular refuges.

This rulemaking contains refuge specific hunting regulations only for refuges that have been opened in previous rulemakings and does not add any refuges to the list of those open to hunting. This rulemaking represents an administrative technical amendment that is designed to place the regulations governing hunting refuges in the Code of Federal Regulations. In the absence of such refuge specific hunting regulations, hunting on national wildlife refuges is permitted subject to State and Federal laws and regulations including the general provision of 50 CFR Part 32.

Section 32.2 contains the general provisions that govern hunting on national wildlife refuge areas. This rulemaking adds two new provisions that govern baiting for purposes of upland and big game hunting and the use of tree stands. While baiting for purposes of migratory game bird hunting is prohibited (50 CFR 20.21), the baiting of resident game for hunting purposes is practiced in some States. Even though baiting may be an acceptable practice on a Statewide basis, the effects of baiting on a relatively small area such as a refuge can detract from a refuge's wildlife management program. For example, baiting can attract wildlife from adjacent nonrefuge lands, thereby altering normal concentrations of both refuge and nonrefuge wildlife populations and restricting legitimate harvest of wildlife outside of the refuge. By providing an artificial food supply, baiting can also alter behavioral patterns of target wildlife species or attract nontarget species in undesirable numbers both of which could conflict with refuge management objectives. Therefore, the Service is adding a general provision to § 32.2 for big game and upland game hunting that prohibits the unauthorized distribution of bait and the hunting over bait on all wildlife refuge areas.

Hunting programs on refuges are managed so that minimal disturbances to refuge habitat occur. Hunting from trees is a common practice, and injury to trees can be avoided if the equipment used to support a hunter does not penetrate through the bark of the tree. Therefore, the Service is adding to § 32.2 a general provision that prohibits the use of nails, wire, screws or bolts to attach stands to trees and prohibits the hunting from a tree into which a metal object has been driven to support a hunter.

The Service last published hunting regulations on September 13, 1982 (47 FR 40298). Those hunting regulations have been standardized and simplified and are presented in this rule. The Service is deleting the annual publication provision which will permit the codification of these standardized regulations in sections 32.12, 32.22 and 32.32. Therefore, this rulemaking supersedes the interim refuge hunting regulations issued on September 13, 1982 (47 FR 40298).

Only minor technical and administrative changes have been made to the proposed refuge specific hunting regulations in this final rule. Most changes were made to clarify the regulations, except that in the proposed rule, a restriction on teal hunting was erroneously included in the refuge specific regulations for Delta National Wildlife Refuge. This restriction has been dropped from the final rule. Additionally, steel shot requirements have been added to cetain refuge specific regulations. An explanation as to why these requirements have been added and which refuge regulations are involved can be found in the Service response to substantive issue number 15 in the "Responses to Commemts Received" section.

This rulemaking also deletes § 32.5 which was added to Part 32 when migratory game bird hunting regulations for Ravalli NWR were incorrectly designated as § 32.5 in a rule published on July 10, 1973 (38 FR 18379).

Section-by-Section Analysis

Section 32.2 General provisions.

Paragraph (e) requires hunters to comply with the terms and conditions authorizing access or use of the national wildlife refuge area. This paragraph is revised to expressly require compliance with the terms and conditions of permits issued by the Service to authorize an individual's participation in a refuge hunt program.

The term "special regulations" is replaced by "refuge specific regulations" in paragraph (f) for the purposes of clarity. Also, the last sentence in paragraph (f) which states that special regulations are not codified is replaced by one that states that refuge specific hunting regulations are codified in §§ 32.12, 32.22 and 32.32.

A new paragraph (h) is added to prohibit the unauthorized baiting and hunting over bait on wildlife refuge areas, and a new paragraph (i) is added to prohibit the use of nails, wire, screws or bolts to attach stands to trees and to prohibit the hunting from a tree into which a metal object has been driven to support the hunter.

Section 32.3 Procedure for publication of special regulations.

The terms "special regulations" and "special hunting regulations" are replaced wherever they are used in this section by the term "refuge specific hunting regulations."

Paragraph (a) of this section is revised to permit the issuance of refuge specific hunting regulations for a refuge at the time of publication of the opening of that refuge to migratory game bird, upland game and/or big game hunting.

Paragraphs (b) and (e) are deleted because these provisions contain requirements relating to the annual publication of refuge specific hunting regulations. Also, the statement that special regulations are not codified is deleted from paragraph (g).

Paragraph (h) is revised to clarify the provision that enables the Service to properly manage refuges under unforeseen circumstances. When unanticipated changes occur in wildlife populations, habitat conditions or other factors affecting a refuge's wildlife resources, changes in the existing refuge specific regulations or new conditions can be imposed during the hunting season. These changes will be made only under the conditions noted above and will be in force for the one hunting season to which they are applied.

Section 32.5 Special regulations; migratory game birds.

This section is deleted. It was added to Part 32 in 1973 by the publication of special regulations for migratory game bird hunting at Ravalli National Wildlife Refuge (NWR), Montana (38 FR 18379). This document incorrectly designated § 32.5 as the section for special regulations for migratory game bird hunting. The current section reference for such regulations is 32.12.

Responses to Comments Received

A careful review of all the public comments identified a number of substantive issues concerning the proposed rulemaking. The following is a listing of each substantive issue that was raised by the public.

1. The length of the comment period for the proposed rule was not long enough, and background information for each refuge hunt was not located in one particular office for public review.

Service Response: The Service believes that 30 days was a sufficient period of time to respond to the proposed rule. The proposed regulations were similar to those that were issued as interim regulations on September 13, 1982. Although the public was asked to comment on these interim regulations, no comments were received. Additionally, the regulations in the proposed rule are concise and consistent for all the refuges listed, and the conditions of the hunt are listed in an orderly and easily followed format. Finally, the public is familiar with these regulations and has hunted under the same or similar regulations in the past.

The hunting programs governed by the proposed regulations were subject to public review when they were first proposed. Background information for any of the refuge hunting programs has been and is available from the appropriate Fish and Wildlife Service regional office. To consolidate all of the background information in one particular office would not be practicable.

2. The proposed regulations will illegally transfer the authority for managing Federal lands to the States.

Service Response: The proposed regulations do not transfer Service authority to the States to manage the National Wildlife Refuge System. The Service incorporates State regulations because the bag limits, seasons and other State regulations vary from year to year. The Service has been incorporating State regulations into national wildlife refuge hunting regulations since 1960. By doing so, the Service does not in any way abrogate its authority for managing refuge lands. Under the proposed hunting regulations the Service maintains its authority to enforce all State and Federal game regulations on national wildlife refuges.

3. Dropping the annual publication requirement for refuge specific regulations and codifying them will remove the Service's flexibility in dealing with changing wildlife population and habitat conditions.

Service Response: The Service will maintain its regulatory flexibility in responding to changes in wildlife populations and habitat conditions with codified refuge specific hunting regulations. Under the proposed rule, the refuge specific regulations will remain in effect until they are amended by rulemaking. Amendments will be made whenever needed to reflect changing conditions. Amending codified regulations will involve the same procedures used to issue regulations on an annual basis. Reissuing regulations only for those refuges that need them will make the Service more responsive to situations involving changing habitate and wildlife populations than if the Service maintained the burden of issuing regulations for all the refuges on an annual basis.

4. The current Fish and Wildlife Service attitude is that hunting on refuges is permissible unless it is demonstrably incompatible.

Service Response: In many cases, refuges are established for purposes that are very broad, such as Great Dismal Swamp which was established "for the conservation and management of wildlife and natural resources, the development of outdoor recreation opportunities, and interpretive education" (Pub. L. 93–402). In these situations, hunting not only serves as a recreational opportunity for the public, but it is used for the conservation and management of wildlife resources which is a purpose for which the refuge was established. The Service recognizes hunting as an acceptable, traditional and legitimate form of wildlife-oriented recreation and permits hunting on refuges where it is compatible with the purposes for which the refuges were established.

5. The requirements of 50 CFR 31.1 and 31.2 have not been met.

Service Response: 50 CFR Part 31 is limited to recognizing general authority to dispose of surplus wildlife and lists hunting as one method of control and disposition. The Service's procedure for permitting public hunting on refuges is set forth in 50 CFR Part 32. The rule involves the policy and regulations set forth in Part 32 which essentially require

that hunting be consistent with the principles of sound wildlife management and otherwise be in the public interest. Generally, the Service permits the taking of game species under the bag limits set by the States.

6. Data was not provided to demonstrate that proposed regulations will involve only minor changes in public use.

Service Response: Hunter visits to national wildlife refuges during the 1980–81, 1981–82 and 1982–83 hunting seasons were 1,113,000, 1,007,000 and 1,120,000 visits, respectively. Since the proposed regulations are similar to those used during the 1982–83 season the Service concludes that the rule will involve only minor changes in public use.

7. Sport hunting on refuges is illegal.

Service Response: The Refuge Recreation Act states that the Secretary of the Interior is authorized to administer refuges for public recreation. The Refuge System Administration Act states that the Secretary is authorized to permit the use of any area within the Refuge System for any purpose, including hunting. Thus, Congress clearly intended that recreation be an important part of a refuge management program to the extent that it can be made compatible with and reconciled as incidental to the primary purposes of a refuge. This was affirmed in the decision of the U.S. District Court for the District of Columbia on February 8, 1973, in the matter of *The Humane Society of the United States v. Morton* (Civil Action No. 3627) where the court found that public hunting on Great Swamp, Eastern Neck and Chincoteague National Wildlife Refuges was a valid and legal form of public recreation on these refuges.

8. The proposed hunting regulations show little evidence of effort to provide protection for endangered and threatened species from potential adverse impacts of the hunting programs.

Service Response: When a plan is developed for hunting on a refuge, the plan considers the potential impact upon any endangered or threatened species that might use the refuge, and the Service complies with the Endangered Species Act by doing section 7 analyses. Restrictions are placed on hunting programs through the use of refuge specific regulations whenever necessary to ensure that the hunting program will not affect endangered or threatened species. Though it is difficult to discern which of the proposed hunting regulations are directed toward avoiding a potential effect on endangered species, the protection of endangered and threatened species is encompassed in these regulations.

9. The proposed regulations show vague and inconsistent wording throughout.

Service Response: The intent of the regulations is to provide the legal basis for enforcing the refuge specific hunting regulations. Since refuge resources vary throughout the National Wildlife Refuge System, the restrictions necessary to protect the resources can not always be stated in the same language. The regulations must be taken in the context of what type of hunting is being permitted on a given refuge and how they relate to State and other Federal regulations. The Service provides a refuge hunting leaflet for each refuge which specifies the details of the hunts in an informative manner for the general public.

10. The proposed regulations for deer hunting at Loxahatchee National Wildlilfe Refuge are inadequate.

Service Response: Under the regulation issued for last year's hunt, the U.S. District Court for the Southern District of Florida, in the matter of *The Humane Society of the United States v. Watt* (Case No. 83–8581–CIV–JLK), found that deer hunting was compatible with the purposes for which the refuge was established. If deer hunting continues at this refuge, the Service believes that these regulations, State regulations and other Federal regulations will ensure that such a hunt is compatible with refuge purposes and will provide the necessary protection for endangered species, other wildlife populations and refuge habitat.

11. The proposed regulations for waterfowl hunting at Brigantine National Wildlife Refuge are not adequate for the protection of the peregrine falcon and the black duck.

Service Response: Under the present waterfowl hunting program, the Service believes that State and other Federal regulations provide adequate protection for the black duck and peregrine falcon. The Service's Migratory Bird Management Office has determined that a portion of the black duck population can be harvested through hunting, and 60% of the refuge will be closed to all migratory waterfowl hunting which will provide an adequate resting area for migratory waterfowl that use the refuge during the hunting season.

The necessary precautions are being taken to preclude any impact the waterfowl hunting program might have on the peregrine falcon. These precautions include the restriction of no hunting within 1½ miles of the peregrine falcon nesting structure and include varying methods of informing hunters of the presence of the peregrine falcon on the refuge.

12. The prohibition against baiting on national wildlife refuges would conflict with State law in States where baiting for certain game species is permitted, and if prohibited on refuges where baiting is permitted on surrounding lands, baiting would draw wildlife from the refuge.

Service Response: Where State law is not sufficient to meet the management needs of the National Wildlife Refuge System, the Service promulgates regulations that are more restrictive than State law and regulations. The intent of this general provision is to provide a uniform refuge policy regarding baiting, because the effects of baiting for resident game hunting on a relatively small area such as a refuge can detract from a refuge's wildlife management program.

13. The baiting prohibition lacks any *scienter* requirement.

Service Response: The Service realizes the problems that enforcement of this type of regulation can bring about. Nonetheless, the Service policy regarding the enforcement of the baiting regulation must be consistent with enforcement of the Service's migratory bird baiting regulations until an adequate solution to this problem is found.

14. The restrictions on tree stands should not apply to those that may scrape the outer layer of bark without permanently damaging the tree.

Service Response: The general provision to govern the use of tree stands on refuges is not intended to prohibit the use of these types of portable tree stands.

15. One commenter suggested that the steel shot requirements should not be codified, and another suggested that steel shot requirements should be codified even if State regulations require the use of steel shot on certain refuges.

Service Response: In most cases, the basis for the steel shot regulations in the rule was a specific State regulation, a Federal regulation (50 CFR Part 20) and/or a demonstrated lead poisoning problem. The Service was not consistent in listing the steel shot requirements for all the refuges that have this requirement in the proposed rule, and this resulted in some confusion to those not completely familiar with State and Federal regulations. Therefore, the Service has determined that it would be in the public's interest to list the steel shot requirements in the refuge specific regulations for all the refuges where it is required. Thus, the steel shot requirements, based on refuges lying in

non-toxic shot zones listed in 50 CFR Part 20, have been added to the refuge specific regulations in this final rule for the following refuges: Bombay Hook, Prime Hook, Shiawassee, Mingo, Swan Lake, Upper Mississippi Wild Life and Fish Refuge, Ottawa, Iroquois, Montezuma and Erie National Wildlife Refuges. A steel shot requirement, based on State regulation, has also been added to the refuge specific regulations in this final rule for Las Vegas National Wildife Refuge.

The Service is assessing the need for steel shot regulations on several refuges. If these studies warrant the removal of these regulations, their removal from the Code of Federal Regulations involves the same procedures that will be necessary to amend the refuge specific regulations. Thus, codifying the steel shot regulations will not hinder the amendment of these regulations.

16. There is no provision for hunting by falconry on refuges.

Service Response: The Service recognizes falconry as a legal means of taking wildlife as set forth in 50 CFR Part 21 and appropriate State laws. Falconry may be permitted on refuges to take game where it is permitted by State law and the refuge is open for hunting.

Conformance With Statutory and Regulatory Authorities

The National Wildlife Refuge System Administration Act of 1966, as amended (16 U.S.C. 668dd), and the Refuge Recreation Act of 1962 (16 U.S.C. 460k) govern the administration and public use of national wildlife refuges. Specifically, section 4(d)(1)(A) of the Refuge System Administration Act authorizes the Secretary, under such regulations as he may prescribe, to permit the use of any area within the System for any purpose, including but not limited to, hunting, fishing, public recreation and accommodations and access when he determines that such uses are compatible with the major purposes for which such areas were established.

The Refuge Recreation Act authorizes the Secretary of the Interior to administer refuge areas within the National Wildlife Refuge System for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the areas were established. The Refuge Recreation Act also authorizes the Secretary to issue regulations to carry out the purposes of the Act.

Hunting plans are developed for each hunting program on a refuge prior to the opening of the refuge to hunting. In some cases, refuge specific hunting regulations are included as a part of the hunting plan to ensure the compatibility of the hunting programs with the purposes for which the affected national wildlife refuges were established. Compliance with the Refuge Administration and Refuge Recreation Acts is ensured when the hunting plans are developed, and the determinations required by these acts are made prior to the addition of the refuge to the lists of areas open to hunting in 50 CFR.

It has heretofore been determined that, with respect to each of the refuges listed below, hunting in accordance with the pertinent refuge specific regulations is compatible with the purposes for which each refuge was established, and further that such recreational use of each refuge will not interfere with the primary purpose for which it was established. Funds are available for the development, operation and maintenance of this form of recreation.

Economic Effect

Executive Order 12291, "Federal Regulation," of February 17, 1981, requires the preparation of regulatory impact analyses for major rules. A major rule is one likely to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, government agencies or geographic regions; or significant adverse effects on the ability of United States-based enterprises to compete with foreign-based enterprises. The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) further requires the preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations or governmental jurisdictions.

The Service is deleting its requirement for annual publication of refuge specific hunting regulations in favor of codifing these regulafions in 50 CFR. As described above, the elimination of this administrative burden will benefit the Federal Government and affected individuals. In addition, the Service is revising and replacing the refuge specific hunting regulations that were issued in September 1982. These actions will not significantly alter existing refuge hunting programs and, therefore, are not expected to have any gross economic effect and will not cause an increase in costs or prices for consumers, individual industries, Federal, State, or local governments, agencies, or geographic regions. Accordingly, the Department of the Interior has determined that this rule is not a "major rule" within the meaning of Executive Order 12291 and would not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Paperwork Reduction Act

The Service has received approval from the Office of Management and Budget (OMB) for the information collection requirements of these regulations pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). These requirements are presently approved by OMB as cited below:

Type of information collection	OMB approval No.
Hunter surveys	1018-0044
Special use permits	1018-0046
Hunter reservation/application/blind assignment	1018-0047
Weapon qualification	1018-0050

These regulations impose no new reporting or recordkeeping requirements that must be cleared by OMB.

Environmental Considerations

The "Final Environmental Statement for the Operation of the National Wildlife Refuge System" [FES 76-59] was filed with the Council on Environmental Quality on November 12, 1976; a notice of availability was published in the **Federal Register** on November 19, 1977 (41 FR 51131). Hunting plans are developed for each hunting program on a refuge prior to the opening of the refuge to hunting. Compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4332(c)) and the Endangered Species Act of 1973 (16 U.S.C. 1531-1543) is ensured when the hunting plans are developed, and the determinations required by these acts are made prior to the addition of the refuge to the lists of areas open to hunting in 50 CFR. Also, refuge specific hunting regulations are subject to a categorical exclusion from the NEPA process if they do not significantly alter the existing use of the refuge. The changes in the general provisions governing hunting on national wildlife refuges and the refuge specific hunting regulations in this rulemaking do not significantly alter the existing use of national wildlife refuges.

Richard Frietsche, Division of Refuge Management, U.S. Fish and Wildlife Service, Washington, D.C., is the primary author of this proposed rulemaking document.

Where permits are required for a particular refuge hunt, this condition generally refers to a Service issued

permit. A State issued permit may, however, be required in lieu of or in addition to a Service permit. Information regarding permits and the conditions that apply to individual refuge hunts and a map of the hunt area are available at refuge headquarters. This information can also be obtained from the regional offices of the U.S. Fish and Wildlife Service at the addresses list below:

Region 1—California, Hawaii, Idaho, Nevada, Oregon and Washington Assistant Regional Director—Wildlife Resources, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 NE Multnomah Street, Portland, Oregon 97232; telephone (503) 231–6214

Region 2—Arizona, New Mexico, Oklahoma and Texas Assistant Regional Director—Wildlife Resources, U.S. Fish and Wildlife Service, Box 1306, Albuquerque, New Mexico 87103; telephone (505) 766–2324

Region 3—Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio and Wisconsin Assistant Regional Director—Wildlife Resources, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111; telephone (612) 725–3507

Region 4—Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Puerto Rico and Tennessee Assistant Regional Director—Wildlife Resources, U.S. Fish and Wildlife Service, Richard B. Russell Federal Building, 75 Spring Street, SW, Atlanta, Georgia 30303; telephone (404) 221–3538

Region 5—Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia and West Virginia Assistant Regional Director—Wildlife Resources, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158; telephone (617) 965–5100

Region 6—Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah and Wyoming Assistant Regional Director—Wildlife Resources, U.S. Fish and Wildlife Service, Box 25486, Denver Federal Center, Denver, Colorado 80225; telephone (303) 234–4608

Region 7—Alaska (Hunting on Alaska refuges is in accordance with State hunting regulations. There are no refuge specific hunting regulations for these refuges) Assistant Regional Director—Wildlife Resources, U.S. Fish and Wildlife Service, 1011 E. Tudor Rd., Anchorage, Alaska 99503; telephone (907) 786–3542.

List of Subjects in 50 CFR Part 32

Hunting, National Wildlife Refuge System, Wildlife, Wildlife refuges.

PART 32—[AMENDED]

For the reasons set forth in the preamble, Part 32, Subchapter C, Chapter I of Title 50 Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 32 reads as follows:

Authority: Section 2, 33 Stat. 614, as amended, sec. 5, 43 Stat. 651, sec. 5, 45 Stat. 449, sec. 10, 45 Stat. 1224, sec. 4, 48 Stat. 402, as amended, sec. 4, 48 Stat. 451, as amended, sec. 2, 48 Stat. 1270, sec. 4, 76 Stat. 654, as amended, sec. 4, 80 Stat. 927; 5 U.S.C. 301, 16 U.S.C. 685, 725, 690d, 715i, 664, 718d, 43 U.S.C. 315a, 16 U.S.C. 460k, 668dd; sec. 2, 80 Stat. 926; 16 U.S.C. 668bb, unless otherwise noted.

2. Section 32.2 is amended by revising paragraphs (e) and (f) and adding new paragraphs (h) and (i) to read as follows:

§ 32.2 General provisions.

* * * * *

(e) Each person shall comply with the terms and conditions authorizing access or use of wildlife refuges, including the terms and conditions under which hunting permits are issued.

(f) Each person shall comply with the provisions of any refuge specific regulations governing hunting on the wildlife refuge area. Regulations, special conditions and maps of the hunting areas for a particular wildlife refuge are available at that area's headquarters. In addition, refuge specific hunting regulations for migratory game bird, upland game and big game hunting are codified in §§ 32.12, 32.22 and 32.32, respectively.

* * * * *

(h) The unauthorized distribution of bait and the hunting over bait is prohibited on wildlife refuge areas.

(i) The use of nails, wire, screws or bolts to attach a stand to a tree, or hunting from a tree into which a metal object has been driven to support a hunter is prohibited on wildlife refuge areas.

3. Section 32.3 is revised to read as follows:

§ 32.3 Procedures for publication of refuge specific hunting regulations.

(a) Refuge specific hunting regulations are issued only at the time of or after the determination and publication of the opening of a wildlife refuge area to migratory game bird, upland game or big game hunting.

(b) Refuge specific hunting regulations may contain the following items:

(1) Wildlife species that may be hunted,

(2) Seasons,

(3) Bag limits,

(4) Methods of hunting,

(5) Description of areas open to hunting, or

(6) Other provisions as required.

(c) Refuge specific hunting regulations will not liberalize existing State laws or regulations.

(d) Refuge specific hunting regulations are subject to change and the public is invited to submit suggestions and comments for consideration at any time.

(e) Refuge specific hunting regulations are initially published in the daily issue of the **Federal Register** and are subsequently codified in 50 CFR 32.12, 32.22 or 32.32.

(f) Refuge specific hunting regulations may be amended or new conditions imposed at any time during the hunting season when unpredictable changes occur in wildlife populations, habitat conditions or in other factors affecting a refuge's wildlife resources. Changes in refuge specific hunting regulations made under the conditions noted above can be in force only for the one season to which the changes apply.

§ 32.5 [Removed]

4. Remove § 32.5 from text and table of contents in Part 32.

5. Sections 32.12, 32.22 and 32.32 are revised to read as follows:

§ 32.12 Refuge specific regulations; migratory game birds.

(a) *Alabama—Wheeler National Wildlife Refuge.* Hunting of mourning doves is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(b) *Alabama and Georgia—Eufaula National Wildlife Refuge.* Hunting of mourning doves, ducks, coots, snipe and woodcock is permitted on designated areas of the refuge subject to the following conditions:

(1) Permits are required.

(2) Hunting of ducks and coots is permitted only on Mondays, Wednesdays and Saturdays until noon.

(3) Hunting is not permitted outside the area assigned to the hunting parties.

(4) Duck and coot hunters must use and be in possession only of shells containing steel shot.

(5) Hunters are required to check in and out of the refuge.

(6) Checking bagged game is required.

(c) *Arizona and California*—(1) *Cibola National Wildlife Refuge.* Hunting of mourning and white-winged doves,

ducks, coots, gallinules and geese is permitted on designated areas of the refuge subject to the following conditions:

(i) Special Use Permits are required for all hunting guides.

(ii) Hunting is not permitted within 50 yards of any road or levee or within 250 yards of any farm worker.

(iii) Neither hunters nor dogs may enter closed areas to retrieve game.

(iv) Pits or permanent blinds are not permitted.

(v) The following additional restrictions apply to Zone II A:

(A) During the waterfowl season, Farm Unit 2 is closed to dove hunting until noon each day.

(B) In Farm Unit 2, waterfowl hunters must remain within 50 feet of designated stations while hunting except when actively retrieving downed birds.

(C) During the goose season, waterfowl hunters may use or possess no more than 10 shells per day except that the shell limit ends at noon daily in the Hart Mine Marsh Area.

(2) *Havasu National Wildlife Refuge.* Hunting of mourning and white-winged doves, ducks, coots, gallinules, geese and common snipe is permitted on designated areas of the refuge subject to the following conditions:

(i) Neither hunters nor dogs may enter closed areas to retrieve game.

(ii) Pits and permanent blinds are not permitted.

(iii) The following regulations apply only to Pintail Slough (all refuge lands north of the north dike):

(A) Permits are required for waterfowl hunting.

(B) Dove hunting is permitted only during the September season.

(3) *Imperial National Wildlife Refuge.* Hunting of mourning and white-winged doves, ducks, coots, gallinules, geese and common snipe is permitted on designated areas of the refuge subject to the following condition: Pits and permanent blinds are not permitted.

(d) *Arkansas*—(1) *Felsenthal National Wildlife Refuge.* Hunting of ducks, coots and woodcock is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting is not permitted during the special teal season.

(iii) Hunting of ducks and coots is permitted until noon each day.

(iv) Only portable blinds are permitted.

(v) Blinds, boats and decoys must be removed from the refuge following each day's hunt.

(2) *Holla Bend National Wildlife Refuge.* Hunting of mourning doves is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(3) *Overflow National Wildlife Refuge.* Hunting of ducks, coots and woodcock is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting is not permitted during the special teal season.

(iii) Hunting of ducks and coots is permitted until noon each day.

(iv) Only portable blinds are permitted.

(v) Blinds, boats and decoys must be removed from the refuge following each day's hunt.

(4) *White River National Wildlife Refuge.* Hunting of doves, ducks, coots, snipe and woodcock is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting is permitted only on Tuesdays, Thursdays and Saturdays until noon.

(iii) Hunting is not permitted during the special teal season.

(iv) Snipe, woodcock, dove and coot may be taken only when their seasons coincide with the refuge waterfowl hunting season.

(v) Only portable blinds are permitted.

(vi) Blinds and decoys must be removed from the refuge following each day's hunt.

(e) *California*—(1) *Clear Lake National Wildlife Refuge.* Hunting of geese, ducks, coots, gallinules and common snipe is permitted on designated areas of the refuge subject to the following condition: Air-thrust and inboard water-thrust boats are not permitted.

(2) *Colusa National Wildlife Refuge.* Hunting of geese, ducks, coots, gallinules and common snipe is permitted on designated areas of the refuge.

(3) *Delevan National Wildlife Refuge.* Hunting of geese, ducks, coots, gallinules and common snipe is permitted on designated areas of the refuge.

(4) *Kern National Wildlife Refuge.* Hunting of geese, ducks, coots and gallinules is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunters assigned to the spaced blind unit must travel to and from parking areas and blind sites with firearms unloaded.

(ii) Hunters assigned to the spaced blind unit must remain within 100 feet of the numbered steel post (blind site) except when pursuing cripples, placing decoys or traveling to and from the parking area.

(5) *Kesterson National Wildlife Refuge.* Hunting of geese, ducks, coots, gallinules and common snipe is permitted on designated areas of the refuge subject to the following conditions:

(i) Only portable blinds and temporary blinds constructed of natural materials are permitted.

(ii) Portable blinds must be removed from the refuge following each day's hunt.

(iii) The construction and use of permanent blinds are not permitted.

(6) *Lower Klamath National Wildlife Refuge.* Hunting of geese, ducks, coots, gallinules and common snipe is permitted on designated areas of the refuge subject to the following conditions:

(i) In the controlled waterfowl hunting area, entry permits are required for the first 2 days of the waterfowl season for all hunters 16 years of age or older. Hunters under the age of 16 hunting in the controlled area must be accompanied by an adult with a permit. Advance reservations are required for the first 2 days of the hunt.

(ii) Waterfowl, coot, gallinule and snipe shooting hours end at 1:00 p.m. daily on all California portions of the refuge.

(iii) Possession of firearms in posted retrieving zones is not permitted except unloaded firearms may be taken through these zones when in transit to or from the hunting areas.

(iv) Decoys may not be set in retrieving zones.

(v) Air-thrust and inboard water-thrust boats are not permitted.

(7) *Modoc National Wildlife Refuge.* Hunting of geese, ducks, coots, gallinules and common snipe is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required for the first weekend only.

(ii) After the first weekend of the open season, hunting is permitted only on Tuesdays, Thursdays and Saturdays.

(iii) In the designated spaced blind area, hunters must remain within 50 feet of the established blind stake for the blind assigned to them.

(8) *Sacramento National Wildlife Refuge.* Hunting of geese, ducks, coots, gallinules and common snipe is permitted on designated areas of the refuge subject to the following conditions:

(i) Firearms must be unloaded while being transported between parking areas and blind sites.

(ii) Snipe hunting is not permitted in the spaced blind unit.

(iii) Hunters assigned to the spaced blind unit are restricted to their assigned blind except for retrieving downed birds, placing decoys or traveling to and from the parking area.

(iv) Hunters must hunt from assigned blinds except when shooting to retrieve crippled birds.

(9) *Salton Sea National Wildlife Refuge.* Hunting of geese, ducks, coots, gallinules is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunters using the Union Tract must use goose decoys.

(ii) Hunters must hunt from assigned blinds or stakes except when shooting to retrieve crippled birds.

(10) *San Francisco Bay National Wildlife Refuge.* Hunting of geese, ducks and coots is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunters may retrieve birds that fall into an area that is closed to hunting, provided that all weapons are left within a legal hunting area.

(ii) Only portable blinds and temporary blinds constructed of natural materials are permitted.

(iii) The construction and use of permanent blinds are not permitted.

(iv) Digging into levees is not permitted.

(v) Nonmotorized boats may be used on all 9 ponds for setting out and retrieving decoys or for retrieving downed waterfowl. Nonmotorized boats may also be used for hunting on Ponds 1, 2, 3, 4, 5, and 6 of the Mowry Slough Unit.

(vi) All decoys, boats and other personal property must be removed from the refuge following each day's hunt.

(11) *San Luis National Wildlife Refuge.* Hunting of geese, ducks, coots, gallinules and common snipe is permitted on designated areas of the refuge subject to the following conditions:

(i) Only portable blinds and temporary blinds constructed of natural materials are permitted.

(ii) The construction and use of permanent blinds are not permitted.

(iii) Portable blinds must be removed from the refuge following each day's hunt.

(12) *Sutter National Wildlife Refuge.* Hunting of geese, ducks, coots, gallinules and common snipe is permitted on designated areas of the refuge.

(13) *Tule Lake National Wildlife Refuge.* Hunting of geese, ducks, coots, gallinules and common snipe is permitted on designated areas of the refuge subject to the following conditions:

(i) In the controlled waterfowl hunting area, entry permits are required for the first 2 days of the waterfowl season for all hunters 16 years of age or older. Hunters under the age of 16 hunting in the controlled area must be accompanied by an adult with a permit. Advance reservations are required for the first 2 days of the hunt.

(ii) Hunting of waterfowl, coot, gallinule and snipe is permited until 1:00 p.m. each day.

(iii) In designated spaced blind areas, possession of any loaded firearms more than 100 feet from the established blind stakes is not permitted. Hunters select blind sites by lottery at the beginning of each hunt day. Hunters may shoot only from within their assigned blind sites.

(iv) Possession of firearms in posted retrieving zones is not permitted except unloaded firearms may be taken through these zones when in transit to and from the hunting areas.

(v) Decoys may not be set in retrieving zones.

(vi) Air-thrust and inboard water-thrust boats are not permitted.

(f) *Colorado*—(1) *Alamosa National Wildlife Refuge.* Hunting of mourning doves, geese, ducks, coots, mergansers and common snipe is permitted on designated areas of the refuge subject to the following conditions: Common snipe and mourning dove hunting are permitted only during the waterfowl hunting season.

(2) *Browns Park National Wildlife Refuge.* Hunting of waterfowl is permitted on designated areas of the refuge.

(3) *Monte Vista National Wildlife Refuge.* Hunting of mourning doves, geese, ducks, coots, mergansers and common snipe is permitted on designated areas of the refuge subject to the following condition: Common snipe and mourning dove hunting are permitted only during the waterfowl hunting seasons.

(g) *Delaware*—(1) *Bombay Hook National Wildlife Refuge.* Hunting of migratory game birds is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required for waterfowl hunting.

(ii) Hunting of mourning doves, rails, gallinules, woodcock, crows and common snipe is permitted only on the South Upland Hunting Area.

(iii) Waterfowl hunters must use and be in possession only of shells containing steel shot.

(iv) Hunting is not permitted from March 1 through August 30.

(2) *Prime Hook National Wildlife Refuge.* Hunting of migratory game birds is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required for waterfowl hunting.

(ii) Hunting of mourning doves, woodcock, crows and common snipe is permitted on the North Hunting Area.

(iii) Waterfowl hunters must use and be in possession only of shells containing steel shot.

(iv) Hunting is not permitted from March 1 through August 30.

(h) *Flordia*—(1) *Chassahowitzka National Wildlife Refuge.* Hunting of ducks and coots is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunters must use and be in possession only of shells containing steel shot.

(iii) Only temporary blinds are permitted.

(iv) Decoys must be removed from the refuge following each day's hunt.

(2) *Lower Suwannee National Wildlife Refuge.* Hunting of ducks, moorhens, purple gallinules, woodcock, rails, coots and snipe is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting is not permitted during quota deer hunts.

(iii) Hunters must use and be in possession only of shells containing steel shot.

(iv) Only temporary blinds are permitted.

(v) Decoys must be removed from the refuge following each day's hunt.

(3) *Loxahatchee National Wildlife Refuge.* Hunting of ducks and coots is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting is permitted Wednesday through Sunday except the refuge is closed to hunting on Christmas Day.

(iii) Hunting is not permitted during the special teal season.

(iv) Hunters must use and be in possession only of shells containing steel shot.

(v) Guns must be unloaded and cased or dismantled when outside the hunt area and when the boat is enroute to or from the hunting area.

(vi) Only temporary blinds are permitted.

(4) *Merritt Island National Wildlife Refuge.* Hunting of ducks and coots is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting is permitted only on Wednesdays, Thursdays, Fridays and Saturdays until 1:00 p.m. Hunting is permitted until sunset on Sundays and the last day of the State waterfowl season.

(iii) Hunters must use and be in possession only of shells containing steel shot.

(iv) Decoys, boats and other personal property must be removed from the refuge following each day's hunt.

(v) Only temporary blinds built of native vegetation are permitted.

(i) *Georgia and South Carolina—Savannah National Wildlife Refuge.* Hunting of ducks, coots and snipe is permitted on designated areas of the refuge subject to the following conditions:

(1) Permits are required.

(2) Hunting is permitted only on Tuesdays, Thursdays and Saturdays until noon.

(3) Hunters must use and be in possession only of shells containing steel shot.

(4) Decoys and non-native blind materials must be removed from the refuge following each day's hunt.

(j) *Idaho*—(1) *Bear Lake National Wildlife Refuge.* Hunting of geese, ducks, coots and common snipe is permitted on designated areas of the refuge subject to the following condition: Air-thrust boats are not permitted.

(2) *Camas National Wildlife Refuge.* Hunting of geese, ducks, coots and common snipe is permitted on designated areas of the refuge.

(3) *Deer Flat National Wildlife Refuge.* Hunting of geese, ducks, coots, common snipe and doves is permitted on designated areas of the refuge subject to the following conditions:

(i) Only ducks and coots may be hunted on the Lake Lowell sector.

(ii) Only portable and temporary blinds constructed of natural materials are permitted.

(iii) The construction and use of permanent hunting blinds are not permitted.

(4) *Grays Lake National Wildlife Refuge.* Hunting of geese, ducks and coots is permitted on designated areas of the refuge subject to the following condition: Motorized boats are not permitted.

(5) *Kootenai National Wildlife Refuge.* Hunting of geese, ducks, coots and common snipe is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is permitted only on Tuesdays, Thursdays, Saturdays and Sundays.

(ii) Hunters are limited to the use and/or possession of no more than 25 shells per day.

(iii) All firearms must be unloaded when in the posted retrieving zone for purposes of retrieving downed birds or traveling to or from the hunting area.

(6) *Minidoka National Wildlife Refuge.* Hunting of geese, ducks, and coots is permitted on designated areas of the refuge.

(k) *Illinois*—(1) *Chautauqua National Wildlife Refuge.* Hunting of migratory game birds is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is permitted only in the area outside the main dike in the Liverpool Lake section and north of the entrance to the north ditch known as Goofy Ridge Ditch.

(ii) The retrieval zone is limited to the river side of the main dike.

(iii) Only temporary structures or blinds constructed of native materials are permitted.

(2) *Crab Orchard National Wildlife Refuge.* Hunting of migratory game birds is permitted on designated areas of the refuge subject to the following conditons:

(i) Waterfowl hunting is permitted on the controlled areas of Grassy Point, Carterville Public, and Greenbriar Road areas from sunrise to 12:00 noon each day during the goose season. Goose hunting on these areas, including lake shorelines, is permitted only from existing refuge established blinds.

(ii) During the goose season, on Grassy, Orchard, Sawmill and Turkey Islands, hunters may hunt only from blinds provided by the refuge. Only hunters occupying these blinds are allowed on the islands during the goose hunting season.

(iii) Waterfowl hunters must use and be in possession of only shells containing steel shot.

(iv) Only portable or temporary blinds may be used. Blinds and pits may not be located beyond the shoreline of refuge waters.

(v) Blinds must be removed or dismantled at the end of each day's hunt.

(l) *Iowa—De Soto National Wildlife Refuge.* Hunting of geese, ducks and coots is permitted on designated areas of the refuge subject to the following conditions:

(1) Permits are required.

(2) Hunting is permitted until noon each day from November 1 through the end of the waterfowl hunting season.

(3) Hunters must use and be in possession only of shells containing steel shot.

(4) Hunters may not use or possess more than 25 shells per day.

(m) *Iowa, Illinois, and Missouri—Mark Twain National Wildlife Refuge.* Hunting of migratory game birds is permitted on designated areas of the Big Timber Division and Turkey and Otter Islands subject to the following conditions:

(1) Only temporary wood or brush blinds are permitted.

(2) Blinds cannot be locked or otherwise sealed against public entry.

(3) Blinds are open to the public on a first-come-first-serve basis if not occupied 30 minutes after the start of the legal shooting hours.

(n) *Iowa, Illinois, Minnesota, and Wisconsin—Upper Mississippi River Wildlife and Fish Refuge.* Hunting of migratory game birds is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required for Potter's Marsh in Pool 13 except during the early teal season.

(ii) Waterfowl hunters must use and be in possession only of shells containing steel shot on those portions of the refuge in the States of Iowa, Minnesota and Wisconsin.

(o) *Kansas*—(1) *Kirwin National Wildlife Refuge.* Hunting of mourning doves, ducks, geese, coots and common snipe is permitted on designated areas of the refuge.

(2) *Quivira National Wildlife Refuge.* Hunting of mourning dove, geese, ducks, coots, rails, common snipe and woodcock is permitted on designated areas of the refuge subject to the following condition: Waterfowl hunters must use and be in possession of only shells containing steel shot.

(p) *Louisiana*—(1) *Bogue Chitto National Wildlife Refuge.* Hunting of ducks, geese and coots is permitted on designated areas of the refuge subject to the following conditions:

(i) Duck hunting is not permitted during the special teal season.

(ii) Hunting is permitted until noon each day.

(iii) Only temporary blinds are permitted.

(2) *D'Arbonne National Wildlife Refuge.* Hunting of ducks and coots is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is permitted until noon each day.

(ii) Boats, decoys and non-native blind materials must be removed from the refuge following each day's hunt.

(3) *Delta National Wildlife Refuge.* Hunting of ducks, geese and coots is permitted on designated areas of the

refuge subject to the following conditions:

(i) Hunting is permitted only on Wednesdays, Saturdays and Sundays until noon during the State duck season.

(ii) Only temporary blinds are permitted.

(iii) Blinds and decoys must be removed from the refuge following each day's hunt.

(4) *Lacassine National Wildlife Refuge.* Hunting of geese, ducks and coots is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is permitted Wednesday through Sunday except that hunting is permitted daily during teal season.

(ii) Hunting ends at noon each day.

(iii) Hunters may not enter the hunt area before 4 a.m.

(iv) Hunting is not permitted within 50 yards of a canal or waterway.

(v) Hunters must use and be in the possession only of shells containing steel shot.

(vi) Hunting parties must be spaced 150 yards apart. The first hunter(s) to arrive at a pond or blind site holds that site until the hunt is completed.

(vii) Decoys and portable blinds must be removed from the refuge following each day's hunt.

(viii) Only portable blinds and blinds constructed from native vegetation are permitted.

(5) *Sabine National Wildlife Refuge.* Hunting of geese, ducks and coots is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is permitted only on Wednesdays, Saturdays and Sundays except that hunting is permitted daily during the entire western zone teal season.

(ii) Hunting is permitted until noon each day.

(iii) Hunting is not permitted during the goose-only season and on Christmas Day.

(iv) Hunters must use and be in possession only of shells containing steel shot.

(v) Hunters are required to check in and out of the refuge.

(vi) Checking bagged game is required.

(vii) Only portable blinds and blinds constructed of native vegetation are permitted.

(viii) Decoys and portable blinds must be removed from the refuge following each day's hunt.

(6) *Tensas River National Wildlife Refuge.*

Hunting of ducks, coots, woodcock and snipe is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting of ducks and coots is permitted only on Tuesdays, Thursdays, Saturdays and Sundays until noon each day.

(iii) Hunting is not permitted during the special teal season and the refuge deer hunts.

(7) *Upper Ouachita National Wildlife Refuge.* Hunting of ducks, coots and woodcock is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting of ducks and coots is permitted until noon each day.

(ii) Boats, decoys and non-native blind materials must be removed from the refuge following each day's hunt.

(iii) Woodcock hunting is permitted during the State season.

(q) *Maine—Rachel Carson National Wildlife Refuge.* Hunting of waterfowl and woodcock is permitted on designated areas of the refuge subject to the following conditions:

(1) Permits are required.

(2) Hunting of sea ducks is permitted when their open season coincides with the regular waterfowl season.

(3) Hunters may not fire or possess more than 25 shells per day.

(r) *Massachusetts*—(1) *Oxbow National Wildlife Refuge.* Hunting of woodcock and snipe is permitted on designated areas of the refuge subject to the following condition: Vehicles are restricted to the designated parking area that is accessible from the Still River Depot Road. Entry by routes other than Still River Depot Road is not permitted.

(2) *Parker River National Wildlife Refuge.* Hunting of waterfowl and coots is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) The areas open to hunting are the Pine Island Hunting Area (Area A), Parker River Hunting Area (Area B), Nelson's Island Hunting Area (Area C) and the Youth Hunting Area (Area D).

(iii) Hunters must use and be in possession only of shells containing steel shot.

(iv) Hunters using Area B must set out waterfowl decoys and hunt within 50 yards of these decoys.

(v) Boat access is not permitted on Area C but is required on Area A. Boats may be launched or landed during the open season on waterfowl by persons authorized to participate in refuge hunting programs. Access to Area B is permitted by foot from the refuge parking lot off Marsh Avenue or via boat.

(s) *Michigan*—(1) *Seney National Wildlife Refuge.* Hunting of woodcock and Wilson's snipe is permitted on designated ares of the refuge.

(2) *Shiawassee National Wildlife Refuge.* Hunting of geese is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunters must use and be in possession only of shells containing steel shot.

(t) *Minnesota*—(1) *Sherburne National Wildlife Refuge.* Hunting of ducks, coots, rails, woodcock and Wilson's snipe is permitted on designated areas of the refuge subject to the following conditions:

(i) Field possession of migratory game birds is not permitted on refuge areas closed to migratory game bird hunting.

(ii) Only nonmotorized boats are permitted, and they must be launched at designated access sites.

(iii) Boats, decoys and blinds must be removed from the refuge following each day's hunt except for blinds made entirely of marsh vegetation.

(2) *Tamarac National Wildlife Refuge.* Hunting of geese, ducks, coots, rails, woodcock and Wilson's snipe is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is in accordance with White Earth Reservation regulations on those portions of the Reservation that are a part of the refuge.

(ii) Blinds must be removed from the refuge following each day's hunt except for blinds made entirely of marsh vegetation.

(u) *Mississippi*—(1) *Hillside National Wildlife Refuge.* Hunting of mourning doves, ducks, coots, snipe and woodcock is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required for dove hunting.

(ii) Duck and coot hunting is permitted until noon each day.

(2) *Mathews Brake National Wildlife Refuge.* Hunting of ducks, coots, woodcock and snipe is permitted on designated areas of the refuge subject to the following condition: Duck and coot hunting is permitted until noon each day.

(3) *Morgan Brake National Wildlife Refuge.* Hunting of ducks and coots is permitted on designated areas of the refuge subject to the following condition: Hunting is permitted until noon each day.

(4) *Noxubee National Wildlife Refuge.* Hunting of ducks and coots is permitted

on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting is permitted only on Mondays, Wednesdays and Saturdays unitl noon.

(iii) Hunters must use and be in possession only of shells containing steel shot.

(iv) Hunters are required to check in and out of the refuge.

(5) *Panther Swamp National Wildlife Refuge.* Hunting of ducks, coots, snipe and woodcock is permitted on designated areas of the refuge subject to the following condition: Duck and coot hunting is permitted until noon each day.

(6) *Yazoo National Wildlife Refuge.* Hunting of mourning doves is permitted on designated areas of the refuge subject to the following condition: Doves may be taken when the dove hunting season coincides with the refuge squirrel and rabbit hunting seasons.

(v) *Missouri*—(1) *Mingo National Wildlife Refuge.* Hunting of waterfowl is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunters must use and be in possession only of shells containing steel shot.

(2) *Swan Lake National Refuge.* Hunting of geese is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunters must use and be in possession only of shells containing steel shot.

(w) *Montana*—(1) *Benton Lake National Wildlife Refuge.* Hunting of geese, ducks and coot is permitted on designated areas of the refuge subject to the following special conditions:

(i) Only nonmotorized boats are permitted.

(ii) Waterfowl hunting is not permitted after November 30.

(2) *Black Coulee National Wildlife Refuge.* Hunting of migratory game birds is permitted on designated areas of the refuge subject to the following condition: Air-thrust boats and boats with motors greater than 10 horsepower are not permitted.

(3) *Bowdoin National Wildlife Refuge.* Hunting of waterfowl is permitted on designated areas of the refuge subject to the following conditons:

(i) Hunters are required to check in and out of the refuge.

(ii) Air-thrust boats and boats with motors greater than 10 horsepower are not permitted.

(4) *Creedman Coulee National Wildlife Refuge.* Hunting of migratory game birds is permitted on designated areas of the refuge subject to the following condition: Air-thrust boats and boats with motors greater than 10 horsepower motors are not permitted.

(5) *Hewitt Lake National Wildlife Refuge.* Hunting of migratory game birds is permitted on designated areas of the refuge subject to the following condition: Air-thrust boats and boats with motors greater than 10 horsepower motors are not permitted.

(6) *Lake Mason National Wildlife Refuge.* Hunting of migratory game birds is permitted on designated areas of the refuge subject to the following condition: The use of motorized boats is not permitted.

(7) *Lake Thibadeau National Wildlife Refuge.* Hunting of migratory game birds is permitted on designated areas of the refuge subject to the following condition: Air-thrust boats and boats with motors greater than 10 horsepower are not permitted.

(8) *Lee Metcalf National Wildlife Refuge.* Hunting of geese, ducks and coots is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunters may not use or possess more than 25 shells per day.

(ii) Shooting is permitted only from or within 10 feet of designated blinds.

(9) *Red Rocks Lake National Wildlife Refuge.* Hunting of geese, ducks, coots and mergansers is permitted on designated areas of the refuge.

(x) *Nebraska—Valentine National Wildlife Refuge.* Hunting of mourning doves, geese, ducks and coots is permitted on designated areas of the refuge.

(y) *Nevada*—(1) *Pahranagat National Wildlife Refuge.* Hunting of doves, geese, ducks, coots, gallinules and common snipe is permitted on designated areas of the refuge subject to the following conditions:

(i) A permit is required for all dove hunters, 14 years of age or older, for hunting from opening day through the following Monday.

(ii) Only nonmotorized boats or other motorless flotation devices are permitted on the refuge hunting area during the migratory waterfowl hunting season.

(2) *Ruby Lake National Wildlife Refuge.* Hunting of geese, ducks, coots, gallinules and common snipe is permitted on designated areas of the refuge.

(z) *New Jersey*—(1) *Barnegat National Wildlife Refuge.* Hunting of rails, gallinules, waterfowl and coots is permitted on designated areas of the refuge subject to the following conditions:

(i) In Hunting Area A, hunting is restricted to designated units and each unit is limited to a maximum of 4 hunters.

(ii) In Hunting Area B, hunting is restricted to designated sites with each site limited to a maximum of 4 hunters.

(iii) Hunters must use and be in possession only of shells containing steel shot.

(iv) Hunters are limited to 25 shells per day.

(v) Permanent blinds and pit blinds are not permitted.

(2) *Brigantine National Wildlife Refuge.* Hunting of rails, gallinules, waterfowl and coots is permitted on designated areas of the refuge subject to the following condition: Hunters must use and be in possession of only shells containing steel shot.

(aa) *New Mexico*—(1) *Bitter Lake National Wildlife Refuge.* Hunting of mourning doves, geese, ducks, coots and lesser sandhill cranes is permitted on designated areas of the refuge subject to the following conditions:

(i) During the waterfowl season, hunters must use and be in possession only of shells containing steel shot while hunting on the South Refuge Unit (Area C).

(ii) Permanent blinds and pit blinds are not permitted.

(iii) Neither hunters nor dogs may enter closed areas to retrieve game.

(2) *Bosque del Apache National Wildlife Refuge.* Hunting of mourning and white-winged doves and snow, blue and Ross' geese is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required for goose hunting.

(ii) Goose hunters are required to successfully complete a U.S. Fish and Wildlife Service migratory bird identification and hunter training program prior to the hunt.

(iii) Hunters must use and be in possession only of shells containing steel shot.

(3) *Las Vegas National Wildlife Refuge.* Hunting of mourning doves, ducks and Canada geese is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunters must use and be in possession only of shells containing steel shot.

(4) *Sevilleta National Wildlife Refuge.* Hunting of mourning and white-winged doves, geese, ducks and coots is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunters or dogs may not enter closed areas to retrieve birds.

(ii) Waterfowl hunters must use and be in possession only of shells containing steel shot.

(iii) Permanent blinds and pit blinds are not permitted.

(bb) *New York*—(1) *Iroquois National Wildlife Refuge.* Hunting of migratory game birds is permitted in designated areas of the refuge subject to the following conditions:

(i) Permits are required for waterfowl hunting.

(ii) Hunting of woodcock and crow is permitted during the regular seasons except that crow hunting is not permitted from March 1 through September 30.

(iii) Waterfowl hunters must use and be in possession only of shells containing steel shot.

(2) *Montezuma National Wildlife Refuge.* Hunting of migratory waterfowl is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is permitted on Tuesdays, Thursdays and Saturdays by reservation only.

(ii) The first Sunday of the season is reserved for the Young Waterfowlers Training Program Hunt.

(iii) Hunters must use and be in possession only of shells containing steel shot.

(cc) *North Carolina*—(1) *Cedar Island National Wildlife Refuge.* Hunting of ducks, coots, and geese is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunters must use and be in possession only of shells containing steel shot.

(ii) Only portable blinds are permitted.

(iii) Blinds must be removed from the refuge following each day's hunt.

(2) *Mattamuskeet National Wildlife Refuge.* Hunting of ducks and coots is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting is only permitted during the eight two-day hunts that occur during the last State waterfowl season and during the youth hunt that is held on the Friday and Saturday following Thanksgiving.

(iii) Shooting hours for the first day of the youth hunt begin at 1:00 p.m. Shooting hours for the other hunts end at noon each day.

(iv) Hunters are required to check in and out of the refuge.

(v) Hunters must use and be in the possession only of shells containing steel shot.

(vi) A recreation user fee is required prior to hunting.

(3) *Pee Dee National Wildlife Refuge.* Hunting of mourning doves is permitted on designated areas of the refuge subject to the following condition: Hunting is permitted from opening day of the State season through the last Saturday in September.

(4) *Swanquarter National Wildlife Refuge.* Hunting of ducks, coot, and geese is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunters must use and be in possession only of shells containing steel shot.

(ii) Only portable blinds are permitted.

(iii) Blinds must be removed from the refuge following each day's hunt.

(dd) *North Dakota*—(1) *J. Clark Salyer National Wildlife Refuge.* Hunting of ducks, geese, mergansers and coots is permitted in designated areas of the refuge.

(2) *Lake Alice National Wildlife Refuge.* Hunting of mourning doves, ducks, geese, mergansers and coots is permitted on designated areas of the refuge subject to the following condition: Possession of firearms in retrieving zones is not permitted.

(ee) *Ohio—Ottawa National Wildlife Refuge.* Hunting of geese is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunters must use and be in possession only of shells containing steel shot.

(ff) *Oklahoma*—(1) *Sequoyah National Wildlife Refuge.* Hunting of doves and waterfowl is permitted on designated areas of the refuge subject to the following condition: Waterfowl hunters must use and be in possession only of shells containing steel shot.

(2) *Tishomingo National Wildlife Refuge.* Hunting of mourning doves and waterfowl is permitted on designated areas of the refuge subject to the following conditions:

(i) The Tishomingo Wildlife Management Unit is open as posted by signs and/or indicated on refuge leaflets, permits and maps.

(ii) In Zone 1, only duck and coot hunting is permitted.

(iii) Duck or coot hunters may not use or possess more than 25 shells per day.

(iv) Goose hunting is only permitted in Zone 2 and only from the goose blinds provided.

(v) Goose hunters may not use or possess more than 6 shells per day.

(vi) Hunters are required to check in and out of the refuge.

(3) *Washita National Wildlife Refuge.* Hunting of geese and sandhill cranes is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunters must use and be in possession only of shells containing steel shot.

(gg) *Oregon*—(1) *Ankeny National Wildlife Refuge.* Hunting of doves, pigeons, geese, ducks, coots and common snipe is permitted on designated areas of the refuge subject to the following conditions:

(i) An advance hunting reservation/permit is required for waterfowl, coot and snipe hunting.

(ii) Dove and pigeon hunters must check in and out of the refuge by use of self-service permits.

(iii) Waterfowl, coot and snipe hunting is permitted only on Wednesdays, Saturdays and Sundays until noon.

(iv) Waterfowl hunters must use and be in possession only of shells containing steel shot.

(v) Waterfowl, coot and snipe hunters may not use or possess more than 25 shells per day.

(2) *Baskett Slough National Wildlife Refuge.* Hunting of geese, ducks, coots and common snipe is permitted on designated areas of the refuge subject to the following conditions:

(i) An advance hunting reservation/permit is required for waterfowl, coot and snipe hunting.

(ii) Waterfowl, coot and snipe hunting is permitted only on Wednesdays, Saturdays and Sundays until noon.

(iii) Waterfowl hunters must use and be in possession only of shells containing steel shot.

(iv) Waterfowl, coot and snipe hunters may not use or possess more than 25 shells per day.

(3) *Cold Springs National Wildlife Refuge.* Hunting of geese, ducks, coots and common snipe is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is permitted only on Wednesdays, Saturdays, Sundays and State holidays.

(ii) Only shoreline hunting is permitted.

(iii) Waterfowl hunters are required to space themselves a minimum of 200 yards apart.

(iv) The use of boats is not permitted.

(4) *Deer Flat National Wildlife Refuge.* Hunting of doves, geese, ducks, coots and common snipe is permitted on the Snake River sector subject to the following conditions:

(i) The construction and use of permanent hunting blinds are not permitted.

(ii) Hunters may use portable blinds and temporary blinds constructed of natural materials.

(5) *Klamath Forest National Wildlife Refuge.* Hunting of geese, ducks, coots and common snipe is permitted on designated areas of the refuge subject to the following condition: The use of air-thrust and inboard water-thrust boats is not permitted.

(6) *Lewis and Clark National Wildlife Refuge.* Hunting of geese, ducks, coots and common snipe is permitted on designated areas of the refuge.

(7) *Lower Klamath National Wildlife Refuge.* Hunting of geese, ducks, coots and common snipe is permitted on designated areas of the refuge subject to the following conditions:

(i) Possession of firearms in posted retrieving zones is not permitted except that unloaded firearms may be taken through these zones when in transit to or from the hunting areas.

(ii) Decoys may not be set in retrieving zones.

(iii) The use of air-thrust and inboard water-thrust boats is not permitted.

(8) *Malheur National Wildlife Refuge.* Hunting of doves, geese, ducks, coots, common snipe and pigeons is permitted on designated areas of the refuge subject to the following condition: Motorized boats are not permitted.

(9) *McKay Creek National Wildlife Refuge.* Hunting of geese, ducks, coots and common snipe is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required for the opening weekend of the season.

(ii) Hunting is permitted only on Wednesdays, Saturdays, Sundays and State holidays.

(iii) Waterfowl hunters are required to space themselves a minimum of 200 yards apart.

(iv) The use of boats is not permitted.

(10) *Umatilla National Wildlife Refuge.* Hunting of geese, ducks, coots and common snipe is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required for hunting on the McCormack Unit.

(ii) Hunting is permitted only on Wednesdays, Saturdays, Sundays and State holidays, except on Christmas Day, on the McCormack Unit.

(iii) Waterfowl hunting parties in the Boardman Unit are required to space themselves a minimum of 200 yards apart.

(iv) Hunting on the McCormack Unit is permitted only from designated blinds or within 50 feet of numbered posts.

(v) Hunters may not possess or use more than 25 shells per day on the McCormack Unit.

(11) *Upper Klamath National Wildlife Refuge.* Hunting of geese, ducks, coots and common snipe is permitted on designated areas of the refuge subject to the following condition: The use of air-thrust and inboard water-thrust boats is not permitted.

(12) *William L. Finley National Wildlife Refuge.* Hunting of doves, pigeons, geese, ducks, coots and common snipe is permitted on designated areas of the refuge subject to the following conditions:

(i) An advance hunting reservation/permit is required for waterfowl, coot and snipe hunting.

(ii) Dove and pigeon hunters must check in and out of the refuge by use of self-service permits.

(iii) Waterfowl, coot and snipe hunting is permitted only on Wednesdays, Saturdays and Sundays until noon.

(iv) Waterfowl hunters must use and be in possession only of shells containing steel shot.

(v) Waterfowl, coot and snipe hunters may not use or possess more than 25 shells per day.

(hh) *Pennsylvania—Erie National Wildlife Refuge.* Hunting of migratory game birds and crows is permitted on designated areas of the refuge subject to the following conditions:

(1) Field possession of migratory game birds is not permitted in areas of the refuge closed to migratory game bird hunting.

(2) Hunting of crows is not permitted from March 1 through August 31.

(3) Waterfowl hunters must use and be in possession only of shells containing steel shot.

(ii) *South Carolina*—(1) *Cape Romain National Wildlife Refuge.* Hunting of rails is permitted on designated areas of the refuge.

(2) *Carolina Sandhills National Wildlife Refuge.* Hunting of mourning doves and woodcock is permitted in designated areas of the refuge subject to the following conditions:

(i) Dove hunting is permitted during that portion of the state season that follows Thanksgiving Day.

(ii) Hunting is permitted Monday through Saturday only.

(3) *Santee National Wildlife Refuge.* Hunting of mourning doves, ducks, and coots is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Waterfowl hunting is permitted only in October during the State season.

(iii) Waterfowl hunting is permitted until noon each day.

(iv) The refuge dove season opens with the state season and ends September 30.

(v) Permanent blinds are not permitted.

(vi) Decoys and non-native blind materials must be removed from the refuge following each day's hunt.

(jj) *South Dakota—Sand Lake National Wildlife Refuge.* Hunting of waterfowl is permitted on designated areas of the refuge.

(kk) *Tennessee—Lower Hatchie National Wildlife Refuge.* Hunting of ducks, geese and coots is permitted on designated areas of the refuge subject to the following conditions:

(1) Hunting is permitted until noon each day.

(2) Hunters must use and be in possession only of shells containing steel shot.

(3) Only portable blinds and blinds made of native vegetation are permitted.

(4) Portable blinds and decoys must be removed from the refuge following each day's hunt.

(ll) *Texas*—(1) *Anahuac National Wildlife Refuge.* Hunting of geese, ducks and coots is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required to hunt on certain portions of the hunting area on weekend days.

(ii) The refuge unit located north of Onion Bayou, formerly known as the Barrow Ranch, is open to hunting only on designated days of the week. Notice of actual hunting days is issued as provided in 50 CFR § 25.31.

(iii) Hunting is permitted until noon except early teal season hunting hours are sunrise until 12 noon.

(iv) Hunters must use and be in possession only of shells containing steel shot.

(v) Pits and permanent blinds are not permitted.

(2) *Big Boggy National Wildlife Refuge.* Hunting geese, ducks and coots is permitted on designated areas of the refuge subject to the following conditions:

(i) Waterfowl hunters must use and be in possession only of shells containing steel shot.

(ii) Pits and permanent blinds are not permitted.

(3) *Brazoria National Wildlife Refuge.* Hunting of geese, ducks and coots is permitted on designated areas of the refuge subject to the following conditions:

(i) Waterfowl hunters must use and be in possession only of shells containing steel shot.

(ii) Pits and permanent blinds are not permitted.

(4) *Hagerman National Wildlife Refuge.* Hunting of mourning doves is permitted on designated areas of the refuge subject to the following condition: Hunters are required to check in and out of the refuge.

(5) *McFaddin National Wildlife Refuge.* Hunting of geese, ducks and coots is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required to hunt on certain portions of the hunting area.

(ii) Hunting is permitted only on designated days of the week. Notice of actual hunting days is issued as provided in 50 CFR § 25.31.

(iii) Hunting is permitted until noon each day.

(iv) Hunters must use and be in possession only of shells containing steel shot.

(v) Pits and permanent blinds are not permitted.

(vi) Airboats must be direct propeller drive with propeller 48 inches or less in length. Engines may not exceed two cylinders and 484 cc displacement.

(6) *San Bernard National Wildlife Refuge.* Hunting of geese, ducks and coots is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required for hunting in the Special Waterfowl Hunting Area (SPHW).

(ii) The refuge is closed to hunting on Thanksgiving and Christmas Days.

(iii) Hunters must use and be in possession only of shells containing steel shot.

(iv) Pits and permanent blinds are not permitted.

(7) *Texas Point National Wildlife Refuge.* Hunting of geese, ducks and coots is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is permitted only on Mondays, Wednesdays and Saturdays. Hunting is not permitted on Christmas Day.

(ii) Hunting is permitted until noon each day.

(iii) Hunters must use and be in possession only of shells containing steel shot.

(iv) Pits and permanent blinds are not permitted.

(v) Airboats must be direct propeller drive with propeller 48 inches or less in length. Engines may not exceed two cylinders and 484 cc displacement.

(mm) *Utah*—(1) *Bear River Migratory Bird Refuge.* Hunting of ducks, geese, coots and tundra swans is permitted on desingated areas of the refuge subject to the following conditions:

(i) Hunters are required to check in and out of the refuge.

(ii) Hunters must use and be in possession only of shells containing steel shot.

(2) *Fish and Wildlife National Refuge.* Hunting of ducks, coots and mergansers is permitted on designated areas of the refuge.

(3) *Ouray National Wildlife Refuge.* Hunting of ducks, coots and mergansers is permitted on designated areas of the refuge.

(nn) *Vermont—Missisquoi National Wildlife Refuge.* Hunting of migratory game birds is permitted on designated areas of the refuge subject to the following conditions:

(1) Permits are required to hunt in the portion of the refuge known as Patrick Marsh-Charcoal Creek (southwest of Route 78).

(2) On those areas of the refuge where a permit is not required, stake blinds may be constructed in accordance with state regulations.

(3) Blinds must be removed from the refuge by May 15.

(4) The portion of the refuge known as Webb Marsh, which includes Long Marsh Bay and Channel, Brush Creek and Metcalfe Island, is reserved for the Young Waterfowlers Training Program.

(5) Hunting in Webb Marsh is permitted from designated blinds on Saturdays and Sundays until 11 a.m. from the beginning of the state waterfowl hunting season through the first five weekends of the season.

(6) Young waterfowl hunters are limited to the use and possession of 25 shells each.

(oo) *Washington*—(1) *Columbia National Wildlife Refuge.* Hunting of geese, ducks, coots and common snipe is permitted on designated areas of the refuge subject to the following conditions:

(1) Permits are required for hunting in Marsh Unit I and Farm 226–227 except that permits are not required for Marsh Unit I after 12:00 p.m.

(ii) In Marsh Unit I and Farm Unit 226–227, hunting is permitted only on Wednesdays, Saturdays and Sundays.

(2) *Columbian White-Tailed Deer National Wildlife Refuge.* Hunting of geese, ducks, coots and common snipe is permitted on designated areas of the refuge.

(3) *Conboy Lake Wildlife Refuge.* Hunting of doves, pigeons, geese, ducks, coots, common snipe is permitted on designated areas of the refuge.

(4) *McNary National Wildlife Refuge.* Hunting of geese, ducks, coots and common snipe is permitted on designated areas of the refuge subject to the following conditions:

(i) Advance reservations are required for hunting refuge farm circles in the McNary Division.

(ii) In the McNary Division, hunting is permitted only on Wednesdays, Saturdays, Sundays and state holidays.

(iii) Only the five most upstream islands on the Hanford Islands Unit are open to hunting.

(5) *Ridgefield National Wildlife Refuge.* Hunting of geese, ducks and coots is permitted on designated areas of the refuge subject to the following conditions:

(i) An advance permit is required to hunt before 10 a.m.

(ii) Hunting is permitted every other day as prescribed by the refuge hunt schedule.

(iii) Hunters must use and be in possession only of shells containing steel shot.

(iv) Hunters may not use or possess more than 25 shells per day.

(v) A recreational user fee is required prior to hunting.

(6) *Toppenish National Wildlife Refuge.* Hunting of geese, ducks, coots and common snipe is permitted on designated areas subject to the following condition: Hunting of geese, ducks, coots and common snipe is permitted only within 50 feet of the numbered posts assigned to each hunter.

(7) *Umatilla National Wildlife Refuge.* Hunting of geese, ducks, coots and common snipe is permitted on designated areas of the refuge subject to the following conditions:

(i) In the Patterson Slough Unit, hunting is permitted only on Wednesdays, Saturdays, Sundays and State holidays.

(ii) Waterfowl hunters must space themselves a minimum of 200 yards apart.

(iii) Hunters in the Ridge Unit must hunt within 50 feet of numbered posts.

(iv) Hunters may not use or possess more than 25 shells per day in the Patterson Slough Unit.

(8) *Willapa National Wildlife Refuge.* Hunting of geese, ducks and coots is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunters are required to check in and out of the refuge.

(ii) Hunting in the Riekkola Unit is permitted only on Wednesdays and Saturdays

(iii) A recreation user fee is required prior to entrance into the Riekkola Unit hunting area.

(pp) *Wyoming*—(1) *Pathfinder National Wildlife Refuge.* Hunting of geese, ducks, mergansers and coots is permitted on designated areas of the refuge.

(2) *Seedskadee National Wildlife Refuge.* Hunting of mourning doves, geese, ducks, coots and mergansers is permitted on designated areas of the refuge.

§ 32.22 Refuge specific regulations; upland game.

(a) *Alabama*—(1) *Blowing Wind Cave National Wildlife Refuge.* Hunting of upland game is permitted on designated areas of the refuge subject to the following condition: The refuge is cooperatively managed as part of the Sauty Creek Wildlife Management Area and State regulations apply entirely to this area.

(2) *Choctaw National Wildlife Refuge.* Hunting of squirrel, rabbit, raccoon and opossum is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting of squirrel and rabbit is permitted during the State season only through the Saturday preceding Christmas Day.

(iii) Hunting of raccoon and opossum is permitted only during February.

(3) *Eufaula National Wildlife Refuge.* Hunting of quail and rabbit is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting is permitted from the first day following the close of the State waterfowl season through the end of the respective seasons.

(4) *Wheeler National Wildlife Refuge.* Hunting of squirrel, rabbit, raccoon and opossum is permitted on designated areas of the refuge subject to the following special conditions:

(i) Permits are required.

(ii) Hunting of squirrel is permitted during October when State seasons are open.

(iii) Hunting of raccoon and opossum is permitted only during February.

(iv) Hunting of rabbits is permitted from February 15 through the end of February.

(b) *Arizona—Kofa National Wildlife Refuge.* Hunting of quail, cottontail rabbit, coyote, fox and bobcat is permitted on designated areas of the refuge subject to the following conditions:

(1) Hunting of cottontail rabbit, coyote, fox and bobcat is permitted from the opening day of the State quail season through February 28 except as provided in item (2).

(2) Hunting of coyote, fox and bobcat is not permitted during the deer season except that deer hunters with valid Unit 45A, 45B and 45C deer permits may take these predators until a deer is taken.

(3) Hunting is not permitted in the area known as Crystal Hill Campground.

(c) *Arizona and California*—(1) *Cibola National Wildlife Refuge.* Hunting of quail and cottontail rabbit is permitted on designated areas of the refuge subject to the following conditions:

(i) During the waterfowl season, hunting of quail and rabbit is not permitted in Farm Unit 2 before noon.

(ii) Hunting of cottontail rabbit is permitted from September 1 through the last day of the State quail season.

(iii) Hunting is not permitted within 50 yards of any road or levee or within 250 yards of any farmworker.

(2) *Havasu National Wildlife Refuge.* Hunting of quail and cottontail rabbit is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting of quail is not permitted on Pintail Slough which includes all refuge lands north of the north dike and west of Highway 95.

(ii) Hunting of cottontail rabbit in Pintail Slough is permitted only during September.

(iii) Only shotguns and bows and arrows are permitted.

(3) *Imperial National Wildlife Refuge.* Hunting of quail and cottontail rabbit is permitted on designated areas of the refuge subject to the following condition: Only shotguns and bows and arrows are permitted.

(d) *Arkansas*—(1) *Big Lake National Wildlife Refuge.* Hunting of squirrel, rabbit, raccoon, beaver and opossum is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting of squirrel and beaver is permitted from the opening day of the State fall squirrel season through October 31. Rabbit may also be taken when the State rabbit season coincides with the dates above.

(2) *Felsenthal National Wildlife Refuge.* Hunting of quail, squirrel, rabbit, beaver, raccoon, opossum and nutria is permitted on designated areas of the refuge subject to the following conditions:

(i) permits are required.

(ii) Hunting of quail, squirrel and rabbit is permitted during the State fall seasons except during the refuge deer gun and muzzleloader hunts.

(iii) Hunting of raccoon and opossum is permitted the first four days and last six days of the State season.

(iv) Beaver and nutria may be taken during the daylight hours of any refuge hunt.

(3) *Holla Bend National Wildlife Refuge.* Hunting of raccoon and opossum is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunters are required to check in and out of the refuge.

(4) *Overflow National Wildlife Refuge.* Hunting of quail, squirrel, rabbit, beaver, raccoon, opossum and nutria is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting of quail, squirrel and rabbit is permitted during the State fall seasons except during the refuge deer gun and muzzleloader seasons.

(iii) Hunting of raccoon and opossum is permitted the first four days and last six days of the State season.

(iv) Beaver and nutria may be taken during the daylight hours of any refuge hunt.

(5) *Wapanocca National Wildlife Refuge.* Hunting of squirrel, rabbit, beaver, raccoon and opossum is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required for the raccoon hunt.

(ii) Hunting of squirrel, rabbit and beaver is permitted from October 1 through November 15.

(iii) Hunting of raccoon and opossum is permitted from October 15 through October 31.

(6) *White River National Wildlife Refuge.* Hunting of squirrel, rabbit, beaver, raccoon and opossum is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting of squirrel and rabbit is permitted from the beginning of the State fall seasons through October 31. Squirrel and rabbit may also be taken when their respective State season coincides with refuge archery and waterfowl hunts, but they must be taken with weapons legal for those hunts.

(iii) Hunting of racoon and opossum is permitted during the first six days of the State season.

(iv) Beaver may be taken during any refuge hunt with weapons legal for those hunts.

(e) *California*—(1) *Colusa National Wildlife Refuge.* Hunting of pheasant is

permitted on designated areas of the refuge.

(2) *Delevan National Wildlife Refuge.* Hunting of pheasant is permitted on designated areas of the refuge.

(3) *Kern National Wildlife Refuge.* Hunting of pheasant is permitted on designated areas of the refuge subject to the following condition: Pheasant hunting is not permitted in the spaced blind unit.

(4) *Lower Klamath National Wildlife Refuge.* Hunting of pheasant is permitted on designated areas of the refuge subject to the following conditions:

(i) In the controlled pheasant hunting area, entry permits are required throughout the pheasant season for all hunters 16 years of age or older. Hunters under the age of 16 hunting the controlled area must be accompanied by an adult with a permit. Advance reservations are required for the first 2 days of the hunt.

(ii) Possession of firearms in posted retrieving zones is not permitted except that unloaded firearms may be taken through these zones when in transit to and from hunting areas.

(5) *Merced National Wildlife Refuge.* Hunting of pheasant is permitted on designated areas of the refuge.

(6) *Sacramento National Wildlife Refuge.* Hunting of pheasant is permitted on designated areas of the refuge subject to the following condition: A special one-day pheasant hunt is permitted in the spaced blind unit on the first Monday after the opening of the State pheasant hunting season.

(7) *San Luis National Wildlife Refuge.* Hunting of pheasant is permitted on designated areas of the refuge.

(8) *Sutter National Wildlife Refuge.* Hunting of pheasant is permitted on designated areas of the refuge.

(9) *Tule Lake National Wildlife Refuge.* Hunting of pheasant is permitted on designated areas of the refuge subject to the following conditions:

(i) In the controlled pheasant hunting area, entry permits are required throughout the pheasant season for all hunters 16 years of age or older. Hunters under the age of 16 hunting in the controlled area must be accompanied by an adult with a permit. Advance reservations are required for the first 2 days of the hunt.

(ii) Possession of firearms in posted retrieving zones is not permitted except that unloaded firearms may be taken through these zones when in transit to and from hunting areas.

(f) *Colorado*—(1) *Alamosa National Wildlife Refuge.* Hunting of pheasant, cottontail rabbit, black-tailed and white-tailed jackrabbit is permitted on designated areas of the refuge subject to the following conditions: Hunting is permitted only when the respective State season coincides with the refuge waterfowl hunting season.

(2) *Arapaho National Wildlife Refuge.* Hunting of sage grouse and sharptailed grouse is permitted on designated areas of the refuge.

(3) *Browns Park National Wildlife Refuge.* Hunting of cottontail rabbit is permitted on designated areas of the refuge.

(4) *Monte Vista National Wildlife Refuge.* Hunting of pheasant, cottontail rabbit, black-tailed and white-tailed jackrabbit is permitted on designated areas of the refuge subject to the following condition: Hunting is permitted only when the respective State season coincides with the refuge waterfowl hunting season.

(g) *Delaware*—(1) *Bombay Hook National Wildlife Refuge.* Hunting of upland game is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is permitted only on the South Upland Hunting Area.

(ii) Hunting is not permitted from March 1 through August 30.

(2) *Prime Hook National Wildlife Refuge.* Hunting of upland game is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is permitted only on the North Hunting Area.

(ii) Hunting is permitted from ½ hour before sunrise to ½ hour after sunset.

(iii) Hunting is not permitted from March 1 through August 30.

(h) *Florida*—(1) *Chassahowitzka National Wildlife Refuge.* Hunting of quail, squirrel, rabbit and armadillo is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting is permitted during the State deer archery, muzzleloading and general gun seasons.

(2) *Lower Suwannee National Wildlife Refuge.* Hunting of quail, squirrel, rabbit and armadillo is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting is permitted from the day after the State general deer gun season through the last day of the State squirrel season except that upland game may be taken by archery and big game quota hunters while hunting big game.

(iii) After the State deer season closes, dogs are permitted for quail hunting.

(3) *St. Marks National Wildlife Refuge.* Hunting of squirrel, rabbit, raccoon, and armadillo is permitted in designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting is permitted Friday through Sunday from the first Friday in November through the last Sunday in February except during refuge big game hunts and Christmas and New Year's Day.

(iii) A portion of the refuge is cooperatively administered as part of the Aucilla Wildlife Management Area. State regulations apply entirely to this area.

(i) *Georgia—Piedmont National Wildlife Refuge.* Hunting of quail, squirrel and rabbit is permitted on designated areas of the refuge subject to the following conditions:

(1) Permits are required.

(2) Hunting is not permitted during refuge deer hunts.

(j) *Idaho*—(1) *Bear Lake National Wildlife Refuge.* Hunting of partridge, grouse and cottontail rabbits, including pygmy rabbits, is permitted on designated areas of the refuge.

(2) *Camas National Wildlife Refuge.* Hunting of pheasant and grouse is permitted on designated areas of the refuge.

(3) *Deer Flat National Wildlife Refuge.* Hunting of upland game is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting of pheasant, quail and partridge is permitted on the Lake Lowell sector only during the waterfowl hunting season.

(ii) Shooting hours on the Lake Lowell sector are the same as those for waterfowl hunting.

(iii) Hunting is not permitted on the Snake River sector from February 1 through May 31.

(4) *Kootenai National Wildlife Refuge.* Hunting of ruffed, spruce and blue grouse is permitted subject to the following condition: Hunting is permitted only on that portion of the refuge west of the West Side Road.

(5) *Minidoka National Wildlife Refuge.* Hunting of pheasant, partridge and cottontail rabbits, including pygmy rabbit, is permitted on designated areas of the refuge subject to the following condition: Hunting is permitted only during the waterfowl season.

(k) *Illinois—Crab Orchard National Wildlife Refuge.* Hunting of upland game is permitted on designated areas of the refuge subject to the following condition: Hunting is not permitted from sunrise to noon on the refuge controlled

goose hunting areas during the goose hunting season.

(l) *Illinois, Iowa and Missouri—Mark Twain National Wildlife Refuge.* Hunting of upland game is permitted on designated areas of the refuge subject to the following conditions:

(1) Hunting is permitted on the Big Timber Division, including Turkey and Otter Islands.

(2) Hunting of squirrel only is permitted on the Gardner and Keithsburg Divisions from the opening of the State season through September 30.

(3) Dogs may not be used to hunt, pursue or retrieve squirrels.

(m) *Illinois, Iowa, Minnesota and Wisconsin—Upper Mississippi River Wild Life and Fish Refuge.* Hunting of upland game is permitted on designated areas of the refuge subject to the following conditions:

(1) Hunting is not permitted between March 1 and the opening of the State fall hunting seasons except that hunting of wild turkey is permitted during the State spring turkey season.

(2) Hunting is not permitted on the Goose Island Closed Area in Pool 8.

(3) Hunting is permitted on other areas that are closed during the waterfowl hunting season and are designated by signs as "Area Closed" beginning the day after the close of the applicable State duck hunting season.

(n) *Indiana—Muscatatuck National Wildlife Refuge.* Hunting of quail and rabbit is permitted on designated areas of the refuge subject to the following condition: Hunting is permitted only from sunrise to sunset.

(o) *Kansas*—(1) *Flint Hills National Wildlife Refuge.* Hunting of upland game is permitted on designated areas of the refuge subject to the following condition: Dogs may not be used for hunting furbearing animals or nongame animals.

(2) *Kirwin National Wildlife Refuge.* Hunting of pheasant, quail, prairie chicken, squirrel and rabbit is permitted on designated areas of the refuge subject to the following condition: Hunting of rabbits and squirrels is permitted only during that portion of the State "small game season" that occurs during the State "upland game season."

(3) *Quivira National Wildlife Refuge.* Hunting of pheasant, bobwhite, squirrel and rabbit is permitted on designated areas of the refuge subject to the following condition: Hunting of squirrel and rabbit is permitted from September 1 through the close of either the State waterfowl season or upland game bird season whichever is later.

(p) *Kentucky and Tennessee—Reelfoot National Wildlife Refuge.* Hunting of squirrels and raccoons is permitted on designated areas of the refuge subject to the following conditions:

(1) Hunting of squirrel is permitted from the fourth Saturday in August through October 15.

(2) Hunting of raccoon is permitted on four consecutive nights beginning on the last Wednesday in September and the first Wednesday in October.

(3) Hunting of raccoon is permitted from 7:30 pm to midnight.

(4) There is no bag limit for raccoons.

(5) Checking of bagged raccoon is required.

(q) *Louisiana*—(1) *Bogue Chitto National Wildlife Refuge.* Hunting of squirrel, rabbit, raccoon and opossum is permitted on designated areas of the refuge subject to the following conditions:

(i) Dogs are permitted for rabbit hunting after the close of the last deer season.

(ii) Hunting of raccoon and opossum is permitted only during October.

(2) *Catahoula National Wildlife Refuge.* Hunting of squirrel and rabbit is permitted on designated areas of the refuge subject to the following condition: Hunting is permitted from the opening day of the State season through October 31.

(3) *D'Arbonne National Wildlife Refuge.* Hunting of quail, squirrel, rabbit, raccoon and opossum is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting of raccoon and opossum is permitted only during January.

(ii) Feral hogs may be taken during all refuge hunts.

(4) *Delta National Wildlife Refuge.* Hunting of rabbit is permitted on designated areas of the refuge subject to the following condition: Hunting is permitted from the day after the waterfowl season closes through the remainder of the State season.

(5) *Tensas River National Wildlife Refuge.* Hunting of squirrel, rabbit and raccoon is permitted on designated areas of the refuge subject to the following conditions.

(i) Permits are required.

(ii) Hunting is not permitted during the refuge deer gun hunts.

(iii) Hunting of squirrel and rabbit is permitted from the first Saturday in October through the Wednesday preceding Thanksgiving Day. Hunting of rabbit is also permitted from January 21 through the first Sunday in February.

(iv) Hunting of raccoon is permitted for nine days beginning the day after the last refuge rabbit season ends.

(6) *Upper Ouachita National Wildlife Refuge.* Hunting of quail, squirrel, rabbit, raccoon and opossum is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting of raccoon and opossum is permitted from January 15 through January 31.

(ii) Feral hogs may be taken during all refuge hunts.

(r) Maine—Rachel Carson National Wildlife Refuge. Hunting of ring-necked pheasant and ruffed grouse is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(s) *Massachusetts—Oxbow National Wildlife Refuge.* Hunting of upland game birds and small game is permitted on designated areas of the refuge subject to the following conditions:

(1) Shotguns only are permitted.

(2) Vehicles are restricted to the designated parking area that is accessible from the Still River Depot Road. Entry by routes other than Still River Depot Road is not permitted.

(t) *Michigan—Seney National Wildlife Refuge.* Hunting of grouse and snowshoe hare is permitted on designated areas of the refuge subject to the following condition: Snowshoe hare hunting is permitted from December 1 through the end of February.

(u) *Minnesota*—(1) *Big Stone National Wildlife Refuge.* Hunting of gray partridge, ring-necked pheasant, gray and fox squirrel, cottontail rabbit and jackrabbit is permitted on designated areas of the refuge.

(2) *Rice Lake National Wildlife Refuge.* Hunting of ruffed grouse, spruce grouse, gray and fox squirrel, cottontail rabbit and snowshoe hare is permitted on designated areas of the refuge.

(3) *Sherburne National Wildlife Refuge.* Hunting of ruffed grouse, ring-necked pheasant, gray and fox squirrel, snowshoe hare, cottontail rabbit and jackrabbit is permitted on designated areas of the refuge.

(4) *Tamarac National Wildlife Refuge.* Hunting of ruffed grouse, gray and fox squirrel, cottontail rabbit, jackrabbit and snowshoe hare is permitted on designated areas of the refuge subject to the following condition: Hunting is in accordance with White Earth Indian Reservation regulations on those parts of the Reservation that are a part of the refuge.

(v) *Mississippi*—(1) *Hillside National Wildlife Refuge.* Hunting of quail, rabbit, squirrel, beaver, raccoon and opossum is permitted on designated areas of the refuge subject to the following condition: Hunting of raccoon and opossum is permitted from sunset to one hour before sunrise.

(2) *Mathews Brake National Wildlife Refuge.* Hunting of quail, squirrel, beaver, raccoon and opossum is permitted on designated areas of the refuge subject to the following condition: Hunting of raccoon and opossum is permitted from sunset to one hour before sunrise.

(3) *Morgan Brake National Wildlife Refuge.* Hunting of squirrel, rabbit, beaver, raccoon and opossum is permitted on designated areas of the refuge subject to the following condition: Hunting of raccoon and opossum is permitted from sunset to one hour before sunrise.

(4) *Noxubee National Wildlife Refuge.* Hunting of quail, squirrel, rabbit, beaver, raccoon and opossum is permitted on designated areas of the refuge subject to the following condition: The bag limit for raccoon is one per day and the possession limit is two.

(5) *Panther Swamp National Wildlife Refuge.* Hunting of quail, rabbit, squirrel, beaver, raccoon and opossum is permitted on designated areas of the refuge.

(6) *Yazoo National Wildlife Refuge.* Hunting of squirrel, rabbit, raccoon, opossum and furbearers is permitted on designated areas of the refuge subject to the following special conditions:

(i) Permits are required.

(ii) Hunting of squirrel and rabbit is permitted through the third Friday in November.

(iii) Hunting of rabbit is permitted again beginning the second Saturday in February.

(iv) Hunting of raccoon and opossum is permitted the last four days of the February State season.

(v) Beaver, nutria, muskrat, bobcat and coyote may be taken in season during any refuge hunt.

(w) *Missouri—Mingo National Wildlife Refuge.* Hunting of squirrel and turkey is permitted on designated areas of the refuge subject to the following conditions:

(1) Turkey hunting is permitted only during the State spring firearm and fall archery seasons.

(2) Hunting of squirrel is permitted from the opening of the State season through September 30.

(3) Hunters are required to check in and out of the refuge.

(x) *Montana*—(1) *Benton Lake National Wildlife Refuge.* Hunting of pheasant and partridge is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is permitted through November 30.

(ii) Hunting is permitted from one-half hour before sunrise to sunset.

(2) *Bowdoin National Wildlife Refuge.* Hunting of pheasant, sharp-tailed grouse, sage grouse, gray partridge, fox and coyote is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting of fox and coyote is permitted from December 1 to March 1.

(ii) Hunters are required to check in and out of the refuge.

(3) *Charles M. Russell National Wildlife Refuge.* Hunting of upland game birds, turkey and coyote is permitted on designated areas of the refuge.

(4) *Hailstone National Wildlife Refuge.* Hunting of upland game birds is permitted on designated areas of the refuge.

(5) *Lake Mason National Wildlife Refuge.* Hunting of upland game birds is permitted on designated areas of the refuge.

(6) *Medicine Lake National Wildlife Refuge.* Hunting of pheasant, sharp-tailed grouse and Hungarian partridge is permitted on designated areas of the refuge.

(7) *War Horse National Wildlife Refuge.* Hunting of upland game birds is permitted on designated areas of the refuge.

(y) *Nebraska*—(1) *Crescent Lake National Wildlife Refuge.* Hunting of ring-necked pheasant and sharp-tailed grouse is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(2) *Valentine National Wildlife Refuge.* Hunting of pheasant, sharp-tailed grouse and prairie chicken is permitted on designated areas of the refuge.

(z) *Nevada*—(1) *Pahranagat National Wildlife Refuge.* Hunting of pheasant, quail, grouse, partridge and rabbit is permitted on designated areas of the refuge subject to the following condition: Hunting of jackrabbit is permitted only during the regular State season for cottontail rabbit.

(2) *Sheldon National Wildlife Refuge.* Hunting of quail, grouse and partridge is permitted on designated areas of the refuge.

(aa) *New Mexico*—(1) Bitter Lake National Wildlife Refuge. Hunting of quail, ring-necked and white-winged pheasant, quail, cottontail rabbit and jackrabbit is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting of jackrabbit and cottontail rabbit is permitted only during the State quail season.

(ii) Hunters must use and be in possession of only shells containing steel shot in the South Unit (Area C) during waterfowl seasons.

(iii) Only shotguns and bows and arrows are permitted.

(2) *Bosque del Apache National Wildlife Refuge.* Hunting of quail, cottontail rabbit and jackrabbit is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting of jackrabbit and cottontail rabbit is permitted only during the State quail season.

(ii) Only shotguns and bows and arrows are permitted.

(bb) *New York*—(1) *Iroquois National Wildlife Refuge.* Hunting of upland game birds, small game mammals, legally hunted furbearers and unprotected wildlife is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required for night hunting of raccoon.

(ii) Hunting is not permitted from March 1 through September 30.

(2) *Montezuma National Wildlife Refuge.* Hunting of gray squirrrel, cottontail rabbit, raccoon and fox is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required for night hunting of raccoon.

(ii) Hunting is permitted from the third Sunday in December through the close of the respective State seasons.

(cc) *North Carolina—Pee Dee National Wildlife Refuge.* Hunting of quail, squirrel, rabbit, raccoon and opossum is permitted on designated areas of the refuge subject to the following conditions:

(1) Hunting of squirrel, raccoon and opossum is permitted from the first day of the State season through the third Friday in November, except during deer gun hunt dates.

(2) Hunting of quail is permitted from February 1 through February 14.

(3) Hunting of rabbit is permitted from February 15 through the end of the State season.

(dd) *North Dakota*—(1) *Arrowwood National Wildlife Refuge.* Hunting of pheasant, grouse, Hungarian partridge and fox is permitted on designated areas of the refuge subject to the following condition: Hunting is permitted from the day after the State deer gun season through the regular State late upland game season.

(2) *J. Clark Salyer National Wildlife Refuge.* Hunting of pheasant, partridge, grouse and turkey is permitted on designated areas of the refuge.

(3) *Lake Alice National Wildlife Refuge.* Hunting of upland game and fox is permitted on designated areas of the refuge.

(4) *Lostwood National Wildlife Refuge.* Hunting of sharp-tail grouse and Hungarian partridge is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is not permitted on the portion of the refuge south of Highway 50 during the State deer gun season.

(ii) Hunting is permitted on the portion of the refuge north of Highway 50 only after the close of the State deer gun season.

(5) *Tewaukon National Wildlife Refuge.* Hunting of ring-necked pheasant is permitted on designated areas of the refuge subject to the following condition: Hunting is permitted beginning the third day after the start of either the State late archery deer season or the normal State late pheasant season whichever is later.

(6) *Upper Souris National Wildlife Refuge.* Hunting of sharp-tailed grouse and Hungarian partridge is permitted on designated areas of the refuge subject to the following conditions:

(i) Designated areas are closed during the waterfowl and deer gun season.

(ii) Blaze orange vest and cap are required during the deer gun season.

(ee) *Oklahoma*—(1) *Sequoyah National Wildlife Refuge.* Hunting of squirrel, quail and rabbit is permitted on designated areas of the refuge subject to the following condition: Only shotguns and bows and arrows are permitted.

(2) *Tishomingo National Wildlife Refuge.* Hunting of quail, squirrel and rabbit is permitted on the Tishomingo Wildlife Management Unit of the refuge subject to the following conditions:

(i) Hunting of upland game is not permitted in the goose hunting zone during the goose hunting season.

(ii) Hunters are required to check in and out of the refuge.

(3) *Washita National Wildlife Refuge.* Hunting of quail and rabbit is permitted on designated areas of the refuge subject to the following condition: Only shotguns and bows and arrows are permitted.

(ff) *Oregon*—(1) *Ankeny National Wildlife Refuge.* Hunting of pheasant and quail is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is permitted through October 31.

(ii) Hunters must check in and out of the refuge by use of self-service permits.

(2) *Baskett Slough National Wildlife Refuge.* Hunting of pheasant and quail is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is permitted through October 31.

(ii) Hunters must check in and out of the refuge by use of self-service permits.

(3) *Cold Springs National Wildlife Refuge.* Hunting of upland game birds and rabbit is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is permitted only on Wednesdays, Saturdays, Sundays and State holidays beginning at noon each day.

(ii) Hunting of rabbit is permitted only during the State waterfowl season.

(iii) Hunting is permitted only by shotgun and bow and flu-flu arrow.

(4) *Deer Flat National Wildlife Refuge.* Hunting of upland game is permitted on the Snake River Sector subject to the following condition: Hunting is not permitted from February 1 through May 31.

(5) *Hart Mountain National Antelope Refuge.* Hunting of partridge and quail is permitted on designated areas of the refuge.

(6) *Lower Klamath National Wildlife Refuge.* Hunting of pheasant is permitted on designated areas of the refuge subject to the following condition: Possession of firearms in posted retrieving zones is not permitted except unloaded firearms may be taken through these zones when in transit to and from hunting areas.

(7) *Malheur National Wildlife Refuge.* Hunting of pheasant, quail, partridge, coyote and rabbit is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting of pheasant, quail, partridge and rabbit is permitted during the last nine days of the State pheasant season in designated zones of Blitzen Valley east of Highway 205. Hunting is also permitted on Malheur Lake during the waterfowl hunting season.

(ii) Hunting of coyote and rabbit is permitted from September 1 to January 31 on the refuge area west of Highway 205.

(8) *McKay Creek National Wildlife Refuge.* Hunting of upland game birds and rabbit is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required for both days on opening weekend.

(ii) Hunting is permitted only on Wednesdays, Saturdays, Sundays, and State holidays beginning at noon each day.

(iii) Hunting of rabbit is permitted only during the State waterfowl season.

(iv) Hunting is permitted by shotgun and bow and flu-flu arrow only.

(9) *Umatilla National Wildlife Refuge.* Hunting of upland game birds and rabbit is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required for hunting on the McCormack Unit for both days on opening weekend.

(ii) Hunting is permitted only on Wednesdays, Saturdays, Sundays and State holidays, except Christmas Day, in the McCormack Unit.

(iii) Hunting of rabbit is permitted only during the State waterfowl season.

(iv) Hunting is permitted by shotgun and bow and flu-flu arrow beginning at noon each day.

(10) *William L. Finley National Wildlife Refuge.* Hunting of pheasant and quail is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is permitted through October 31.

(ii) Hunters much check in and out of the refuge by use of self-service permits.

(gg) *Pennsylvania—Erie National Wildlife Refuge.* Hunting of grouse, pheasant, quail, squirrel, rabbit, woodchuck, raccoon, skunk, fox and opossum is permitted on designated areas of the refuge subject to the following conditions:

(1) Permits are required for hunting fox and raccoon.

(2) Hunting is not permitted from March 1 through August 31.

(hh) *South Carolina*—(1) *Cape Romain National Wildlife Refuge.* Hunting of squirrel and raccoon is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting of squirrel and raccoon is permitted only during the refuge deer season.

(2) *Carolina Sandhills National Wildlife Refuge.* Hunting of quail, rabbit, raccoon and opossum is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required for raccoon and opossum hunting.

(ii) Hunting of raccoon and opossum is permitted from March 1 through March 10.

(ii) *South Dakota*—(1) *Lacreek National Wildlife Refuge.* Hunting of ring-necked pheasant and sharp-tailed grouse is permitted on designated areas of the refuge subject to the following special condition: Permits are required.

(2) *Sand Lake National Wildlife Refuge.* Hunting of pheasant is permitted on designated areas of the refuge.

(3) *Pocasse National Wildlife Refuge.* Hunting of pheasant is permitted on designated areas of the refuge.

(jj) *Tennessee*—(1) *Hatchie National Wildlife Refuge.* Hunting of quail,

squirrel, rabbit, raccoon and opossum is permitted on designated areas of the refuge subject to the following condition: The State fluorescent orange requirements for the deer season applies to small game hunters on the refuge during the refuge firearms deer hunts.

(2) *Lake Isom National Wildlife Refuge.* Hunting of squirrels and raccoons is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting of squirrel is permitted from the fourth Saturday in August through October 15.

(ii) Hunting of raccoon is permitted on four consecutive nights beginning on the last Wednesday in September and again on four consecutive nights beginning on the first Wednesday in October.

(iii) Hunting of raccoon is permitted from 7:30 p.m. to midnight.

(iv) Checking of bagged raccoon is required.

(3) *Tennessee National Wildlife Refuge.* Hunting of squirrel and raccoon is permitted on designated areas of the refuge.

(kk) *Texas—Hagerman National Wildlife Refuge.* Hunting of squirrel and rabbit is permitted on designated areas of the refuge subject to the following conditions:

(1) Hunters are required to check in and out of the hunt area.

(2) Only shotguns and bows and arrows are permitted.

(ll) *Utah*—(1) *Bear River Migratory Bird Refuge.* Hunting of pheasant is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunters are required to check in and out of the refuge.

(ii) Hunters must use and be in the possession of only shells containing steel shot.

(2) *Ouray National Wildlife Refuge.* Hunting of pheasant is permitted on designated areas of the refuge.

(mm) *Vermont—Missisquoi National Wildlife Refuge.* Hunting of upland game is permitted on designated areas of the refuge subject to the following special condition: The use of rifles is not permitted on that portion of the refuge lying east of the Missisquoi River.

(nn) *Washington*—(1) *Columbia National Wildlife Refuge.* Hunting of pheasant, quail, partridge and rabbit is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting of upland game birds and rabbit is permitted only during State seasons that run concurrently with the State waterfowl season.

(ii) Only shotguns and bows and arrows are permitted.

(2) *Conboy Lake National Wildlife Refuge.* Hunting of grouse, pheasant, quail and partridge is permitted on designated areas of the refuge.

(3) *McNary National Wildlife Refuge.* Hunting of upland game birds and rabbit is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is permitted by shotgun or bow and flu-flu arrow only on Wednesdays, Saturdays, Sundays and State holidays beginning at noon each day.

(ii) Hunting of rabbit is permitted only during the State waterfowl season.

(4) *Toppenish National Wildlife Refuge.* Hunting of upland game birds and rabbit is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is permitted only by shotgun or bow and flu-flu arrow beginning at noon each day.

(ii) Hunting of rabbit is permitted only during the State waterfowl season.

(5) *Umatilla National Wildlife Refuge.* Hunting of upland game birds and rabbit is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is permitted only by shotgun or bow and flu-flu arrow beginning at noon each day.

(ii) Hunting is permitted only on Wednesdays, Saturdays, Sundays and State holidays in the Patterson Slough Unit.

(iii) Hunting of rabbit is permitted only during the State waterfowl season.

(6) *Willapa National Wildlife Refuge.* Hunting of blue and ruffed grouse is permitted on the Long Island Unit subject to the following conditions:

(i) Permits are required.

(ii) Only archery hunting is permitted.

(oo) *Wisconsin*—(1) *Horicon National Wildlife Refuge.* Hunting of ring-necked pheasant, gray partridge, squirrel and cottontail rabbit is permitted subject to the following condition: Hunting is permitted from the opening of the respective State season through the State deer firearms season.

(2) *Necedah National Wildlife Refuge.* Hunting of small game is permitted on designated areas of the refuge.

(pp) *Wyoming*—(1) *Pathfinder National Wildlife Refuge.* Hunting of sage grouse and cottontail rabbit is permitted on designated areas of the refuge.

(2) *Seedskadee National Wildlife Refuge.* Hunting of sage grouse and cottontail rabbit is permitted on designated areas of the refuge.

§ 32.32 Refuge-specific regulations; big game.

(a) *Alabama*—(1) *Choctaw National Wildlife Refuge.* Hunting of white-tailed deer and feral hogs is permitted on designated areas of the refuge subject to the following conditions:

(1) Permits are required.

(ii) Only archery hunting is permitted.

(iii) Hunting is permitted from the opening day of the State season through the Saturday before Christmas Day.

(2) *Eufaula National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Only archery hunting is permitted.

(ii) Archery hunting is permitted during the State archery and gun season.

(iii) Checking of bagged game is required.

(3) *Wheeler National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject the following conditions:

(i) Permits are required.

(ii) Bow hunting is permitted during the first four weeks of the State season.

(iii) Hunting with bows and arrows and flintlock firearms is permitted during the last two weeks of the State season.

(iv) All hunters are required to wear an outergarment containing a minimum of 144 square inches of daylight fluorescent orange material visible from any angle during any refuge deer gun hunt.

(b) *Arizona*—(1) *Cabeza Prieta National Wildlife Refuge.* Hunting of desert bighorn sheep is permitted on designated areas of the refuge subject to the following condition: Entry permits are required.

(2) *Havasu National Wildlife Refuge.* Hunting of desert bighorn sheep is permitted on designated areas of the refuge subject to the following condition: Hunting is only permitted on the part of the Bill Williams Unit south of the Planet Ranch Road in Unit 44A.

(3) *Kofa National Wildife Refuge.* Hunting of mule deer and desert bighorn sheep is permitted on designated areas of the refuge.

(c) *Arizona and California*—(1) *Cibola National Wildlife Refuge.* Hunting of mule deer is permitted on designated areas of the refuge subject to the following conditions:

(i) During the waterfowl season, hunting of deer is not permitted on Farm Unit 2 before 12:00 p.m. each day.

(ii) Hunting is not permitted within 50 yards of any road or levee or within 250 yards of any farmworker.

(iii) Only antlered deer may be taken.

(2) *Imperial National Wildlife Refuge.* Hunting of mule deer is permitted on designated areas of the refuge.

(d) *Arkansas*—(1) *Big Lake National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Only archery hunting is permitted.

(iii) Hunting is permitted from November 1 through December 31.

(2) *Felsenthal National Wildlife Refuge.* Hunting of white-tailed deer and feral hogs is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Archery hunting is permitted from the opening day of the State season through January 31.

(iii) Muzzleloader hunting is permitted on the fourth Friday and Saturday in October.

(iv) Hunting of antlerless deer is permitted during the Thanksgiving Day Holiday deer gun hunt.

(3) *Holla Bend National Wildlife Refuge.* Hunting of white-tailed deer and turkey is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Only archery hunting is permitted.

(iii) Hunters are required to check in and out of the refuge.

(4) *Overflow National Wildlife Refuge.* Hunting of white-tailed deer and feral hogs is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Archery hunting is permitted from the opening day of the State season through October 31.

(iii) Muzzleloader hunting is permitted on the fourth Friday and Saturday in October.

(5) *White River National Wildlife Refuge.* Hunting of white-tailed deer and turkey is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) The youth/adult hunt is permitted on the Friday and Saturday after Thanksgiving Day.

(iii) During the youth/adult deer hunt, all hunters over 15 years of age must be accompanied by at least one and not more than two youths, ages 15 and under.

(iv) Archery hunting is permitted from the opening day of the State season through October 31 and from the first Saturday in January through January 31.

(v) Muzzleloader hunting is permitted the last two days of the State's first muzzleloader deer season.

(vi) Hunting of deer with modern guns is permitted on the first Friday and Saturday of the first State deer gun season.

(vii) The bag limit for all deer gun hunts is one deer of either sex per hunt.

(viii) Hunting of turkey is permitted Wednesday through Saturday of the State spring season.

(ix) Checking of bagged game is required.

(e) *California—Clear Lake National Wildlife Refuge.* Hunting of pronghorn antelope is permitted on the controlled "U" Unit of the refuge subject to the following conditions:

(1) The unit is open to hunting only during the first 2 weekends of the State season.

(2) Access to the unit is permitted only through the gate located on Clear Lake Road.

(f) *Colorado*—(1) *Arapaho National Wildlife Refuge.* Hunting of pronghorn antelope is permitted on designated areas of the refuge.

(2) *Browns Park National Wildlife Refuge.* Hunting of mule deer is permitted on designated areas of the refuge.

(g) *Delaware*—(1) *Bombay Hook National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(2) *Prime Hook National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(h) *Florida*—(1) *Chassahowitzka National Wildlife Refuge.* Hunting of white-tailed deer and feral hogs is pemitted on designated areas of the refuge subject to the following condition: Permits are required.

(2) *Lake Woodruff National Wildlife Refuge.* Hunting of white-tailed deer and feral hogs is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Archery hunting is permitted on the first sixteen days of the State archery season.

(iii) Two four-day blackpowder hunts are permitted beginning on the Thursdays immediately before and after the State blackpowder hunt.

(iv) During all hunts, hunters are required to remain on their stand from one-half hour before sunrise until 9:00 a.m.

(3) *Lower Suwannee National Wildlife Refuge.* Hunting of white-tailed deer and feral hogs is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting during the general gun season is restricted to the first 10 consecutive days of the State season and to 10 consecutive days beginning the second Saturday in December.

(4) *Loxahatchee National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting is permitted for six consecutive days beginning on the first Saturday in November.

(iii) One deer may be taken. Deer may be of either sex.

(iv) Buckshot, crossbows and handguns are not permitted.

(v) Guns must be unloaded and cased or dismantled when outside the hunting area and when the boat is enroute to or from the hunting area.

(5) *St. Marks National Wildlife Refuge.* Hunting of white-tailed deer, turkeys and feral hogs is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Archery hunting is permitted for 10 consecutive days beginning the first Friday in November.

(iii) A hogs only hunt is permitted for two consecutive days beginning the third Friday in November.

(iv) A bucks only hunt using bows and/or muzzleloaders is permitted for two consecutive days beginning the third Friday after Thanksgiving.

(v) Two 2-day buck only hunts are permitted beginning on the second and fourth Saturdays in January.

(vi) Turkey hunting is permitted for nine consecutive days beginning the fourth Friday in March.

(vii) A portion of the refuge is cooperatively administered as part of the Aucilla Wildlife Management Area, and State regulations apply entirely to this area.

(6) *St. Vincent National Wildlife Refuge.* Hunting of white-tailed deer, turkey and feral hogs is permitted on designated areas of the refuge subject to the following conditions:

(1) Permits are required.

(ii) The bag limit for white-tailed deer and turkey is one of either sex during the archery and primitive weapons hunts.

(iii) Hunters are required to check in and out of the refuge.

(iv) During the archery and primitive weapons hunts, hunters must remain on their stands from one-half hour before sunrise to 9:00 a.m. unless a deer is taken.

(i) *Georgia*—(1) *Blackbeard Island National Wildlife Refuge.* Hunting of

white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Archery hunting is permitted for three consecutive days beginning the fourth Monday in October and for three consecutive days beginning the fourth Friday in November.

(iii) Two deer may be taken. Deer may be of either sex.

(iv) Hunters are required to check in and out of the refuge.

(v) Hunters are required to remain on their stands from one-half hour before sunrise until 9:00 a.m. and from two hours before sunset until sunset unless a deer is taken.

(2) *Harris Neck National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Archery hunting is permitted on the fourth Saturday in September.

(iii) Shotgun hunting is permitted on the third Saturday in December.

(iv) Two deer may be taken. Deer may be of either sex.

(v) Only shotguns are permitted during the gun hunt.

(vi) Hunters are required to check in and out of the refuge.

(vii) Hunters are required to remain on their stands from one-half hour before sunrise until 9:00 a.m. and from two hours before sunset until sunset unless a deer is taken.

(3) *Okefenokee National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Archery hunting is permitted on Thursday, Friday and Saturday during the State archery season.

(iii) Shotgun hunting is permitted on the Cowhouse Island Unit on the first Saturday of the State firearm season and on alternate Saturdays thereafter through December 31.

(iv) Shotgun hunting is permitted on the Pocket Unit on the first Saturday of November and December.

(v) Shotgun hunting is permitted on the Suwannee Canal Recreation Area on the first and second Thursdays and Fridays of the State firearm season.

(vi) Deer of either sex may be taken.

(vii) Hunters are required to remain on their stands from one-half hour before sunrise until 9:00 a.m. and from two hours before sunset until sunset unless a deer is taken.

(4) *Piedmont National Wildlife Refuge.* Hunting of white-tailed deer and turkey is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) A bucks only hunt is permitted for three consecutive days beginning on the first Thursday in November.

(iii) A primitive weapons hunt of deer is permitted for three consecutive days beginning on the third Thursday in October. Bucks taken during this hunt must have 3 or more points on one side or must be antlerless.

(iv) A general gun hunt of deer is permitted on the second and third Saturday in November and the first Saturday in December.

(v) Three 3-day turkey hunts are permitted beginning on the first, second and third Thursdays in April.

(vi) Only still hunting is permitted.

(5) *Wassaw National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Archery hunting is permitted on three consecutive days beginning the second Friday in November. Primitive weapons are also permitted on the third day of this hunt.

(iii) Gun hunting is permitted on two consecutive days beginning the second Friday in December.

(iv) Two deer may be taken. Deer may be of either sex.

(v) Hunters are required to remain on their stands from one-half hour before sunrise until 9:00 a.m. and from two hours before sunset until sunset unless a deer is taken.

(vi) Hunters are required to check in and out of the refuge.

(j) *Georgia and South Carolina—Savannah National Wildlife Refuge.* Hunting of white-tailed deer and feral hogs is permitted on designated areas of the refuge subject to the following conditions:

(1) Permits are required.

(2) Hunting is permitted for seven consecutive days beginning the fourth Monday in October.

(3) Only shotguns and bows and arrows are permitted.

(4) Hunters are required to wear a visible outergarment made of daylight fluorescent orange material.

(k) *Idaho*—(1) *Deer Flat National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following condition: Hunting is permitted only on the Snake River Sector.

(2) *Kootenai National Wildlife Refuge.* Hunting of deer, elk, black bear, moose and mountain lion is permitted on designated areas of the refuge subject to the following condition: Hunting is permitted only on that portion of the refuge that lies west of the West Side Road.

(l) *Illinois*—(1) *Crab Orchard National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(1) A special permit issued by the Illinois Department of Conservation is required.

(2) Hunting is permitted only during the State shotgun and bow and arrow seasons.

(3) Hunters using Area II are required to check in at the refuge fire station prior to hunting.

(4) Hunting is permitted only from ground level.

(m) *Illinois, Iowa, Minnesota and Wisconsin—Upper Mississippi River Wild Life and Fish Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(1) Hunting is not permitted on the Goose Island Area in Pool 8.

(2) Hunting of deer is permitted on other areas that are closed during the waterfowl hunting season and are designated by signs as "Area Closed" beginning the day after the close of the applicable State duck hunting season.

(3) Construction or use of permanent blinds, platforms or ladders is not permitted.

(4) All stands must be removed from the refuge at the end of each day's hunt.

(n) *Illinois, Iowa and Missouri—Mark Twain National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(1) Hunting with shotgun only is permitted on portions of the Gardner Division. A valid State-issued shotgun deer permit with Mark Twain National Wildlife Refuge designated on it is required. Hunting is permitted during a portion of the November Illinois shotgun season. Hunting is permitted from 6:30 a.m. to 3:00 p.m.

(2) Hunting of white-tailed deer is permitted in designated areas on the Timber Division and Turkey and Otter Islands during the State season.

(3) Archery hunting of white-tailed deer on the Gardner Division is permitted during a portion of the Illinois archery deer season. A valid State-issued shotgun deer permit with Mark Twain National Wildlife Refuge designated on it is required.

(o) *Iowa—DeSoto National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(1) Permits are required.

(2) Only archery hunting is permitted.

(3) The construction or use of permanent blinds, platforms or ladders is not permitted.

(4) All stands must be removed from the refuge by the close of the season.

(p) *Kansas*—(1) *Flint Hills National Wildlife Refuge.* Hunting of big game is permitted on designated areas of the refuge subject to the following condition: The use of rifled firearms is not permitted.

(2) *Kirwin National Wildlife Refuge.* Hunting of deer and turkey is permitted on designated areas of the refuge subject to the following conditions: Only archery hunting of deer is permitted.

(q) *Louisiana*—(1) *Bogue Chitto National Wildlife Refuge.* Hunting of white-tailed deer, turkey and unmarked feral hogs is permitted on designated areas of the refuge subject to the following conditions:

(i) Only still hunting is permitted.

(ii) Unmarked feral hogs may be taken only during the refuge deer seasons.

(2) *Catahoula National Wildlife Refuge.* Hunting of white-tailed deer and unmarked feral hogs is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required for the youth gun hunt.

(ii) The youth gun hunt for persons age 15 and under is permitted on the first and second Saturdays of November.

(iii) Deer (bucks only) and unmarked feral hogs may be taken during the youth gun hunt.

(iv) Muzzleloader hunting for deer (bucks only) and unmarked feral hogs is permitted for 5 consecutive days beginning the Saturday after Thanksgiving Day.

(v) Only still hunting is permitted.

(vi) Checking of bagged game is required.

(3) *D'Arbonne National Wildlife Refuge.* Hunting of white-tailed deer and feral hogs is permitted on designated areas of the refuge subject to the following condition: Hunting of deer with guns is permitted through the Saturday after Thanksgiving Day.

(4) *Tensas River National Wildlife Refuge.* Hunting of white-tailed deer and turkey is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Either-sex deer hunting is permitted within the framework of State regulations.

(iii) The bag limit for all gun hunts is one deer per day. Deer may be of either sex.

(iv) Hunters are required to check in and out of the refuge.

(v) Checking of bagged game is required.

(5) *Upper Ouachita National Wildlife Refuge.* Hunting of white-tailed deer and feral hogs is permitted on designated areas of the refuge subject to the following condition: The refuge gun season for deer closes the Saturday after Thanksgiving Day.

(r) *Maine*—(1) *Moosehorn National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(2) *Rachel Carson National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following condition: Only shotguns, muzzleloading rifles, compound and long bows and arrows are permitted.

(s) *Maryland*—(1) *Eastern Neck National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(2) *Blackwater National Wildlife Refuge.* Hunting of sika and white-tailed deer is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(t) *Michigan*—(1) *Seney National Wildlife Refuge.* Hunting of deer and bear is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting of deer with bow and arrow only is permitted from the opening of the State season through November 12 and from December 1 through the end of the State deer archery season.

(ii) Hunting of bear is permitted with gun or bow and arrow only.

(iii) The use of dogs while hunting bear is not permitted.

(2) *Shiawassee National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(u) Minnesota—Agassiz National Wildlife Refuge. Hunting of white-tailed deer and moose is permitted on designated areas of the refuge subject to the following conditions:

(i) The construction or use of permanent blinds, platforms or ladders is not permitted.

(ii) All stands must be removed from the refuge at the end of each day's hunt.

(2) *Big Stone National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(i) The construction or use of permanent blinds, platforms or ladders is not permitted.

(ii) All stands must be removed from the refuge at the end of each day's hunt.

(3) *Rice Lake National Wildlife Refuge.* Hunting of white tailed-deer is permitted on designated areas of the refuge subject to the following conditions:

(i) The construction or use of permanent blinds, platforms or ladders is not permitted.

(ii) All stands must be removed from the refuge at the end of each day's hunt.

(4) *Sherburne National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(i) The construction or use of permanent blinds, platforms or ladders is not permitted.

(ii) All stands must be removed from the refuge at the end of each day's hunt.

(5) *Tamarac National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is in accordance with White Earth Reservation regulations on those portions of the Reservation that are a part of the refuge.

(ii) The construction or use of permanent blinds, platforms or ladders is not permitted.

(iii) All stands must be removed from the refuge at the end of each day's hunt.

(v) *Mississippi—Hillside National Wildlife Refuge.* Hunting of white tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required for hunting with guns.

(ii) The youth deer hunt for persons age 15 and under is permitted for two consecutive days beginning on the third Saturday in November. Only such youths may carry, handle or discharge firearms during this hunt.

(iii) General gun hunt is permitted for two consecutive days beginning on the third Friday in December.

(iv) Only still hunting is permitted.

(2) *Mathews Brake National Wildlife Refuge.* Hunting of white tailed-deer is permitted on designated areas of the refuge subject to the following condition: Only archery hunting is permitted.

(3) *Morgan Brake National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Only archery and primitive weapons hunting are permitted except for the antlerless deer hunt with modern guns.

(ii) Permits are required for hunting antlerless deer with modern guns.

(iii) Only still hunting is permitted.

(4) *Noxubee National Wildlife Refuge.* Hunting of white-tailed deer and turkey is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Only shotguns are permitted for turkey hunting.

(iii) Checking of bagged game is required.

(iv) Only portable stands are permitted.

(5) *Panther Swamp National Wildlife Refuge.* Hunting of white-tailed deer and turkey is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required for hunting antlerless deer with modern guns.

(ii) The youth deer hunt for persons age 15 and under is permitted for two consecutive days beginning on the day following Thanksgiving Day. Only the youth may carry, handle or discharge firearms during this hunt.

(iii) Only still hunting is permitted.

(iv) Only shotguns are permitted for turkey hunting.

(6) *Yazoo National Wildlife Refuge.* Hunting of white-tailed deer and turkey is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) The youth deer hunt for persons age 15 and under is permitted for three consecutive days beginning with Thanksgiving Day.

(iii) During the youth deer hunt only the youth may carry, handle and/or discharge the firearm.

(iv) Muzzleloader deer hunting is permitted the first six days of the State season excluding Sunday.

(v) General gun deer hunting is permitted the first Saturday of the State season following the muzzleloader hunt.

(vi) Hunting of turkey is permitted each Friday and Saturday during the State April season.

(vii) Only shotguns are permitted for turkey hunting.

(viii) The bag limit for turkey is one bearded turkey, and the bag limit for all deer hunts is one deer.

(ix) Only still hunting is permitted.

(x) Hunters are required to check in and out of the refuge.

(xi) Checking of bagged game is required.

(w) *Missouri*—(1) *Mingo National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Only archery hunting is permitted.

(ii) Hunters are required to check in and out of the refuge.

(iii) The construction or use of permanent blinds, platforms or ladders is not permitted.

(iv) All stands must be removed from the refuge by the close of the season.

(2) *Swan Lake National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Only primitive weapons are permitted for hunting on designated areas of the refuge.

(x) *Montana*—(1) *Charles M. Russell National Wildlife Refuge.* Hunting of big game is permitted on designated areas of the refuge subject to the following special conditions:

(i) Hunting of coyotes is permitted from the first day of the general Statewide antelope season through February 5.

(ii) Off-road retrieval of downed game by motor vehicle is not permitted.

(2) *Lee Metcalf National Wildlife Refuge.* Hunting of white-tailed and mule deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Only archery hunting is permitted.

(ii) Firearms are not permitted.

(iii) Hunters are required to check in and out of the refuge.

(3) *Medicine Lake National Wildlife Refuge.* Hunting of deer and antelope is permitted on designated areas of the refuge.

(4) *Red Rocks Lake National Wildlife Refuge.* Hunting of deer, elk, moose and pronghorn antelope is permitted on designated areas of the refuge.

(y) *Nebraska*—(1) *Crescent Lake National Wildlife Refuge.* Hunting of white-tailed deer, mule deer and pronghorn antelope is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Checking of bagged game is required.

(2) *DeSoto National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Only archery hunting is permitted on the area located west of the Missouri River. Firearms are not permitted on this area.

(iii) Muzzleloader hunting of deer is permitted on the area located in the central portion of the refuge. Entry to this hunting area is permitted one hour before shooting hours. All permit holders and their vehicles must be out of the designated shooting hunting area no later than one hour after sunset.

(iv) The construction or use of permanent blinds, platforms or ladders is not permitted.

(v) All stands must be removed from the refuge by the close of the season.

(3) *Valentine National Wildlife Refuge.* Hunting of white-tailed deer and mule deer is permitted on designated areas of the refuge.

(z) *Nevada*—(1) *Desert National Wildlife Refuge.* Hunting of bighorn sheep is permitted on designated areas of the range subject to the following conditions:

(i) Bighorn sheep guides are required to obtain a Special Use Permit prior to taking clients on to the range.

(ii) Only bighorn sheep tag holders may possess or carry a firearm or bow that must be a legal weapon as defined by State regulations.

(iii) Natural mortalities or "pickup heads" found on the range are government property and possession or removal of them from the range is not permitted.

(2) *Sheldon National Wildlife Refuge.* Hunting of deer, antelope and bighorn sheep is permitted on designated areas of the refuge.

(aa) *New Jersey—Great Swamp National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(bb) *New Mexico*—(1) *Bitter Lake National Wildlife Refuge.* Hunting of mule deer is permitted on designated areas of the refuge.

(2) *Bosque del Apache National Wildlife Refuge.* Hunting of mule deer is permitted on designated areas of the refuge subject to the following condition: Permits are required for hunting in the Bottomlands Management Hunt Unit.

(cc) *New York*—(1) *Iroquois National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge.

(2) *Montezuma National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(dd) *North Carolina*—(1) *MacKay Island National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(2) *Pee Dee National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required for the gun hunts.

(ii) Muzzleloader hunting is permitted the first Tuesday after Veterans Day, the first Monday, Tuesday, Friday and Saturday of the State November regular gun season and Thanksgiving Day which is a youth hunt day.

(iii) One deer may be taken during each gun hunt. Deer may be of either sex.

(iv) Archery hunting for deer is permitted the entire State season.

(3) *Pungo National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Gun hunting is permitted on four consecutive Fridays and Saturdays beginning with the second Friday of October.

(iii) Only shotguns and primitive weapons are permitted during the gun hunts.

(v) Archery hunting is permitted during the State season.

(ee) *North Dakota*—(1) *Arrowwood National Wildlife Refuge.* Hunting of deer is permitted on designated areas subject to the following condition: Archery hunting is permitted through the day before the opening of the State waterfowl season, and it is permitted following the deer gun season.

(2) *Audubon National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Refuge and State permits are required for the first one and a half days of the State gun season.

(ii) Hunting with bow and arrow is permitted only from noon of the day following the close of the State deer firearms season through the close of the State archery season.

(3) *Chase Lake National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following condition: Archery hunting is permitted through the day before the opening of the State waterfowl season, and it is permitted following the deer gun season.

(4) *Des Lacs National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Refuge and State permits are required for the first one and a half days of the State gun season.

(ii) Only persons with valid permits are permitted on the refuge during the first one and one half days of the season.

(iii) Archery hunting is permitted through the day before the opening of the State waterfowl season, and it is permitted following deer gun season.

(5) *J. Clark Salyer National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(6) *Lake Alice National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Only archery hunting is permitted on the refuge's Special Archery Unit.

(ii) Only portable devices or natural materials for temporary blinds and tree stands are permitted.

(7) *Lake Nettie National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following condition: Archery hunting is permitted only from noon of the day following the close of the State deer firearms season until the close of the State archery serson.

(8) *Lake Zahl National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Only archery hunting is permitted.

(ii) Hunting is not permitted from the opening day of the State waterfowl season through the close of the State deer gun season.

(9) *Long Lake National Wildlife Refuge.* Hunting of white-tailed deer is permitted on the refuge subject to the following condition: Archery hunting is permitted through the day before the opening of the State waterfowl season and it is permitted following the deer gun season.

(10) *Lostwood National Wildlife Refuge.* Hunting of deer only is permitted on designated areas of the refuge subject to the following conditions:

(i) Refuge and State permits are required for the first one and one half days of the State gun season.

(ii) Only persons with valid permits are permitted on the refuge during the first one and one half days of the season.

(11) *Slode National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following condition: Archery hunting is permitted through the day before the opening of the State waterfowl season, and it is permitted following the deer gun season.

(12) *Tewaukon National Wildlife Refuge.* Hunting of white-tailed deer is permittted on designated areas of the refuge subject to the following conditions:

(i) Hunting is permitted only during the State late archery deer season.

(ii) In those years when a pheasant hunt is permitted, the refuge deer season closes the day before the pheasant season begins. If the State's late pheasant and deer seasons begin on the same day, deer hunting only is permitted for the first two days after which the refuge pheasant season begins.

(13) *Upper Souris National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge.

(ff) *Okahoma*—(1) *Salt Plains National Wildlife Refuge.* Hunting of white-tailed deer and turkey is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(2) *Tishomingo National Wildlife Refuge.* Hunting of white-tailed deer and turkey is permitted on designated areas of the refuge subject to the following condition: Hunters are required to check in and out of the hunt area.

(3) *Wichita Mountains Wildlife Refuge.* Hunting of elk white-tailed deer is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(gg) *Oregon*—(1) *Deer Flat National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following condition: Hunting is permitted only on the Snake River Sector.

(2) *Hart Mountain National Antelope Refuge.* Hunting of deer, antelope and bighorn sheep is permitted on designated areas of the refuge.

(3) *Malheur National Wildlife Refuge.* Hunting of deer and antelope is permitted on designated areas of the refuge.

(4) *William L. Finley National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Only shotgun and archery hunting are permitted.

(ii) Hunters must check in and out of the refuge by use of self-service permits.

(hh) *Pennsylvania—Erie National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(1) Target practice or random shooting is not permitted.

(2) The construction or use of permanent blinds, platforms and scaffolds is not permitted.

(ii) *South Carolina*—(1) *Cape Romain National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Two six-day hunts are permitted beginning on the first Mondays in November and December.

(2) *Carolina Sandhills National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Archery hunting is permitted from the third Monday in October through the following Saturday.

(ii) Hunting with bows and arrows and muzzleloading firearms is permitted from the last Monday in October through the following Friday.

(iii) Hunting with modern rifles and shotguns is permitted for three consecutive days beginning on the Wednesday of the week preceding Thanksgiving Day.

(iv) Checking the bagged deer is required.

(v) In addition to the State bag limits, one antlerless deer may be taken during each of the three hunt seasons.

(vi) Only still hunting is permitted.

(vii) Hunters are required to wear a visible outergarment made of daylight fluorescent orange material.

(3) *Pinckney Island National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting is permitted on the second Saturday in October and the third Saturday in November.

(iii) Only shotguns are permitted.

(iv) Two deer may be taken. Deer may be of either sex.

(v) Hunters are required to check in and out of the refuge.

(vi) Hunters are required to remain on their stands from one-half hour before sunrise until 9:00 a.m. and from two hours before sunset until sunset unless a deer is taken.

(vii) Hunters are required to wear a visible outergarment made of daylight fluorescent orange material.

(4) *Santee National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Archery hunting on the Cuddo Unit is permitted from the third Monday in October through the following Saturday.

(iii) Primitive weapons hunting on the Cuddo Unit is permitted from the fourth Monday in October through the following Saturday.

(iv) Primitive weapons hunting on the Pine Island Unit is permitted from the second Monday in October through the following Saturday.

(v) Hunters are required to check in and out of the refuge.

(vi) All hunters are required to wear a visible outergarment made of daylight fluorescent orange material during the gun hunts.

(jj) *South Dakota*—(1) *Lacreek National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions: Permits are required.

(2) *Sand Lake National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge.

(3) *Pocasse National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge.

(4) *Waubay National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge.

(kk) *Tennessee*—(1) *Hatchie National Wildlife Refuge.* Hunting of white-tailed deer and turkey is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required for the firearms deer hunt.

(ii) Checking of bagged deer taken during the firearms hunt is required.

(iii) Gun hunting is permitted on two consecutive days beginning on the fourth Saturday in October.

(iv) Archery hunting is permitted for the first 16 days of the State season.

(v) One deer may be taken. Deer may be of either sex.

(2) *Lower Hatchie National Wildlife Refuge.* Hunting of white-tailed deer, turkey and feral hogs is permitted on designated areas of the refuge.

(3) *Tennessee National Wildlife Refuge.* Hunting of white-tailed deer and turkey is permitted on designated areas of the refuge subject to the following condition: Permits are required for the turkey, primitive weapons and conventional gun deer hunts.

(ll) *Texas*—(1) *Aransas National Wildlife Refuge.* Hunting of white-tailed deer and feral hogs is permitted on designated areas of the refuge subject to the following conditions:

(i) The entire refuge or any portion thereof may be immediately closed to hunting in the event of the appearance of whooping crane in the hunt area.

(ii) Hunters are required to report at designated check station(s) upon entering and leaving the refuge.

(iii) Permits are required for the firearms hunt.

(iv) Firearms hunting is permitted the first five days of the State season.

(v) The bag limit for the firearms hunt is two deer per hunter. Sex and age limits for deer are set annually by the refuge manager.

(vi) Hunters are required to wear international orange caps and vests.

(vii) Archery hunting is permitted the first Saturday of the State season through the second Sunday of the State season.

(viii) Deer may not be removed from the refuge without a metal transportation seal being attached to the carcass by a refuge officer.

(ix) Hunters shall be at least 12 years of age. Hunters between the ages of, and including, 12 and 17 must hunt under the supervision of an adult 21 years of age or older.

(2) *Hagerman National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following special condition: Permits are required.

(3) *Laguna Atascosa National Wildlife Refuge.* Hunting of white-tailed deer and feral hogs is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Archery hunting is permitted in mid-October on specified days listed in the refuge hunt brochure.

(iii) Firearms hunting is permitted in early December on specified days listed in the refuge hunt brochure.

(iv) The bag limit for the firearms hunt is two deer. Sex and age limits for deer are set annually by the refuge manager.

(v) Hunters are required to wear international orange caps and vests.

(vi) Deer may not be removed from the refuge without a metal transportation seal being attached to the carcass by a refuge officer.

(vii) Hunters shall be at least 12 years of age. Hunters between the ages of, and including, 12 and 17 must hunt under the supervision of an adult 21 years of age or older.

(mm) *Utah—Ouray National Wildlife Refuge.* Hunting of mule deer is permitted on designated areas of the refuge.

(nn) *Vermont—Missisquoi National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following condition: Only shotguns may be used on that part of the refuge east of the Missisquoi River.

(oo) *Virginia*—(1) *Chincoteague National Wildlife Refuge.* Hunting of sitka and white-tailed deer is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(2) *Presquile National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(3) *Great-Dismal Swamp National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the

refuge subject to the following condition: Permits are required.

(pp) *Washington*—(1) *Columbia National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following condition: Only shotgun and archery hunting are permitted.

(2) *Conboy Lake National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge.

(3) *Umatilla National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is permitted by shotgun only beginning at noon each hunt day.

(ii) Hunting is permitted on the Patterson Slough Unit on Wednesdays, Saturdays, Sundays and State holidays.

(4) *Willapa National Wildlife Refuge.* Hunting of deer, elk and bear is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Only archery hunting is permitted.

(iii) Hunting is permitted only on the Long Island Unit.

(qq) *Wisconsin*—(1) *Horicon National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is permitted only during the early archery and State firearms seasons.

(ii) The construction and use of permanent blinds, platforms or ladders is not permitted.

(iii) All stands must be removed from the refuge following each day's hunt.

(2) *Necedah National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Discharging a firearm from across, down or alongside roads and trails is not permitted.

(ii) The construction or use of permanent blinds, platforms or ladders is not permitted.

(iii) All stands must be removed from the refuge following each day's hunt.

(rr) *Wyoming*—(1) *National Elk Refuge.* Hunting of elk is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunters may not be let out of vehicles on refuge roads.

(iii) Shooting from or across refuge roads and parking areas is not permitted.

(iv) The use of citizen band (CB) radios in the hunt area is not permitted.

(2) *Pathfinder National Wildlife Refuge.* Hunting of pronghorn antelope and deer is permitted on designated areas of the refuge.

(3) *Seedskadee National Wildlife Refuge.* Hunting of pronghorn antelope and mule deer is permitted on designated areas of the refuge.

Authority: (16 U.S.C. 460k, 668dd).

Dated: August 29, 1984.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84-24681 Filed 9-18-84; 8:45 am]

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Wednesday
September 19, 1984

Part III

Department of Health and Human Services

Office of Child Support Enforcement

45 CFR Parts 302, 303, and 304

Child Support Enforcement Program: Cost of Services for Non-AFDC Families; Reduction of Program Expenditures by Fees and Other Income; and Procedures for Case Assessment and Prioritization; Final Rules

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Child Support Enforcement

45 CFR Parts 302 and 304

Child Support Enforcement Program; Cost of Services for Non-AFDC Families; Reduction of Program Expenditures by Fees and Other Income

AGENCY: Office of Child Support Enforcement (OCSE), HHS.

ACTION: Final rules.

SUMMARY: These regulations amend OCSE regulations at 45 CFR Parts 302 and 304 to implement section 171(a)(3) of Pub. L. 97–248, the Tax Equity and Fiscal Responsibility Act of 1982, section 2333(c) of Pub. L. 97–35, the Omnibus Budget Reconciliation Act of 1981 and section 3(c) of Pub. L. 98–378, the Child Support Enforcement Amendments of 1984. They revise 45 CFR 302.33 to require States to charge an application fee for furnishing non-AFDC child support enforcement (IV–D) services and to permit States to allow the jurisdiction that collects support for the State to retain any application fee collected. Application fees must be paid by the individual applying for services or paid by the State out of its own funds and may be recovered from the absent parent. These regulations permit States to recover actual or standardized costs and any fees collected to cover administrative costs under the IV–D State plan either from the individual who owes a support obligation to a non-AFDC family receiving IV–D services, or from the non-AFDC individual receiving the services. In the latter case, costs may be recovered directly from the individual or by deducting costs from the support collected. If costs are recovered from the non-AFDC individual receiving IV–D services, the IV–D agency must have in effect a procedure for informing other States and all persons authorized within the State to establish an obligation for support that costs will be recovered from the non-AFDC individual. In addition, the State must notify the individual (either the non-AFDC individual or the absent parent) from whom costs will be recovered. If an applicant for non-AFDC services assigns support rights to the State, the IV–D agency must inform the applicant that the assignment is not a condition of eligibility for IV–D services and may have the effect of making the support debt dischargeable in bankruptcy.

These regulations also require States to reduce the total expenditures they report for a quarter by the total amount of any fees collected and any other income (e.g., interest earned on collections prior to distribution) generated by service provided both in AFDC and non-AFDC cases under the title IV–D State plan.

We published a Notice of Proposed Rulemaking in the **Federal Register** on September 15, 1983 (48 FR 41450.) The comments received on that notice, our responses to the comments, and several changes made to the regulations as a result of those comments are discussed below.

We believe the changes made to these regulations to implement the application fee provisions of sections 3 (c) and (f) of Pub. L. 98–378, effective October 1, 1985, are expressly required by the statute and are non-discretionary in nature. However, anyone who wishes to comment on this portion of the regulation may do so during the next 60 days. If necessary, we will revise the regulation in response to comments received.

EFFECTIVE DATE: September 19, 1984 except for 45 CFR 302.33(c)(2) which is effective on October 1, 1985.

FOR FURTHER INFORMATION CONTACT: Michael P. Fitzgerald, Policy Branch, OCSE (301) 443–5350.

SUPPLEMENTARY INFORMATION:

Statutory Requirements

Pub. L. 97–35, the Omnibus Budget Reconciliation Act of 1981

Section 2333 of Pub. L. 97–35 amended title IV–D of the Social Security Act (the Act) regarding the cost of services for non-AFDC families and the reduction of expenditures by fees and other income generated under the IV–D program. All of the amendments of section 2333 were repealed or amended by Pub. L. 97–248, discussed below, except for the amendment of section 455(a) of the Act.

Section 455(a) of the Act was amended to require the Secretary, in determining the total amount expended by a State during a quarter, to exclude the total amount of any fees collected or other income resulting from services provided both in AFDC and non-AFDC cases under the title IV–D State plan.

Section 2336(a) of Pub. L. 97–35 provided that the amendments contained in section 2333 had an effective date of October 1, 1981, unless the Secretary of Health and Human Services (HHS) authorized a State to postpone the effective date because State law prohibited it from implementing the amendments on October 1, 1981.

Pub. L. 97–248, the Tax Equity and Fiscal Responsibility Act of 1982

Section 171 of Pub. L. 97–248 also amended title IV–D of the Act regarding the cost of services for non-AFDC families. Section 171(a)(2) of Pub. L. 97–248 repealed the provision in section 454(6)(B) of the Act, added by section 2333 of Pub. L. 97–35, which prohibited States from charging an application fee when the non-AFDC family requests that the IV–D agency only collect support on its behalf. Section 171(b)(1) of Pub. L. 97–248 repealed section 454(19) of the Act, added by section 2333 of Pub. L. 97–35, which had required States to impose a ten percent fee on absent parents to cover costs in excess of the application fee for providing services to non-AFDC families. Section 171(a)(3) amended section 454(6)(C) of the Act to permit States providing IV–D services to non-AFDC individuals who request them to recover costs incurred in excess of the application fee either from the absent parent who owes a support obligation or from the non-AFDC individual who is receiving the IV–D services. If costs are recovered from the non-AFDC individual receiving IV–D services, the IV–D agency must have in effect a procedure for informing all persons authorized within the State to establish support obligations that it will recover costs from the non-AFDC individual. Before enactment of Pub. L. 97–248, section 454(6)(C), as revised by Pub. L. 97–35, had permitted only the State that made a collection in a non-AFDC case to retain the fee imposed against the parent owing the support.

The amendments made by section 171 of Pub. L. 97–248 were effective August 13, 1981, unless, in accordance with section 176 of Pub. L. 97–248, the Secretary of HHS determined that State legislation was required before a State could comply with the changes made by section 171. If the Secretary so determined, the amendments would be effective in the State at the end of the first session of the State legislature which began after October 1, 1982, or which began prior to October 1, 1982 and remained in session for at least 25 calendar days after that date.

Pub. L. 98–378, the Child Support Enforcement Amendments of 1984.

Section 3(c) of Pub. L. 98–378 amends section 454(6)(B) of the Act regarding the imposition of the application fee. First, the amendment requires the State to charge an application fee for IV–D services under title IV–D of the Act which must be paid by the individual applying for IV–D services, recovered

from the absent parent, or paid by the State out of State funds. Second, the amendment specifies that State funds used to pay the application fee are not program expenditures under the IV–D State plan but are program income. Third, the amendment requires the application fee to be a flat dollar amount not to exceed $25, or the State may vary the amount of the application fee not to exceed $25 based on the non-AFDC individual's ability to pay. The Secretary may raise or lower the upper limit of the fee to reflect future increases or decreases in administrative costs.

Section 21(d) of Pub. L. 98–378 amends section 454(6) of the Act by redesignating clause (C) as clause (D). Section 3(f) of Pub. L. 98–378 amends section 454 of the Act to allow States to permit the jurisdiction that collects support for the State to retain any application fee collected under section 454(6)(B) of the Act.

These amendments are effective on October 1, 1985 (except the amendment made by section 21(d), which is applicable after December 31, 1985), unless the Secretary of HHS determines that State legislation is required before a State can comply with the requirements. If the Secretary so determines, the amendments would be effective in the State no later than the beginning of the fourth month that begins after the end of the first session of the State legislature which ends on or after October 1, 1985. The term "session" means a regular, special, budget or other session of a State legislature.

Section 7 of Pub. L. 98–378 amends section 457(c) of the Act to require the State to continue to collect current support payments from the absent parent for the first five months following the family's ineligibility for AFDC. This amendment is effective October 1, 1984 and it will be implemented in regulations about to be published by the Department.

New Regulatory Provisions at 45 CFR 302.33

OCSE has revised 45 CFR 302.33 to implement the statutory amendments and to make other clarifying changes to the regulation. In the first clarification, we revised § 302.33(a) to clearly indicate the services available under that section and the individuals who are eligible to receive such services. Other changes to § 302.33 are discussed below.

Definitions

In § 302.33(b) we define the term "applicant's income" as the disposable income available for the applicant's use under State law. The State must consider the applicant's income when determining the non-AFDC application fee according to the fee schedule that States may use under § 302.33(c)(1)(ii) and (c)(2)(iv)(B). The fee schedule was formerly at § 302.33(b)(2)).

Application Fee for Non-AFDC Families

Currently, 45 CFR 302.33(b) (redesignated here as § 302.33(c)(1)) permits States to charge an application fee for any IV-D services provided to non-AFDC individuals. To be consistent with the amendment made by section 3 of Pub. L. 98–378, we have amended this provision to indicate that it remains in effect until October 1, 1985.

Prior to its current revision, section 454(6)(B) of the Act permitted the IV–D agency to charge an application fee to each non-AFDC individual who applies for IV–D services. To charge a fee, a State had to elect to do so in its IV–D State plan and indicate in its plan whether it would charge a flat fee not to exceed $20 or a fee based on a fee schedule that took into account the income of each applicant for IV–D services.

To implement the new section 454(6)(B) of the Act, the regulations at § 302.33(c)(2) require the State IV–D agency to charge an application fee in all case for IV–D services under § 302.33. Under § 302.33(c)(2)(i), the State IV–D agency may collect the application fee from the individual who is applying for IV–D services or pay the application fee out of State funds. The State may recover the application fee from the absent parent who owes a support obligation to a non-AFDC family on whose behalf the IV–D agency is providing support enforcement services and pay the recovered amount to the applicant or to itself if it paid the fee. If a State elects to pay the application fee, the regulations at § 302.33(c)(2)(iii) specify that State funds used to pay the application fee are not program expenditures under the IV–D State plan but are program income under § 304.50. (See the discussion below under the heading "New Regulatory provisions at 45 CFR 304.50" for details regarding the treatment of program income.)

The regulations at § 302.33(c)(2)(iv) specify that the application fee charged under § 302.33(c)(2) must be, on a statewide basis, either a flat dollar amount not to exceed $25 (or a higher or lower amount the Secretary determines to be appropriate for any fiscal year to reflect increases or decreases in administrative costs) or an amount based on a fee schedule not to exceed the flat dollar amount. The fee schedule must be based on the applicant's income. We will issue a notice of proposed rule making to elicit comments on a proposed method of determining the maximum allowable application fee.

To implement section 3(f) of Pub. L. 98–378, which amends section 454 of the Act, the regulations at § 302.33(c)(2)(v) permit the State IV–D agency to allow the jurisdiction that collects support for the State to retain any application fee collected under this section. The application fee retained under § 302.33(c)(2)(v) must be treated as program income in accordance with § 304.50.

Recovery of Costs in Non-AFDC Cases

To implement the revised section 454(6)(C) of the Act (redesignated and hereafter referred to as section 454(6)(D)), the regulations at § 302.33(d)(1) permit the IV–D agency to elect in its State plan, on a statewide basis, to recover costs incurred in excess of any fees collected to cover administrative costs under the IV–D State plan either: (1) From the individual who owes a support obligation to a non-AFDC family on whose behalf the IV–D agency is providing services; or (2) from the non-AFDC individual on whose behalf the IV–D agency is providing services, either directly or by reducing the amount of the support collection made on the family's behalf.

Section 302.33 previously provided for recovery of costs in excess of the application fee. In determining the costs subject to cost recovery in non-AFDC cases, OCSE policy requires the States to deduct the amount of any fees collected to cover administrative costs under the IV–D State plan from costs incurred in providing IV–D services. To clarify the relationship between fees and costs that may be recovered in non-AFDC cases, § 302.33(d)(1) specifies that a State may only recover costs which exceed the amount of any fees collected to cover administrative costs under the IV–D State plan. The fees include the application fee collected under § 302.33(c), the fee for Federal Parent Locator Service locate only request prescribed in § 303.70(e)(2), any other fees authorized under title IV–D of the Act, and any fees collected from the custodial parent under State law. The late payment fee prescribed in the new section 454(21) of the Act is not included because the fee is in the nature of a penalty and is collected for purposes other than to cover administrative costs in an individual case. These fees are, however, subject to the amended section 455(a), implemented by § 304.50, and must be deducted from administrative costs.

The State may recover costs from non-AFDC individuals who are

receiving IV–D services only if the State has in effect a procedure for informing other States and all persons authorized within the State to establish a support obligation that costs will be recovered from those individuals. State procedures should include notification to all persons authorized to make such orders whenever a State elects to recover costs or ceases the practice of cost recovery. States may establish their own procedures for informing persons authorized to make such orders.

In recovering costs from the non-AFDC individual on whose IV–D services are being provided, States may deduct costs incurred in excess of any fees collected to cover administrative costs under the IV–D State plan from the support collected on behalf of the individual or directly from the individual. This allows a State to recover costs from the support collected for as long as collections are made by the State, and then to attempt to recover any remaining unreimbursed costs directly from the individual.

To respond to States' concerns that the calculation of actual costs on a case by case basis is time consuming and costly and to encourage States to recover costs and improve the cost-effectiveness of the program, we revised § 302.33(d)(1) to permit the IV–D agency on a case by case basis to recover either actual or standardized costs. If a State recovers standardized costs, it must comply with the requirements in § 302.33(d)(2) and develop a written methodology to determine standardized costs which are as close to actual costs as is possible and make the methodology available to anyone upon request. In either case, we encourage States to strive to minimize costs so as not to discourage the application for services by those most in need of them.

Section 302.33(d)(3) prohibits the IV–D agency from treating any amount collected from an absent parent as recovered costs except amounts which exceed the total amount of current support owed by the absent parent. OCSE policy requires child support collections received for non-AFDC cases established under 45 CFR 302.33 to be considered first as payment on the current support obligation. Support collected up to the amount of the current obligation must be passed on to the family.

If, under § 302.33(d)(1)(ii), the State elects to recover costs from the individual receiving IV–D services, § 302.33(d)(4) then permits the IV–D agency to attempt to obtain reimbursement from the absent parent for the individual who is receiving IV–D services. This allows States that elect to recover costs from the individual receiving IV–D services to reduce the impact of cost recovery on that individual. Reimbursement from the absent parent to the custodial parent in this situation may not be considered child support payments.

Section 302.33(d)(5) requires the IV–D agency that elects to recover costs to notify, as appropriate, either the non-AFDC individual who has applied for IV–D services or the individual who owes a support obligation to the non-AFDC family that costs will be recovered. In interstate cases, the IV–D agency where the case orignated must notify applicants of the States that recover costs. Section 302.33(d)(6) requires the IV–D agency to notify the IV–D agencies in other States if it recovers costs from the individual receiving IV–D services.

The changes discussed under the heading "Application Fee for Non-AFDC Families" and above regarding cost recovery in excess of fees were not included in the Notice of Proposed Rulemaking. The Administrative Procedures Act, 5 U.S.C. 553(b)(B), provides that, if the Department for good cause finds that a notice of proposed rulemaking is unnecessary, impracticable or contrary to the public interest, it may dispense with the notice if it incorporates a brief statement in the final regulations of the reasons for doing so.

The Department finds that there is good cause to dispense with proposed rulemaking procedures with respect to these changes. We find that publication of these changes in proposed form would be unnecessary for the following reasons. A new § 302.33(c)(2) implements the new State plan requirements at section 454(6)(B) of the Act and the sentence following section 454(21) of the Act. These new statutory provisions are nondiscretionary in nature and the regulation merely follows the statute. Section 302.33(d)(1) is revised to specify that the State may only recover costs incurred in excess of any fees collected to cover administrative costs incurred in providing IV–D services. This change incorporates the requirements of section 455(a) of the Act.

Assignment of Support Rights in Non-AFDC Cases

Section 302.33(e)(1) (formerly § 302.33(d)) allows the IV–D agency to take an assignment of support rights from a non-AFDC individual who applies for IV–D services. Such an assignment does not constitute an assignment under 45 CFR 232.11 and may not be a condition of eligibility for receiving IV–D services. Since § 302.33(e)(1) indicates that an individual applying for IV–D services is not required to make an assignment of support rights as a condition of eligibility for IV–D services, the regulations at § 302.33(e)(2) require the IV–D agency to so inform such individual prior to the taking of an assignment. This change was made in response to comments received on the proposed rule. (See Discussion of Comments.) Section 302.33(e)(2) further requires the IV–D agency to inform any individual making an assignment in a non-AFDC case that the assignment may have the effect of making the support debt dischargeable in bankruptcy.

New Regulatory Provisions at 45 CFR 304.50

The amended section 455(a) of the Act requires the Secretary, in determining the total amount expended by a State during a quarter, to exclude any fees collected or other income resulting from services provided in AFDC and non-AFDC cases under the title IV–D State plan. Therefore, States must reduce their expenditures by: (1) The total non-AFDC application fees collected under 45 CFR 302.33(c); (2) the total fees collected for non-AFDC Federal Parent Locator Service locate-only requests under 45 CFR 303.70(e)(2); (3) any fees collected under State law; (4) any costs recovered from collection such as those recovered under 45 CFR 302.33(d) and 302.51(e)(2); (5) late payment fees collected in accordance with the new section 454(21) of the Act; and (6) other income resulting from services provided in AFDC and non-AFDC cases under the title IV–D State plan, in accordance with section 455(a) of the Act. OCSE issued an Action Transmittal (OCSE–AT–82–8) on September 3, 1982 on the reduction of expenditures by fees and other income.

To implement in regulations the amendment made to section 455(a) of the Act by section 2333(c) of Pub.L. 97–35 and section 171(b)(2) of Pub.L. 97–248, we added a new § 304.50, Treatment of Program Income, which requires States to exclude from their IV–D expenditure claims any fees which are collected under the title IV–D State plan and any income (e.g., interest earned on collections prior to distribution) generated as a result of IV–D activities. This applies to fees or income in both AFDC and non-AFDC cases.

Discussion of Comments

We received nineteen comments in response to the Notice of Proposed Rulemaking. Ten State agencies, one county executive, one domestic relations

agency, one family court, one governor, one private individual, one judge and three legal advocacy groups submitted comments.

General Comments (45 CFR 302.33)

1. *Comment:* One State objected to the application fee and recovery of costs provisions of the regulations because these options apply to all non-AFDC cases and could place a financial burden on individuals in need of IV–D services.

Response: Neither section 454(6) of the Act nor 45 CFR 302.33 require a State to collect an application fee or recover costs of providing services to non-AFDC individuals. However, section 454(6)(B) and the implementing regulations at § 302.33(c)(2) require the State to charge an application fee for IV–D services beginning October 1, 1985. Under this requirement, the fee must be paid by the individual applying for IV–D services or by the State itself. If a State elects to impose the application fee on the individual who applies for IV–D services, the fee should be paid at the time of application. A State could avoid the financial burden referred to by the commenter of paying the application fee at the time of application by electing to pay the fee itself.

Under section 454(6)(D) of the Act and 45 CFR 302.33(d), a State that elects in its State plan to recover costs in excess of any fees collected to cover administrative costs under the IV–D State plan may recover costs either from the absent parent or from the individual who has filed an application for IV–D services. By recovering costs from the absent parent, a State would avoid imposing an additional financial burden on the custodial parent. In any event, a State that elects to recover costs must pursue cost recovery in all non-AFDC cases.

2. *Comment:* One State suggested that the costs of providing services to non-AFDC individuals could be controlled better by limiting the availability of IV–D services to families who cannot afford to hire private attorneys than by the application fee and recovery of costs provisions of the regulations.

Response: Section 454(6)(A) of the Act and 45 CFR 302.33(a) require the State to make IV–D services available to any individual not receiving assistance under the AFDC program who files an application for IV–D services with the IV–D agency. Thus, IV–D services must be made available to any non-AFDC individual who files an application regardless of the applicant's ability to hire a private attorney. Congress enacted the mandatory application fee and optional recovery of costs provisions in section 454(6) of the Act to allow States to offset some of the costs incurred in providing IV–D services to non-AFDC individuals.

3. *Comment:* One family court asked if the regulations only provide for the imposition of an application fee and recovery of costs if the State collects support. One legal advocacy group suggested that the regulations prohibit the State from collecting the application fee or recovering costs unless the amount of support collected exceeds the application fee and any additional costs incurred.

Response: Under § 302.33(c)(2), a State must charge an application fee for each non-AFDC case. If the State elects to collect the application fee from the individuals applying for services, the fee should be collected at the time of application to ensure that the fee is paid in accordance with section 454(6)(B) of the Act.

The regulations at 45 CFR 302.33(d)(1) permit the State to elect in its State plan to recover any costs in excess of any fees collected to cover administrative costs under the IV–D State plan from the absent parent or from the individual who has filed an application for IV–D services. Under this provision, a State that recovers costs from the non-AFDC individual may recover costs from any support collected on behalf of the individual or directly from the individual. Although a State may recover all costs directly from the individual, we expect many States to recover costs from any support collected as long as collections are made by the State and then attempt to recover any remaining unreimbursed costs directly from the individual. A State that elects under 45 CFR 302.33(d)(1) to recover costs from the absent parent is prohibited under § 302.33(d)(3) from treating any amount collected from the absent parent as recovered costs except amounts that exceed the current support owed by the absent parent.

Definitions (45 CFR 302.33(b))

4. *Comment:* One legal advocacy group recommended that the proposed definition of the term "applicant's income" be changed to "the disposable income actually available to the applicant" because the proposed definition may allow the State to include income that is not available to the applicant.

Response: We believe that the definition of the term "applicant's income" at 45 CFR 302.33(b) adequately ensures that any State which charges the individual applying for services the application fee in accordance with § 302.33(c) only consider disposable income actually available to the applicant under State law.

Application Fee (45 CFR 302.33(c))

5. *Comment:* One legal advocacy group suggested that the regulations be revised to require the States to waive the application fee for former AFDC recipients and other individuals who would be discouraged from applying for IV–D services by a fee. A second legal advocacy group suggested that the regulations be revised to require States to give non-AFDC applicants the option of paying the application fee at the time of application for IV–D services or having the fee deducted from collected support. A third legal advocacy group suggested that the regulations be revised to require the States to suspend the application fee for individuals who show, at the time of application for IV–D services, that they cannot afford to pay the fee and collect the suspended application fee by retaining a portion of each child support arrearage payment.

Response: As indicated under the response to comment number 1, beginning October 1, 1985, the State must charge an application fee for IV–D services. However, the regulations at § 302.33(e)(2)(i) specify that the State may collect the application fee from the individual who is applying for IV–D services or pay the fee itself. Thus, the State can pay the fee for individuals who would be discouraged from applying for IV–D services by a fee. In addition, the regulations at § 302.33(c)(2)(iv)(B) permit a State that elects to impose an application fee on the individual who applies for IV–D services to collect a fee based on the applicant's income.

The revised section 457(c)(1) of the Act requires the State to continue to collect current support payments from the absent parent after the family ceases to receive AFDC for a period not to exceed the first five months following the family's ineligibility for AFDC. In this situation, the family is not required to file an application for IV–D services under § 302.33. In addition, the revised section 457(c)(2) of the Act permits States to continue to provide this service after the five-month period upon authorization from the family. States are also prohibited from requiring any formal application or imposing any application fee in cases where the State IV–D agency is authorized to continue to collect and distribute support.

States that elect to collect the application fee from the non-AFDC applicant can permit the applicants to decide whether to pay the application fee at the time of application for IV–D

services or have the fee deducted from collected support. The fee must be collected, however, and we recommend that the State collect the application fee from the AFDC individual at the time of application for IV–D services to ensure that the fee is paid in accordance with section 454(6)(B) of the Act. Permitting the States that elect to collect the application fee from the non-AFDC individual to determine whether or not to suspend a non-AFDC individual's application fee based on ability to pay and to collect the fee by retaining a portion of each child support payment does not relieve the State from its liability to treat such fees as program income whether collected or not.

6. *Comment:* One legal advocacy group suggested that States be encouraged to charge the application fee to the obligor.

Response: There is no basis in the statute for imposing a fee upon the obligor. We believe that charging a reasonable application fee to an individual applying for IV–D services is not overly burdensome. Thus, the regulations at § 302.33(e)(2)(1) do not permit the States to charge the application fee to the obligor.

Section 454(6)(B) of the Act and the regulations at § 302.33(c)(2) require the States to charge an application fee for IV–D services beginning October 1, 1985. Under this requirement, the application fee must be "paid" by the individual applying for IV–D services or "paid" by the State itself. However, the statute and the regulations at § 302.33(c)(2)(ii) also permit the States to "recover" the application fee from the obligor and pay any recovered amount to the applicant or itself if it paid the fee. There is no provision in the Act for the fee to be "paid" by the absent parent directly. Section 454(6)(B) clearly requires that the fee must be imposed. Under certain circumstances it would be impossible to charge the absent parent the fee, e.g., paternity not established (i.e. no "parent" to charge) or absent parent out-of-state (i.e. beyond the State's jurisdiction to charge).

7. *Comment:* Two legal advocacy groups recommended that the regulations be revised to raise the maximum flat application fee to $30 instead of $40 because many non-AFDC individuals cannot afford to pay a $40 application fee. One legal advocacy group suggested that because the preamble to the proposed regulations does not provide any information on whether the cost of providing IV–D services has doubled, the $20 maximum flat application fee should be raised to $30 instead of $40.

Response: We agree that the $40 application fee may be too high for some individuals to afford to pay. Therefore, we have revised the maximum flat application fee to $25. This is consistent with the new statute which is not effective until October 1, 1985, and it will permit States that wish to charge fees immediately to develop forms and procedures which will be in accordance with § 302.33(c)(2) when it becomes effective.

Beginning October 1, 1985, the revised section 454(6)(B) of the Act and § 302.33(c)(iv)(A) permit the States to charge a flat application fee not to exceed $25 or any higher or lower amount set by the Secretary. The Secretary may, in accordance with section 454(6)(B) of the Act, adjust the maximum allowable fee prescribed in § 302.33(c)(2)(A) upward or downward to reflect increases or decreases in administrative costs.

The regulations at § 302.33(c)(2)(i) permit the State to collect the mandatory application fee from the individual who is applying for IV–D services or pay the application fee out of State funds in accordance with statewide standards. The State may pay the fee for non-AFDC individuals who cannot afford to pay it.

8. *Comment:* One legal advocacy group recommended that the regulations be revised to specify that application fees based on fee schedules cannot exceed the maximum flat application fee.

Response: Section 302.33(c) specifies that the fee schedule must be based on each applicant's income as defined in § 302.33(b) and cannot exceed $25 or any other amount set by the Secretary to reflect changes in program costs. Under these provisions, the fee schedule cannot place a substantial burden on non-AFDC applicants at the lower end of the economic scale.

Recovery of Costs (45 CFR 302.33(d))

9. *Comment:* One State commented that the proposed regulations at 45 CFR 302.33(d) preclude cost-effective cost recovery and do not properly implement section 454(6)(C) (redesignated as 454(6)(D)) of the Act.

Response: We believe that the regulations at 45 CFR 302.33(d) permit the States to recover costs in a cost-effective manner and properly implement the new section 454(6)(D) of the Act. Section 454(6)(D) of the Act permits a State to elect in its State plan to recover any costs incurred in excess of any fees collected to cover administrative costs under the IV–D State plan either from the absent parent or from the individual who has filed an application for IV–D services. To implement the new section 454(6)(D) of the Act, the regulations at 45 CFR 302.33(d) permit the same. Under this provision, the IV–D agency may recover on a case by case basis either actual or standardized costs incurred in excess of the application fee. We believe that section 454(6)(D) of the Act permits us to allow States to recover standardized costs in accordance with 45 CFR 302.33(d) (1) and (2). We also believe that the recovery of standardized costs is the most cost-effective means of recoving costs in accordance with section 454(6)(D) of the Act.

10. *Comment:* One State commented that the types of cost recovery prescribed in the regulations may not be considered by the State's Supreme Court as consistent with the State Constitution.

Response: As indicated in the response to comment number 9, we believe that the recovery of costs provisions at 45 CFR 302.33(d) properly implement the new section 454(6)(D) of the Act as amended by section 171(a)(3) of Pub. L. 97–248 and the new statute.

Since the regulations at 45 CFR 302.33(d) implement an optional State plan provision, the State is not required to recover costs. Thus, a State that is prohibited by State law or a court ruling from recovering costs may elect in its State plan not to recover costs. A State that wishes to recover costs would have to revise any State law that prohibits cost recovery.

11. *Comment:* One State asked whether the proposed regulations permit a State to recover costs if an application fee is not charged.

Response: Section 454(6)(D) of the Act and the implementing regulations at 45 CFR 302.33(d) permit a State to elect in its State plan to recover any costs in excess of any fees imposed to cover administrative costs under the IV–D State plan incurred in providing IV–D services to non-AFDC applicants. If a State elects in its State plan not to charge an application fee prior to October 1, 1985, but to recover costs, the State may recover any costs incurred in providing IV–D services to non-AFDC applicants.

12. *Comment:* One family court, one legal advocacy group and one State recommended that we restrict the recovery of costs in interstate cases. Suggestions included allowing either the initiating or responding State to recover costs, amending the regulations to permit only the initiating State to recover costs in interstate cases when the State elects to do so in its State plan.

and prohibiting the recovery of costs in interstate cases.

Response: A State that elects to recover costs must attempt to recover costs in all cases filed in the State or referred from another State either from each absent parent obligated to pay support or from each individual receiving IV–D services. In addition, if two States incur costs in an interstate non-AFDC case, both States are entitled to recover costs from a resident or non-resident if recoveries are provided for under their respective State plans and the proper notification has been given to the non-AFDC applicant as required under § 302.33(d)(5). In response to these comments, we have decided to make explicit in regulations that this notification requirement is applicable in interstate cases as well as intrastate cases. We believe this policy is consistent with Congressional intent as long as any State involved in providing IV–D services only seeks to recover costs associated with any service actually provided. In so doing, no individual would be charged more than is necessary to recover the cost of providing services in his or her case.

13. *Comment:* One State asked whether the phrase "* * * informing all persons authorized within the State to establish a support obligation that the State will recover costs from that individual" in the preamble of the proposed regulations means informing all authorized persons that the State intends to recover costs from *all* individuals who contract with the State for IV–D services, or informing all authorized persons regarding each individual non-AFDC applicant by name.

Response: The statement in the preamble means that the State must have implemented a procedure for informing all persons authorized to establish a support obligation that the State will recover costs from *all* individuals who have filed an application for IV–D services.

14. *Comment:* One legal advocacy group suggested that the regulations at 45 CFR 302.33(d)(1)(ii) be revised to specify the procedures States must use to ensure that all individuals authorized within the State to establish an obligation for support are notified that the State recovers costs from the individual receiving IV–D services.

Response: We believe that the flexibility and discretion the regulations give the States to establish their own procedures for informing persons authorized to establish support orders is consistent with the corresponding statutory provision at section 454(6)(D)(ii) of the Act. States may contact the appropriate OCSE Regional Office for assistance in establishing a procedure that meets the notification requirement. Since § 302.33(d)(1)(ii) is a IV–D State plan requirement, the OCSE Audit Division will, as part of its compliance audits, determine whether each State that elects to recover costs from the individual receiving IV–D services meets the requirements in the regulation. If the audit findings indicate that a State is not meeting the notice requirements in § 302.33(d)(1)(ii), the appropriate OCSE Regional Office will work with the State to take corrective action as soon as possible.

15. *Comment:* One legal advocacy group recommended that the regulations prohibit the State from recovering costs from any non-AFDC individual receiving support collection services until the case returns to the court or other decisionmaker for enforcement or modification.

Response: Section 454(6)(D) of the Act, which permits States to recover costs incurred in providing IV–D services to non-AFDC individuals, does not prohibit the recovery of costs on cases that require only collection of support. Therefore, States may recover actual or standardized costs associated with any service provided. If the only service being provided is collection of support, costs associated with the service should be minimal. We believe that a reasonable cost recovery program is not likely to place an undue burden on non-AFDC individuals who apply for IV–D services because they will receive services from the IV–D agency which may not be available to them from any other source at a comparable cost.

16. *Comment:* Two legal advocacy groups recommended that the regulations specify the maximum amount a State can deduct from support collections as recovered costs. Suggestions included permitting States to retain up to five percent of each support collection as recovered costs and specifiying that a State cannot retain more than 50 percent of support payments applied to arrearages.

Response: Section 454(6)(D) of the Act allows States to recover any costs in excess of any fees imposed to cover administrative costs under the IV–D State plan and does not limit the amount that may be withheld from support collected on behalf of non-AFDC individuals receiving IV–D services. Although § 302.33 does not set a maximum amount a State may deduct from support collections, the State may only recover on a case by case basis either actual or standardized costs in accordance with § 302.33(d)(2). A State that recovers costs may retain a flat percentage of support collected as long as the recovery of costs does not exceed the actual or standardized costs incurred in a given case and does not place an undue burden on the individual receiving IV–D services. A State that elects to retain a flat percentage of each non-AFDC collection must periodically reconcile the amount retained with costs as determined by the standardized or actual method. Therefore, the withholding of a flat percentage would cease when the amounts withheld equaled the standardized or actual amounts charged by the State. The flat percentage of support retained is a matter to be determined by the State in accordance with these requirements.

17. *Comment:* One family court commented that the regulations permit the recovery of costs from support payments, but do not ensure that the total current support amount is paid to the payee.

Response: If a State elects to recover costs from the absent parent, the regulations at § 302.33(d)(3) prohibit the IV–D agency from treating any amount collected from the absent parent as recovered costs except amounts that exceed the amount of current support owed. Under this option, the State must give priority to the current support obligation. Support collected up to the amount of the current support obligation must be paid to the family. Otherwise, we believe, the State would in effect be recovering costs from the family receiving non-AFDC services.

If a State elects to recover costs from the individual who files an application for IV–D services, the State may under § 302.33(d)(1)(ii) recover costs directly from the individual or from the support collected on behalf of the individual. This is consistent with section 454(6)(D)(ii) of the Act. There is no requirement that the total current support amount be paid to the payee if this statutory option is selected.

18. *Comment:* Two legal advocacy groups recommended that, because it is often the obligor's malfeasance that necessitates IV–D services, the regulations should indicate a preference for recovering costs from the obligor.

Response: Under section 454(6)(D) of the Act and 45 CFR 302.33(d)(1), any State that opts to recover costs may recover them from the absent parent or from the individual who applies for IV–D services. The statute does not indicate that there is any preference which should be given to recovering costs from the obligor. However, the State that elects to recover costs from the individual receiving IV–D services in accordance with 45 CFR 302.33(d)(1)(ii)

may attempt to obtain reimbursement from the absent parent for the individual receiving IV–D services in accordance with § 302.33(d)(4). We believe that this provision will reduce the burden of cost recovery on the non-AFDC individual receiving IV–D services.

19. *Comment:* One family court and two legal advocacy groups recommended that the regulations address the recovery of costs on a cost per service basis. Suggestions included specifying the services for which State can recover costs, establishing the maximum amount that a State can charge for each service, prohibiting the State from charging the costs of enforcement and collection services against the applicant more than once, and specifying how often a State can charge for enforcement or collection activity.

Response: 45 CFR 302.33(d)(1) permits a State to collect on a case by case basis either excess actual or standardized costs from the absent parent or from the individual receiving IV–D services. A State that chooses to recover standardized costs must develop a written methodology to determine standardized costs which are as close to actual costs as possible. The State could develop a written methodology for determining the average cost per service as illustrated in the preamble to the proposed regulation.

The costs of providing IV–D services vary from State to State. Costs such as salaries, benefits and other administrative expenses incurred in providing a IV–D services such as enforcement must be considered in determining actual costs or establishing standardized costs which are as close to the actual costs incurred as possible. Therefore, we believe it is impossible to establish a standard cost per service in Federal regulations because of the various situations that exist.

A State that develops average costs per service as part of a written methodology to recover standardized costs may recover costs each time the service is provided. For example, suppose the average cost of taking enforcement action is $50. If the State takes enforcement action twice in a case, the State may recover $100. Alternatively, a State that determines standardized costs under § 302.33(d)(2) may develop an average cost of providing a service per case. For example, if the average cost of providing collection services on a IV–D case is $60 and the State provides collection services to a case, the State will only recover $60 regardless of how often or how long it provides collection services.

20. *Comment:* One State objected to the methodology for determining standardized costs presented in the proposed regulations because it requires the calculation of costs on a case by case basis which is a very labor intensive process.

Response: We believe that the calculation of standardized costs on a case by case basis is less costly and time consuming than calculating actual costs on a case by case basis. We expect many States to adopt this option because it will result in the recovery of standardized costs in a given case that closely reflect the costs of services provided in that case.

21. *Comment:* Two legal advocacy groups recommended that the regulations be revised to require States that elect to recover standardized costs to do so based on the income of either the non-AFDC individual receiving IV–D services or the absent parent responsible for the costs of providing IV–D services.

Response: The State has discretion in determining the rate at which it will recover costs as long as the criteria developed are used throughout the State and do not discourage the application for services by those most in need of them. Thus, the State could use the average income of those non-AFDC individuals receiving IV–D services from whom it will recover costs as a criterion for determining the rate of recovery. There is no provision in the statute for basing costs on the income of the absent parent.

22. *Comment:* One State suggested that the proposed regulations be revised to permit States to impose a flat percentage fee for non-AFDC service that does not exceed the average costs of such services.

Response: The regulations at 45 CFR 302.33(d)(2) require a State that elects to recover standardized (or average) costs to develop a written methodology to determine standardized costs which are as close to actual costs as is possible. In addition, the State must reconcile the amount recovered to the standardized (or average) costs of providing IV–D services at some point on a case by case basis.

Once a State has determined standardized costs in accordance with § 302.33(d)(2), the State may collect these costs on a case by case basis by the retention of a flat percentage of support collected as long as the amount recovered does not exceed the costs incurred in a given case. A State that recovers costs by the flat percentage method must closely monitor its cost recovery activities to ensure that it does not recover amounts in excess of incurred costs in any individual case.

23. *Comment:* One legal advocacy group recommended that the regulations require States that develop a written methodology under the proposed 45 CFR 302.33(d)(2) to make the methodology available to individuals upon request.

Response: We agree that the regulations should require the State that elects to recover standardized costs to make the written methodology available to individuals upon request. The individual receiving IV–D services, the individual who owes support and any other party interested in the welfare of the child have a legitimate interest in reviewing the method used to establish standardized costs. Therefore, we have revised 45 CFR 302.33(d)(2) to specify that a State which develops a written methodology for determining standardized costs must make the methodology available to any individual upon request.

24. *Comment:* One State suggested that, because the procedure described in the proposed regulations at 45 CFR 302.33(d)(4) involves recovery of costs from the custodial parent while attempting to recover costs from the absent parent, the provision should be revised to provide that the State will first attempt to recover costs from the absent parent before it recovers costs from the custodial parent. One family court indicated that the proposed § 302.33(d)(4) is impractical.

Response: The regulations at § 302.33(d)(4) provide that a State that recovers costs under § 302.33(d)(1)(ii) may attempt to obtain reimbursement from the individual who owes a support obligation for any costs paid by the individual receiving IV–D services and pay all amounts so obtained to the latter individual. As indicated in the preamble to the proposed regulations, this would allow States that elect under § 302.33(d)(1)(ii) to recover costs from the individual receiving IV–D services to reduce the impact of cost recovery on that individual. Costs recovered from the absent parent in this situation may not be considered child support payments. Although this option involves some additional costs, we believe that it will be selected by some States.

A State that wants to recover costs without placing a burden on the non-AFDC family, as suggested by the first commenter, should opt to recover costs from the absent parent under § 302.33(d)(1)(i).

25. *Comment:* One legal advocacy group and one State recommended that the proposed regulations at § 302.33(d)(5) be revised to require a IV-

D agency that elects to recover costs to notify both the custodial parent and absent parent.

Response: Previous regulations at § 302.33(c) required a IV–D agency that elected to recover costs from support collections to notify each non-AFDC individual for whom IV–D services are being provided of that fact. Under this provision, the IV–D agency only sent notices to individuals affected by cost recovery. We continue to believe that only the individual affected by a State's decision to recover costs should be notified. Therefore, the regulations at 45 CFR 302.33(d)(5) require a State that elects to recover costs to notify, as appropriate, either the individual who has filed an application for IV–D services or the individual who owes a support obligation to a non-AFDC family receiving IV–D services that costs will be recovered.

Assignment (45 CFR 302.33(e))

26. *Comment:* One State commented that the provision in the regulations that requires the State to inform any individual about to make an assignment of support rights that the assignment may have the effect of making a support debt dischargeable in bankruptcy will burden the State and discourage individuals from applying for IV–D services.

Response: Even though the assignment is for collection purposes only and transfers no property right to the State, we are aware of bankruptcy proceedings in which substantial amounts of past due support assigned to the State by non-AFDC individuals under § 302.33(e) were discharged. Since the non-AFDC individual and family may be adversely affected by an assignment of support rights, the regulations at 45 CFR 302.33(e)(2) require the IV–D agency to inform all non-AFDC individuals applying for IV–D services that any assignment of support rights to the State may result in a support debt being discharged if the debtor declares bankruptcy.

27. *Comment:* One legal advocacy group suggested that the proposed 45 CFR 302.33(e)(1) be revised to specify that the IV–D agency must inform each individual who applies for IV–D services that failure to make an assignment of support rights will not effect that individual's eligibility for IV–D services.

Response: We agree that the individual who applies for IV–D services needs to know that his or her failure to make an assignment of support rights will not affect his or her eligibility for IV–D services. We revised 45 CFR 302.33(e)(2) to specify that, before the applicant for IV–D services makes an assignment of support rights, the IV–D agency must inform the individual that the assignment is not a condition of eligibility for IV–D services.

Treatment of Program Income (45 CFR 304.50)

28. *Comment:* One State commented that, because the Federal government reduces the quarterly IV–A grant award advanced to the State by the anticipated Federal share of IV–D AFDC collections for the upcoming quarter, it would be inequitable for the Federal government to demand a share of any interest earned on IV–D AFDC collections. One State, one county executive, one domestic relations agency and one judge also expressed concern about this provision.

Response: Quarterly IV–A grant awards to the State are reduced by the Federal government by the estimated net Federal share of IV–D AFDC collections exclusive of any interest earned by the State on such collections. Section 455(a) of the Act requires the States to reduce their quarterly expenditure claims for Federal funding by the total amount of any fees collected or other income resulting from services provided under the IV–D State plan. The term "income" includes any interest income earned by a State on collections made under the IV–D State plan. Thus, under regulations at 45 CFR 304.50(b), any interest earned on IV–D AFDC collections before those collections are distributed in accordance with section 457 of the Act and the implementing regulation at 45 CFR 302.51 must be excluded from the State's quarterly expenditure claims for Federal IV–D funding.

29. *Comment:* One individual suggested that, because interest income may be construed as exempt from the requirement to exclude earned income from quarterly expenditure claims for Federal funding, the proposed regulations at 45 CFR 304.50(b) should be revised to specify interest income.

Response: We agree that interest income could possibly be construed as exempt from the proposed § 304.50(b). Therefore, we revised the final 45 CFR 304.50(b) to require the IV–D agency to exclude from its quarterly expenditure claims an amount equal to all interest and other income earned during the quarter resulting from services provided under the IV–D State plan.

30. *Comment:* One State suggested that the proposed 45 CFR 304.50(b) be revised to delete the word "earned" to conform the provision to section 455(a) of the Act.

Response: Section 455(a) of the Act requires the States to exclude from their quarterly expenditure claims for Federal funding any fees collected or other income resulting from services provided under the IV–D State plan. We believe that the term "income," as used in section 455(a) of the Act, includes earned income such as interest earned by a State on IV–D collections because interest earned on such collections is a direct result of State collection and distribution services. Once the State makes a IV–D collection, any interest earned prior to the completion of the distribution process (that is, from the date of collection until the date the Federal government receives from the State a IV–A expenditure report that reduces State IV–A expenditures by the net Federal share of IV–D AFDC collections) must be excluded from the State's quarterly claims for Federal funding. Thus, the regulations at 45 CFR 304.50(b) require the State to exclude from its quarterly expenditure claims all interest and other income earned during the quarter resulting from services provided under the IV–D State plan.

Paperwork Reduction Act

These regulations at 45 CFR 302.33 information collection requirements which are subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980. These requirements have not yet been approved by OMB and are therefore not effective. The Department will publish a notice in the **Federal Register** regarding the effective date of these requirements once OMB approval has been obtained.

List of Subjects in 45 CFR Parts 302 and 304

Child welfare, Grant programs/Social programs.

Regulatory Impact Analysis

In developing Pub. L. 97–248, the Congress used figures developed by the Congressional Budget Office which indicate that the revised application fee and recovery of costs provisions will provide savings in the range of $11 to $16 million annually during fiscal years 1984 and 1985. The Department estimates that the mandatory application fee provisions of section 3 of Pub. L. 98–378 will provide savings of $10 million annually during fiscal years 1986 and 1987. These estimated savings represent 9 to 15 percent of total non-AFDC expenditures. These figures do not represent changed costs as such, but a change in payor from the general taxpayer to the users of these services. These changes may have some beneficial effect on private sector providers of similar services, but we do

not believe it will be substantial. In addition to these changes in structure and magnitude of fees and cost recovery, States may realize some actual administrative cost savings by moving from a case-by-case to standardized procedure for calculating costs. However, we expect that these savings will not exceed several million dollars annually.

For the reasons stated above, the Secretary has determined that this document is not a major rule as described by Executive Order 12291, because it does not meet any of the criteria set forth in Section 1 of the Executive Order. Further the Secretary certifies that these regulations will not have significant economic impact on a substantial number of small entities, and do not require a regulatory flexibility analysis as provided in Pub. L. 96–345, the Regulatory Flexibility Act of 1980.

PART 302—[AMENDED]

1. 45 CFR 302.33 is revised to read as follows:

§ 302.33 Individuals not otherwise eligible for paternity and support services.

(a) *Availability of services.* The State plan must provide that the support collection or paternity determination services established under the plan shall be made available to any individual not receiving assistance under the Aid to Families with Dependent Children (AFDC) program who files an application for the services with the IV–D agency.

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

"Applicant's income" means the disposable income available for the applicant's use under State law.

(c) *Application fee.* (1) Until October 1, 1985, the State plan may provide for an application fee to be charged each individual who applies for services under this section. If the State elects to charge a fee, the State plan shall specify either:

(i) A flat dollar amount not to exceed $25 to be charged each applicant; or

(ii) A fee schedule to be used to determine the fee to be charged each applicant. Such fee schedule will be based on each applicant's income and will be designed so as not to discourage the application for such services by those most in need of them.

(2) Beginning October 1, 1985, the State plan must provide that an application fee will be charged for IV–D services under this section. Under this paragraph:

(i) The State shall collect the application fee from the individual applying for IV–D services or pay the application fee out of State funds.

(ii) The State may recover the application fee from the absent parent who owes a support obligation to a non-AFDC family on whose behalf the IV–D agency is providing services and repay it to the applicant or itself.

(iii) State funds used to pay an application fee are not program expenditures under the State plan but are program income under § 304.50 of this chapter.

(iv) Any application fee charged must be uniformly applied on a statewide basis and must be:

(A) A flat dollar amount not to exceed $25 (or such higher or lower amount as the Secretary may determine to be appropriate for any fiscal year to reflect increases or decreases in administrative costs); or

(B) An amount based on a fee schedule not to exceed the flat dollar amount specified in paragraph (c)(2)(iv)(A) of this section. The fee schedule must be based on the applicant's income.

(v) The State may allow the jurisdiction that collects support for the State under this part to retain any application fee collected under this section.

(d) *Recovery of costs.* (1) The State may elect in its State plan to recover any costs incurred in excess of any fees collected to cover administrative costs under the IV–D State plan. A State which elects to recover costs shall collect on a case by case basis either excess actual or standardized costs:

(i) From the individual who owes a support obligation to a non-AFDC family on whose behalf the IV–D agency is providing services under this section; or

(ii) From the individual who has filed an application for IV–D services under this section, either directly or from the support collected on behalf of the individual, but only if the State has in effect a procedure for informing all individuals authorized within the State to establish an obligation for support that the State will recover costs from the individual receiving IV–D services under this section.

(2) A State that recovers standardized costs under paragraph (d)(1) of this section shall develop a written methodology to determine standardized costs which are as close to actual costs as is possible. This methodology must be made available to any individual upon request.

(3) The IV–D agency shall not treat any amount collected from the individual as a recovery of costs under paragraph (d)(1)(i) of this section except amounts which exceed the current support owed by the individual under the obligation.

(4) If a State elects to recover costs under paragraph (d)(1)(ii) of this section, the IV–D agency may attempt to seek reimbursement from the individual who owes a support obligation for any costs paid by the individual who is receiving IV–D services and pay all amounts reimbursed to the individual who is receiving IV–D services.

(5) If a State elects to recover costs under this section, the IV–D agency must notify, consistent with the option selected, either the individual who has filed an application for IV–D services or the individual who owes a support obligation that such recovery will be made. In an interstate case, the IV–D agency where the case originated must notify the applicant of the States that recover costs.

(6) The IV–D agency must notify the IV–D agencies in all other States if it recovers costs from the individual receiving IV–D services.

(e) *Assignment.* (1) The IV–D agency may take an assignment of support rights from an individual who applies for services under this section. However, as assignment by an individual under this section does not constitute an assignment under § 232.11 of this title and may not be a condition of eligibility for services under this section.

(2) Before the applicant for IV–D services under this section makes an assignment of support rights, the IV–D agency shall inform the individual that the assignment is not a condition of eligibility for services under this section and may have the effect of making the support debt dischargeable in bankruptcy.

2. 45 CFR Part 304 is amended by adding a new § 304.50 to read as follows:

§ 304.50 Treatment of program income.

The IV–D agency must exclude from its quarterly expenditure claims an amount equal to:

(a) All fees which are collected during the quarter under the title IV–D State plan; and

(b) All interest and other income earned during the quarter resulting from services provided under the IV–D State plan.

(Sec. 1102 of the Social Security Act (42 U.S.C. 1302) and secs. 454(6) and 455(a) of the Social Security Act (42 U.S.C. 654(6) and 655(a))

(Catalog of Federal Domestic Assistance Program No. 13.679, Child Support Enforcement Program.)

Dated: May 21, 1984.

Martha A. McSteen,

Acting Director, Office of Child Support Enforcement.

Approved: August 24, 1984.

Margaret M. Heckler,

Secretary.

[FR Doc. 84-24745 Filed 9-18-84; 8:45 am]

BILLING CODE 4190-11-M

45 CFR Part 303

Procedures for Case Assessment and Prioritization

AGENCY: Office of Child Support Enforcement (OCSE), HHS.

ACTION: Final rule.

SUMMARY: This document establishes in regulation the authority for States to prioritize their Child Support Enforcement program caseloads. The purpose of this regulation is to permit States to implement case prioritization procedures that provide for the review and management of cases and to establish basic requirements that States' prioritization systems must meet. We published a Notice of Proposed Rulemaking on Procedures for Case Assessment and Prioritization in the Federal Register on April 29, 1983 (48 FR 19424). We received many substantive comments in response to the proposed rule resulting in a number of revisions. This document responds to the comments received and discusses the revisions made as a result of the comments.

EFFECTIVE DATE: September 19, 1984; except for § 303.10(b)(6) which contains information collection requirements under review by the Office of Management and Budget.

FOR FURTHER INFORMATION CONTACT: Marianne Rufty, (301) 443-5350, Office of Child Support Enforcement, Department of Health and Human Services, Room 1010, 6110 Executive Boulevard, Rockville, Maryland 20852.

SUPPLEMENTARY INFORMATION:

Statutory Provisions

This final rule is implemented under the authority of section 1102 of the Social Security Act (the Act) which requires the Secretary to publish regulations that may be necessary for the efficient administration of the functions for which she is responsible under the Act. We believe this rule is necessary for the efficient operation of the Child Support Enforcement program under title IV-D of the Act.

Section 454(4) of the Act requires each State plan for child support to provide that the State "will *undertake* * * * (A) in the case of a child born out of wedlock * * * to establish the paternity of such child * * * and (B) in the case of any child * * * to secure support for such child * * *" (emphasis added). However, there is no provision in title IV-D of the Act or its legislative history that specifies in what order a State must process cases in order to carry out this responsibility. In addition, section 452(a)(1) of the Act requires OCSE to establish standards for program operations. We believe, therefore, that ample statutory authority exists to promulgate regulations that would allow States to implement case prioritization systems to manage their caseloads while continuing to achieve the program goals of locating parents, establishing paternity and securing support. Since we believe that all cases should receive some level of effort to achieve the desired program goal, we want to ensure that these regulations are not construed to imply that it would be permissible for States to neglect or exclude certain cases or classes of cases.

Relationship to the Child Support Enforcement Amendments of 1984

The Child Support Enforcement Amendments of 1984 (Pub. L. 98-378) requires States to develop and implement a variety of measures to increase program performance while allowing States considerable flexibility in the way they operate their programs. This regulation complements the new legislation because it offers States an additional means of enhancing the effectiveness and efficiency of their operations by improving the management of cases.

Provisions of the Final Rule

This part of the preamble contains the section-by-section provisions of the final rule. Under each final provision, we discuss the related proposed provision, the comments received on that provision, and our responses to those comments. A large number of substantive comments were received on the proposed rule—20 letters from State IV-D agencies, four from various other State offices, two from advocacy groups and two from a concerned citizen. Many of the comments were related and resulted in elements of several of the proposed requirements being discussed under one final requirement.

Section 303.10(a): "The IV-D agency may implement a case assessment and prioritization system statewide or in a particular political subdivision of the State to manage its caseload."

The proposed § 303.10(a) gave States the option to implement case prioritization procedures to manage their cases, including AFDC, non-AFDC and interstate cases. We wanted to provide States with a management tool that could be used to improve the effectiveness of establishing paternity and securing support for children. In addition, because of caseload and geographic variations within a State, we felt that States should have the flexibility to implement one statewide system or separate systems within political subdivisions, provided that all cases within the State or political subdivision are included in that system.

Several commenters, including one advocacy group, recommended that this regulation be made a State plan requirement under 45 CFR Part 302. Two commenters recommended that we develop a corresponding audit regulation under 45 CFR Part 305 so that OCSE auditors would have a basis for evaluating a State's prioritization system. The advocacy group also felt that, by allowing States to develop multiple local prioritization systems, States could avoid the statewideness requirements and make a "geographic crazyquilt" of eligibility.

The State plan requirement at 45 CFR 302.39 specifies that the IV-D agency must comply with the standards for program operations prescribed in 45 CFR Part 303. We believe this is sufficient to ensure State compliance with the requirements of case prioritization in § 303.10. This arrangement is consistent with OCSE policies published in a final rule in the Federal Register on June 8, 1982, in which we specified our intent to remove all nonstatutory State plan requirements from 45 CFR Part 302 and place them in 45 CFR Part 303, Standards for Program Operations.

More importantly, OCSE auditors evaluate States' programs to ensure State plan requirements in 45 CFR Part 302 are being met. If a State adopts a case prioritization system, the State must continue to meet the requirements in Part 302 which include performing all of the functions of the program, that is, locating the absent parent, establishing paternity and establishing and enforcing support obligations for AFDC and non-AFDC cases. If an audit reveals that a State did not work certain classes of cases, such as paternity or non-AFDC cases, using case prioritization to justify its action, the State would be subject to the penalty under 45 CFR 305.50 for failure to have an effective program.

With respect to the comment on statewideness as it affects eligibility,

caseloads differ significantly between regions of the country and even within the boundaries of a particular State. Urban areas may have a proportionately higher percentage of paternity cases than rural areas. A particular community may have proportionately fewer non-AFDC cases than another or a disproportionate number of incoming interstate support cases. The characteristics of the cases themselves also differ significantly. There may be proportionately more single women with children than married women with children applying for services in one area versus another. One area may have proportionately more cases requiring support orders to be established than cases with existing orders.

We believe that a State that opts to implement one prioritization system or multiple systems will do so for the purpose of managing its caseload, not for limiting IV–D services to certain applicants. States are required to undertake to secure support and establish paternity in all cases. However, they may use various case characteristics, depending upon caseload demographics, to determine the order in which cases will be worked. In our view, this does not in any way affect eligibility for IV–D services.

Thus, we made no substantive changes to the proposed § 303.10(a) as a result of the above-mentioned comments. To improve readability, several clauses referencing those cases that must be included in the State's system were moved from this paragraph to the new § 303.10(b)(2). In addition, we added the phrase "statewide or in a particular political subdivision of the State" to the proposed paragraph (a) so that States are aware of the flexibility they may have in designing a system or various systems (provided that all cases within the State or political subdivision are included in that system) to manage their cases.

General comments received on the proposed regulations and our responses follow:

Comment: Although many States generally supported the concept of prioritization, seven State IV–D agencies said that the proposed regulations interfere with the State's current practice in whole or in part.

Response: States primarily objected to the restrictions in the proposed §§ 303.10(b)(2) through 303.10(b)(6) either because the State's internal organizational structure or its current operating prioritization system could not be adjusted to meet these requirements. We replaced the requirement that States must prioritize cases within each of the basic service categories with the requirement that States must ensure that no program service is systematically excluded and deleted the requirement that States establish priority I, II, and closed status categories. As a result, a State that opts to prioritize will need to make few, if any, adjustments to its operation or current prioritization scheme. The specific provisions that were revised or deleted are discussed in more detail below.

Comment: Two State agencies and one public interest law firm expressed support for the rule as written.

Response: Our intent in writing the proposed rule was to allow States the flexibility to implement case prioritization systems to manage their caseloads while continuing to achieve the program goals of locating parents, establishing paternity and securing support for children.

Other States objected strongly to the specificity of the requirements contained in the proposed rule. In effect, States felt that these requirements were too restrictive and would impose additional staff and paperwork burdens on an already overburdened system.

Therefore, we decided to replace the requirement for prioritization within service categories with the requirement that States ensure that no program service is systematically excluded and delete the requirement to establish status categories so that States would have the flexibility to operate various types of prioritization systems.

Comment: Seven State IV–D agencies requested that we withdraw the regulations.

Response: Our initial reasons for promulgation regulations in this area are still valid. Some States would like to implement prioritization systems but are reluctant to do so without regulatory authority. Many others are currently operating systems to rank their caseloads without guidelines. Therefore, we continue to believe that it is in the best interest of the program to publish regulations on case prioritization. However, we chose to make prioritization optional so that States may adopt procedures only when they believe such procedures will improve the operation of their programs.

This document establishes in regulation, the authority for States to prioritize their caseloads while preserving the statutory requirement that States will undertake to establish paternity and secure support for children with respect to whom an assignment is effective and for children in non-AFDC cases.

We received many comments on the proposed regulations. The majority of the comments concerned specific requirements that States viewed as too restrictive, burdensome and costly. We replaced the requirement of prioritization within each of the basic service categories with the requirement that States ensure that no program service is systematically excluded and deleted the requirement to establish case status categories of priority I, II and closed. Thererfore, we belive that the regulations contained in this document will be much more acceptable to those States that suggested the regulations be withdrawn.

Comment: An advocacy group was concerned that the preamble to the proposed rule used "age of the child" as an example of a success indicator in the paternity service category and failed to mention cases that are approaching the statute of limitations (as ones that should be processed before others in this category).

Response: We did not wish to infer that there is only one success indicator per service category or to give the impression that "age of the child" is an especially reliable indicator for success in the paternity service category. We agree with the commentor that the "key evidentiary element in a paternity case is a simple scientific [blood] test, of very high probative value, that does not deteriorate over time." Therefore, we urge States to give special priority under their criteria to cases that are approaching the statute of limitations.

Section 303.10(b)(1): "Develop written procedures for the evaluation and prioritization of cases upon receipt and upon becoming aware of changes in case circumstances."

The proposed § 303.10(b)(1) required States to develop written procedures and success indicators for the evaluation and prioritization of all cases only upon receipt. The purpose of requiring States to write procedures was to ensure that the ranking and processing of cases would be uniform and equitable according to prescribed State or local standards. In addition, OCSE would have a basis for reviewing a State's prioritization system to verify that States do not neglect or exclude any class of services required by the Act.

No comments were received on the proposed § 303.10(b)(1). Comments received on the proposed § 303.10(b)(7), however, affected our decision to revise the proposed § 303.10(b)(1).

Section 303.10(b)(7) required States to reevaluate cases if their potential for successful resolution changed because of new or updated absent parent information. Our intention in proposing this requirement was to protect cases from never being worked because they

were initially given low priority at intake.

Two State agencies felt that the proposed § 303.10(b)(7) would ensure that coses are reviewed but that it is burdensone in conjunction with the proposed § 303.10(b)(6), the periodic review of cases requirement.

We continue to believe that it is important to provide protection for those cases that experience a change in case circumstances. Therefore, we retained the substance of the proposed § 303.10(b)(7) and, in effect, strengthened this requirement by combining it with the new § 303.10(b)(1). Thus, in addition to requiring States to have written procedures for prioritization of cases at intake, the new § 303.10(b)(1) requires States to write procedures for reviewing the priority given to cases for which new case information is obtained. A case might be moved up or down in its ranking based on this review. We strongly urge States to develop and implement information exchange systems that will be used to update case information on a routine basis and include reference to these systems in their written procedures. For instance, if there is an exchange of absent parent information between the State's unemployment office and the IV–D agency, the State's written procedures should explain the mechanism used and the type of information received. We recommend that all States include in their procedures a description of the information exchange system in use between the State's IV–A and IV–D agencies.

Section 303.10(b)(2): "Include all of its cases in the system, including cases referred from the IV–A agency under § 235.70 of this title, cases in which applications for services are received under § 302.33 of this chapter, and cases referred from other States for assistance under § 302.36 of this chapter."

The proposed § 303.10(b)(2) required States to include both AFDC and non-AFDC cases in implementing procedures. Our purpose in proposing that States include both caseloads in the same system was to ensure that non-AFDC cases would not be excluded or neglected as a result of the implementation of these procedures.

Eight State IV–D agencies commented on the proposed § 303.10(b)(2). Two felt that non-AFDC cases should not be prioritized when a State charges non-AFDC individuals an application fee and/or recovers the costs of services provided. One of these two stated that, if non-AFDC applicants pay for service, they have a right to expect service. The other six commenters opposed using the same prioritization system and criteria for both caseloads because their current practice is to maintain distinct program areas and procedures for each caseload. We will respond to the States' concerns separately.

First, can a State prioritize a non-AFDC case if it charges a non-AFDC individual an application fee and/or recovers the costs of services provided? Yes. If a State opts to prioritize its caseload, non-AFDC cases must be included in the system. Upon review of all intake information, the IV–D agency may determine that a case has poor potential for successful resolution and may decide to process other cases with higher potential for success before that one. Even if States do not prioritize cases, a similar situation may occur when no immediate action can be taken after an application has been filed. In either instance, no further costs will be charged to the applicant until services have been provided.

Secondly, must a State use the same prioritization system and criteria for AFDC and non-AFDC cases? In order to protect cases from being excluded or receiving a lower priority as a class, we require the State to include all cases in its prioritization system. To ensure equal treatment of both caseloads, States must use the same evaluative criteria for both. The State's written procedures must ensure that neither the non-AFDC caseload nor the AFDC caseload will be given a lesser priority than the other one.

We have not substantially changed the proposed § 303.10(b)(2) as a result of the above mentioned comments. As noted above, to clarify what cases a State must include in its system, we added language that was deleted from the proposed § 303.10(a). We also replaced the word "procedures" with the word "system" for editorial reasons. Therefore, the new § 303.10(b)(2) continues to require that a State, opting to adopt a case prioritization system, must include *all* cases in that system.

Section 303.10(b)(3): "Ensure that no service required to be provided under the IV–D State plan will be systematically excluded by the prioritization system, including locating the absent parent, establishing paternity and establishing and enforcing support obligations."

The proposed § 303.10(b)(3) required States to examine and prioritize cases within each of the program service categories, based on the success indicators that States developed for each service. Our purpose in proposing that States prioritize cases within each of the service categories was to ensure that no program service or class of cases would be overlooked or excluded, particularly the more involved cases such as paternity.

We will first address comments to the proposed § 303.10(b)(3) and, as a result of those comments, our revisions to this requirement. Secondly, we will respond to those States that recommend prioritization based on collection potential instead of prioritization based on success indicators developed for each service category.

With respect to the proposed § 303.10(b)(3), five State IV–D agencies felt that prioritization within categories would be both costly and duplicative. As cases progressed through the services, case assessment and prioritization would occur each time the case entered and exited the necessary program service category. States argued that this process would result in unnecessary administrative costs. In addition, States describe the process as burdensome and unresponsive to their current situation of limited resources.

We agree that objections concerning prioritization within service categories have merit and have therefore revised the proposed § 303.10(b)(3) by replacing the requirement that States must prioritize within service categories based on success indicators with a requirement that States that adopt prioritization systems must ensure that no program service is systematically excluded as a result of these systems. The new § 303.10(b)(3) allows States to implement systems that are more responsive to their needs while continuing to support our intent of ensuring that no program service or class of cases is overlooked or excluded in a State as a result of case prioritization. We believe that the statutory requirement that States must undertake to establish paternity and to secure support for children will further ensure that these important program goals are not neglected.

Three State IV–D agencies recommended that cases be prioritized based on collection potential. States may include collection potential among their overall prioritization criteria. However, States may *not* orient their programs entirely toward financial output by focusing solely on the amount of support or dollar amount that may be obtained in each case. A sole focus on collections would be discriminatory, particularly if immediate collection potential was the only consideration. This could result in the State IV–D agency failing to comply with the requirements of its IV–D State plan in the sense that certain functions of the program, such as paternity establishment, might be ignored. If all

factors are the same, (for example, the absent parent can be located and the evidence of support liability is strong), cases should be given equal priority for establishment and enforcement of a support order regardless of the absent parent's income or financial resources.

We want States to consider a variety of factors when developing their prioritization criteria. If obtaining a support obligation, however small the amount, enables a family to become self-sufficient, that case could be processed before others. If a voluntary wage assignment is obtainable, that case could receive immediate attention.

It is not our intention to allow States to neglect or exclude any class of cases from receiving IV–D services as a result of implementing prioritization systems. We promulgate these regulations to allow States the flexibility to implement systems to manage their caseloads. To accomplish this, we believe it is important for States to focus on those factors or case characteristics that have proven reliable with respect to securing support and establishing paternity.

Section 303.10(b)(4): "Notify all applicants for services that the information they provide, either initially or subsequently, may affect the relative priority given to their cases.

We added this requirement as a result of several comments received from an advocacy group that is concerned about protections for IV–D applicants under State and local case prioritization systems. In effect, the advocacy group felt that the IV–D agency should notify all applicants about the priority that has been assigned to their cases. In addition, they believed that the regulation should allow applicants the opportunity to request a hearing to dispute the priority.

We do not recommend notifying applicants individually about their rank in the State's prioritization process because we believe that requirements now contained in this document provide sufficient protection and because individual notifications of the rank assigned to a case would be impractical given the dynamics of any effective case prioritization system. We envision case priorities to be continually fluctuating and responsive to case changes. If individual notifications of rank assigned and hearings were required for each change in priority, the system would rapidly become inoperable. However, under § 303.10(b)(6), we are requiring that notice be given to low priority cases to encourage them to timely provide any information that may result in reclassification of the case. We discuss paragraph (b)(6) in more detail below.

Since we believe that obtaining quality information is a major factor in determining the priority order of a case, we added the new § 303.10(b)(4). This will ensure that all applicants know the importance of giving quality information to the IV–D agency because cases will be assessed based upon that information and processed in accordance with the State's written prioritization procedures. These procedures should be made available to any concerned individual upon request. Informing applicants that quality information may effect the priority order of their cases could be accomplished by revising AFDC and non-AFDC application forms to inform applicants about quality information or by notifying each applicant individually.

Section 303.10(b)(5): "Prioritize cases after reviewing all intake information for accuracy and completeness and, if review indicates that additional information is needed, prioritize only after attempting to verify or secure the information."

The proposed § 303.10(b)(4) required States to ensure that each case would receive a mimimum level of effort. We wanted States to make an affirmative effort to obtain the best information possible before placing the case within its prioritization scheme. For example, States should verify the information forwarded by the IV–A agency, especially when that information appears on its face to be incomplete, inaccurate or incorrect.

We received comments from eleven State IV–D agencies on this requirement. Some States objected strenuously to the proposed § 303.10(b)(4) on the basis that it would be totally impractical and inefficient and would impose additional staffing burdens on an already overburdened system. Another State felt that this requirement was not cost beneficial nor would it allow efficient use of staff time, especially if a separate IV–D interview has to be conducted before prioritizing. Still another believed that to do something in every case would negate the benefits of prioritization which should be to select one case for processing before another because that case has a higher potential for successful resolution.

We do not see the proposed § 303.10(b)(4) as burdensome to States because we believe that securing the best information possible before working the case as a matter of State practice is an effective program technique. Although the proposed rule mentioned interviewing the custodial parent as a method for obtaining the best available information, we did not mean for States to interview applicants in every case. We want States to pay particular attention to IV–A referral information and when that information is inadequate, contact the custodial parent or other sources (such as State motor vehicle offices or U.S. Post Offices) by phone, mail or interview to verify the accuracy of the referral data and/or to obtain better, more up-to-date information. We believe that efforts to secure the best information possible before prioritizing the case will enhance the benefits of the State's prioritization system. Even though staff time and resource may initially be expended in an effort to obtain the best information, both the State and the case benefit in the long term when the case is given a proper priority for processing from the beginning. To eliminate ambiguity in the interpretation of the term "minimum level of effort," however, we revised the proposed § 303.10(b)(4) to explicitly refer to reviewing all intake information for accuracy and completeness and, when additional information is needed, States must attempt to secure that information. In addition, we have changed this regulation to be more explicit about what is meant by a "minimum level of effort" so that cases will be prioritized in an equitable and efficient manner. We believe that obtaining the best information possible before prioritizing the case is also consistent with the statutory requirement to undertake to secure support and to establish paternity for children in AFDC and non-AFDC cases.

Section 303.10(b)(6): Establish a mechanism for the periodic review of low priority cases and for notifying the custodial parent in these cases that new information may result in a higher priority for the case.

The proposed paragraph (b)(5) required States to establish status categories of priority I, II, and closed. We prescribed certain status categories because we believed that States needed guidelines with respect to the development of the categories and the types of cases that should be assigned to each category. Based on the comments received on the proposed § 303.10(b)(5), which we discuss later in this section, we deleted that requirement.

The proposed § 303.10(b)(6) required States to establish mechanisms to periodically review priority II cases. Priority II cases were defined in the preamble to the proposed regulations as those "cases in which the probability of successfully providing the necessary service is low at the time of referral but in which case circumstances have potential for change." Our intention in proposing this requirement was to protect cases from never being worked

because they were initially given low priority at intake.

Five State IV–D agencies felt that the periodic review of priority II cases was in conflict with the intent of the proposed regulation which was to permit States to concentrate resources on cases with the greatest potential for success. One State questioned how IV–D agencies with their current staffing shortages could be expected to peform periodic reviews of priority II cases without removing the emphasis from priority I cases.

We continue to believe that periodic review of cases that are initially given low priority is an essential element in any effective prioritization system. It assures applicants for services that, although their case may have poor potential for case resolution at intake, the case will be looked at again, at a later date, to re-evaluate its potential based on any change in case circumstances. Upon reevaluation, a case's processing order might change resulting in securing a paternity determination and/or support establishment and collection.

To further assure that low priority cases will be re-evaluated where appropriate, we have specified that States notify those custodial parents whose case is given low priority within the State's system. The notice should ask the custodial parent to keep the IV–D agency informed of any new absent parent information that may change the priority order of the case. We believe this notice requirement supports both the periodic review requirement under this paragraph and the case review requirement which was moved to paragraph (b)(1). In effect, the notice provides a mechanism for assuring that custodial parents who want their cases to have the highest priority possible will be encouraged to come forward with new information such as the return of the absent parent to the jurisdiction because the custodial parent is frequently in the best position to obtain this information.

The new § 303.10(b)(6) deletes reference to the priority II status category and instead uses the term periodic review of low priority cases. As discussed below, we deleted the status category requirement in the proposed paragraph (b)(5)).

Six State IV–D agencies objected to the proposed § 303.10(b)(5) which required States to establish status categories of priority I, II, and closed. One State felt that the formation of subsystems of cases was not sound management practice, especially when inadequate funding exists to increase staff to handle these subsystems. Other States objected to our definition of the "closed" status category because they felt it was too limiting and would result in an overly large priority II status category.

Another IV–D agency felt that the status categories interferred with the State's current system, which they described as much more sensitive to caseload realities than those proposed.

Upon consideration of the comments, we believe that a variety of different schemes of status categories is possible and that it is not necessary to regulate in this area. States that implement a case management system will automatically establish certain categories to distinguish higher potential cases from lower potential cases. Therefore, to give States the flexibility to develop status categories that meet their needs, we are deleting the proposed § 303.10(b)(5).

OMB Review

These regulations at 45 CFR 303.10(b)(6) contain information collection requirements which are subject to Office of Management and Budget (OMB) review under the Paperwork Reduction Act of 1980. These requirements have not yet been approved by OMB and are therefore not effective. The Department will publish a notice in the **Federal Register** regarding the effective date of these requirements once OMB approval has been obtained.

Regulatory Impact Analysis

No significant costs will result from this final rule. Also, States' prioritization systems are expected to increase collections to the extent that such collections will more than offset any implementation costs. The Secretary has determined that this document, which responds to the comments received on the proposed rule, is not a major rule as described by Executive Order 12291. In addition, the Secretary certifies that for the reason stated above, these regulations will not have a significant economic impact on a substantial number of small entities and, therefore, will not require a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexilibity Act of 1980.

List of Subjects in 45 CFR Part 303

Child welfare, Grant programs—social programs.

PART 303—[AMENDED]

45 CFR Part 303 is amended by adding a new § 303.10 to read as follows:

§ 303.10 Procedures for case assessment and prioritization.

(a) The IV–D agency may implement a case assessment and prioritization system statewide or in a particular political subdivision of the State to manage its caseload.

(b) In implementing a case assessment and prioritization system, the IV–D agency must:

(1) Develop written procedures for the evaluation and prioritization of cases upon receipt and upon becoming aware of changes in case circumstances;

(2) Include all of its cases in the system, incuding cases referred from the title the IV–A agency under § 235.70 of this title, cases in which applications for services are received under § 302.33 of this chapter, and cases referred from other States for assistance under § 302.36 of this chapter.

(3) Ensure that no service required to be provided under the IV–D State plan will be systematically excluded by the prioritization system, including locating the absent parent, establishing paternity, and establishing and enforcing support obligations.

(4) Notify all applicants for services that the information they provide, either initially or subsequently, may affect the relative priority given their cases.

(5) Prioritize cases after reviewing all intake information for accuracy and completeness and, if review indicates that additional information is needed, prioritize only after attempting to verify or secure the information.

(6) Establish a mechanism for the periodic review of low priority cases and for notifying the custodial parent in these cases that new information may result in a higher priority for the case.

(Section 1102 of the Social Security Act (42 U.S.C. 1302), section 452(a) of the Social Security Act (42 U.S.C. 652(a)), and section 454(4) of the Social Security Act (42 U.S.C. 654(4))

(Catalog of Federal Domestic Assistance Program No. 13.679, Child Support Enforcement Program)

Dated: June 20, 1984.

Martha A. McSteen,

Acting Director, Office of Child Support Enforcement.

Approved: August 24, 1984.

Margaret M. Heckler,

Secretary.

[FR Doc. 84–24744 Filed 9–18–84; 8:45 am]

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Wednesday
September 19, 1984

Part IV

Department of Health and Human Services

Office of Child Support Enforcement

45 CFR Parts 301, 302, 303, 304, 305, and 307

Child Support Enforcement Program; Implementation of Child Support Enforcement Amendments of 1984; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Child Support Enforcement

45 CFR Parts 301 302, 303, 304, 305, and 307

Child Support Enforcement Program; Implementation of Child Support Enforcement Amendments of 1984

AGENCY: Office of Child Support Enforcement (OCSE), HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: These proposed rules would implement the Child Support Enforcement Amendments of 1984 (Pub. L. 98–378), which amend title IV–D of the Social Security Act (the Act). A new section 466 of the Act requires all States to enact laws requiring the use of certain procedures in their Child Support Enforcement programs. The procedures are: income withholding; expedited processes for establishing and enforcing child support obligations; State income tax refund offsets; liens against property; extended paternity statute of limitations; imposition of security, bond or guarantee; providing information to consumer reporting agencies; and including provision for withholding from wages in child support orders issued or modified in the State. These proposed rules prescribe the requirements a State must meet in order to be in compliance with section 466. Also they set forth the basis on which an exemption from certain provisions of the new law will be granted. This section is effective October 1, 1985.

The new law replaces the current incentive to States equal to 12 percent of AFDC collections with a new system, effective October 1, 1985, which will reward States based on both AFDC and non-AFDC collections. These proposed rules set forth the requirements of that new system.

These proposed regulations also implement the statutory provision which reduces Federal funding to States for administrative costs under the Child Support Enforcement program from 70 to 66 percent at a rate of two percent every other year beginning in FY 1988. The Statute also authorizes 90 percent funding for the costs of hardware in the operation of computerized support enforcement systems as of October 1, 1984.

The new law requires States to collect and distribute child support in cases where they are making foster care maintenance payments under title IV–E of the act, as of October 1, 1984. These proposed rules detail requirements for support collection and distribution by IV–D agencies in foster care maintenance cases.

The amended statute extends the Federal tax refund offset process to permit collection of past-due support owed beginning in tax year 1985 for non-AFDC individuals. These proposed regulations would implement that process.

Finally, these proposed regulations would implement additional statutory provisions which: require State to continue to collect support payments without requiring an application or imposing an application fee when an AFDC family ceases to receive assistance payments; delete the requirement that States exhaust all State parent locator resources before submitting a request to the Federal Parent Locator Service (PLS); require States to collect spousal support if it is included in the child support order; require States to publicize the availability of support enforcement services; require States, at least annually, to send a notice of support payments collected to AFDC recipients; require States to establish guidelines for child support award amounts within the State; permit States to impose late payment fees on individuals who owe overdue support; permit States to track and monitor support payments through public agencies upon request; and require the Governor of each State to appoint a State Commission on Child Support. These sections have varying effective dates.

DATES: Consideration will be given to comments received by November 19, 1984. Public hearings will be held on October 10, 12, 15, and 17, 1984. For times and locations see Supplementary Information.

ADDRESSES: Address comments to Director, Office of Child Support Enforcement, Department of Health and Human Service, Room 1010, 6110 Executive Boulevard, Rockville, Maryland 20852. Comments will be available for public inspection Monday through Friday, 8:30 a.m. to 5:00 p.m., in Room 1010 of the Department's office at the above address. For locations of public hearings see Supplementary Information.

FOR FURTHER INFORMATION CONTACT: At (301) 443–5350:

Pierre Mooney (Mandatory State procedures, foster care)
Marianne Rufty (Reduced Federal funding levels, incentive payments, public hearings)
Mike Fitzgerald (90 percent funding for automated systems hardware)
Carol Jordan (Remaining provisions)

SUPPLEMENTARY INFORMATION:

Public Hearings

To obtain the broadest public participation possible on these proposed rules, we will conduct four public hearings on the dates and at the times and locations listed in the chart below. Any individual who wishes to comment on the contents of this document at any of the hearings must register at least three days prior to the hearing with the appropriate Regional Office contact designated on the chart below. At the time of registration, we ask that prospective participants give identifying information such as name, organization, if any, address and telephone number to the Regional Office contact so that participants can be properly introduced at the hearing.

Comments must be limited to these proposed rules, their implementation, and specific recommendations for change within the constraints of the new law and the Act. Keep in mind that where the statute is explicit, the corresponding regulations will ofter be reiteration of the statute. Since we have no authority to change the statute, your presentations and written comments should address only those areas where the statute provides discretion and where we have authority to change the corresponding regulations.

Presentations are limited to 10 minutes. In addition, we encourage participants, to submit written comments in support of their oral presentations to the Regional Office contact at the address given in the chart below. We will also accept written comments at the hearings from any participants who would like to submit them. Written comments from individuals not planning to participate in the hearings should be submitted to the address given above for other commenters.

To clarify presentations, we may ask questions. We cannot, however, address participant's concerns regarding these proposed regulations or respond to questions at the hearings. Instead, we will consider comments and recommendations received at the public hearing and written comments, suggestions and recommendations received at the address given above in the final version of these rules.

Date and time	Location of public hearing	Regional Office contact and address
Oct. 10, 1984, 8:30 a.m.	Dirksen Federal Bldg., Court Room 2525, 219 South Dearborn, Chicago, ILL 60604.	Mr. Kent Wilcox (or) Ms. Gwen Hardaway, Region V, Office of Child Support Enforcement, 10 West Jackson Blvd., 4th floor, Chicago, Illinois 60604, Phone: (312) 886-5425.
Oct. 12, 1984, 8:30 a.m.	Dallas City Hall Council Chambers, 1500 Marilla, Dallas, TX 75201.	Ms. Tomasia Pinter, Region VI, Office of Child Support Enforcement, Room 8-A-20, 1100 Commerce Street, Dallas, Texas 75242, Phone: (214) 767-3749.
Oct. 15, 1984, 8:30 a.m.	Seattle Center, Mercer Street, Between 3rd & 4th Avenue North, Mercer Forum, Room I and II, Seattle, WA 98121.	Mr. Vince Herberholt (or) Ms. Charlene Allen, Region X, Office of Child Support Enforcement, Third & Broad Bldg., Mail Stop 415, Seattle, Washington 98121, Phone: (206) 442-0943.
Oct. 17, 1984, 8:30 a.m.	Dept. of Health and Human Services, North Auditorium, Room 1081, 330 Independence Avenue SW., Washington, D.C. 20201.	Ms. Catherine McAuliffe, DHHS, Office of Child Support Enforcement, Room 1010, 6110 Executive Blvd., Rockville, Maryland 20852, Phone: (301) 443-1981.

If additional copies of this document are needed, please contact the National Reference Center by calling 301-443-5106 or write: National Reference Center, Office of Child Support Enforcement, 6110 Executive Boulevard, Rockville, Maryland 20852.

Introduction

This notice of proposed rulemaking implements those statutory provisions which require regulation with several exceptions. Revisions to the audit, compliance and penalty provisions of the Act will be implemented in a separate proposed rule. The requirement that the Secretary publish regulations requiring State IV-D agencies to petition to include medical support as part of any child support order whenever health care coverage is available to the absent parent at a reasonable cost will be implemented in final regulations about to be published by the Department. The requirement that States must continue to provide Medicaid benefits for four calendar months beginning with the first month of AFDC ineligibility will be published in a separate rule. Revised section 454(6)(B) of the Act, which requires the State to charge a mandatory application fee, not to exceed $25, for furnishing IV-D services to individuals who are not AFDC applicants or recipients, will be implemented in final regulations on recovery of costs in non-AFDC cases (see notice of proposed rulemaking at 48 FR 41450, September 15, 1983).

We do not address special project grants to promote improvements in interstate enforcement or extension of the demonstration authority under section 1115 of the Act to State Child Support Enforcement programs in these proposed regulations because we do not believe regulatory action in these areas is necessary at this time. In addition, statutory changes involving modifications in the content of the Secretary's annual report and availability of social security numbers are not included in these proposed rules because we believe current regulations adequately cover these provisions. The remaining major segments of the law requiring regulation are discussed separately in these proposed rules. The effective dates for each statutory provision are set forth within the appropriate discussion.

The Child Support Enforcement Amendments of 1984 are comprehensive amendments to the Act. For the most part, these proposed regulations parallel explicit statutory provisions. In drafting these proposed regulations, we attempted to give States flexibility, within the framework of the Act, to vary their legislative and administrative structures in response to different State program needs.

Mandatory State Procedures

Since the inception of the Federal Child Support Enforcement program there has been a marked difference in the level of success of the programs operated by the various States. In the nine years the Federal program has been in existence, certain procedures which have noticeably increased the effectiveness of State programs have been identified. As a result of this experience, Congress has enacted sections 454(20) and 466 of the Act to require all State to implement these proven procedures by October 1, 1985. However, if a State demonstrates to the Secretary that State legislation is required to conform the State plan to one or more of the requirements of the new statute, the State's plan shall not be regarded as failing to comply solely by reason of its failure to meet the requirements imposed by the new amendments until four months after the end of the first session of the State's legislature which ends on or after October 1, 1985.

These proposed regulations: (A) require that a State plan for child support enforcement must provide that the State has in effect laws governing the mandatory enforcement procedures specified in the new section 466 of the Act; (B) specify how a State should proceed in order to obtain an exemption from one or more of these procedures and the basis for granting exemptions; and (C) specify the criteria that a State must meet in implementing the mandatory enforcement procedures.

State Plan Requirement (§ 302.70)

A new 45 CFR 302.70 contains the State plan requirement for the use of mandatory practices to improve program effectiveness as specified in the new paragraph 454(20) of the Act. The definition of "overdue support" from the new section 466(e) of the Act that is applicable to all mandatory practices is added to the general definitions section found in 45 CFR 301.1. "Overdue support" means a delinquency pursuant to an obligation determined under a court order, or an order of an administrative process established under State law, for support and maintenance of a minor child which is owed to or on behalf of the child or for the absent parent's spouse (or former spouse) with whom the child is living, if and to the extent that a spousal support obligation has been established and the child support obligation is being enforced under the State's IV-D plan. At the option of the State, overdue support may include amounts which otherwise meet the definition in the previous sentence, but which are owed to or on behalf of a child who is not a minor child. The option to include support owed to children who are not minors applies independently to the four procedures to which overdue support applies under section 466 (i.e., State income tax offset, liens against property, giving security or posting a bond to guarantee payment of support, and making information available to consumer reporting agencies).

Under proposed § 302.70(a), a State plan for child support enforcement must provide that the State has in effect and has implemented laws and procedures specified with section 466(a) of the Act for : (1) Carrying out a program for the withholding of amounts from the wages of individuals to comply with support orders; (2) establishing and enforcing support orders by expedited processes; (3) obtaining overdue support from State income tax refunds in cases where support is assigned to the State under

sections 402(a)(26) or 471(a)(17) of the Act and where support is collected under section 454(6) of the Act; (4) imposing liens against real or personal property for amounts of overdue support; (5) establishing a child's paternity up to the child's 18th birthday; (6) requiring the absent parent to give security, post a bond or give some guarantee to secure payment of overdue support; (7) making available to consumer reporting agencies at their request information regarding the amount of support owed by an absent parent if the amount is more than $1,000 or at the option of the State if the amount is less than $1,000; and (8) including a provision for wage withholding in child support orders issued or modified in the State.

Section 466 requires States to use procedures 3, 4, 6 and 7 except when they determine that the procedures are inappropriate in an individual case. Using guidelines generally available in the State, States must take into account the payment record of the absent parent, the availability of other remedies, and other relevant considerations in determining whether use of a particular procedure is inapprorpriate in an individual case. We have implemented this requirement in proposed § 302.70(b). Under § 302.70(c), State laws enacted to implement these effective practices must give States sufficient authority to comply with the requirements contained in 45 CFR 303.100 through 303.105. We have not included a section under Part 300 of the regulations on paternity establishment up to the child's 18th birthday because including the requirement under § 302.70 is adequate to regulate this mandatory procedure.

The new section 466(d) of the Act allows the Secretary of HHS to grant a State (or a political subdivision with respect to expedited process) an exemption from enacting and using any of the procedures mandated by the new law if the State demonstrates that the procedure would not increase the effectiveness and efficiency of the State's Child Support Enforcement program. Such demonstration must be supported through the presentation of data pertaining to caseloads, processing time, administrative costs, average support collections or other actual or estimated data that the Secretary may require. The Secretary will review the exemption periodically and terminate it if circumstances, including effectiveness, should change.

We are proposing in the new § 302.70(d)(1) that a State may request an exemption from the State plan requirements of paragraph (a) by submitting a request for exemption to the appropriate Regional Office. Under this process, a State may also request an exemption from the requirement for expedited process for a political subdivision of the State. Under § 302.70(d)(2), we propose that the Secretary will grant an exemption for up to three years upon a clear demonstration by the State that compliance would not increase the effectiveness and efficiency of its Child Support Enforcement program. We are proposing that to support an exemption, the information required by the new section 466(d) of the Act must be provided and documented by the State. Because the Congress has given the Secretary discretion to determine whether or not to grant an exemption, disapproval by the Secretary of a request for exemption is not subject to appeal.

The proposed § 302.70(d)(3) provides for review by the Secretary and termination of the exemption for the State (or political subdivision in the case of expedited process) if the State cannot demonstrate that it continues to warrant an exemption in accordance with paragraph (d). Under proposed paragraph (d)(4), a State must request an extension of an exemption 30 days prior to the end of the exemption period granted by the Secretary by submitting current data that demonstrates that compliance with the required procedure will not increase the efficiency and effectiveness of its Child Support Enforcement program. We will issue an action transmittal to States containing instructions for requesting an exemption.

Procedures for Wage or Income Withholding (§ 303.100)

The new section 466 of the Act requires that States provide for by law and have in effect two distinct procedures for dealing with wage withholding. The first, required under section 466(a)(1) and (b) of the Act, pertains only to cases being enforced through the IV-D agency. Under this requirement, States must have and use a procedure that requires wage withholding to be triggered in IV-D cases whenever an arrearage accrues that is equal to the amount of support payable for one month. Withholding is to begin without amendment to the order or further action by the court. Section 466(b) also specifies other elements of the withholding system for IV-D cases such as the basis for appeal, maximum amounts of withholding, imposing fines on noncooperative employers and so forth.

The second procedure, required by section 466(a)(8) of the Act, must provide that all new or modified orders issued in the State include a provision in the order for wage withholding when an arrearage occurs. The intent of the second required State procedure is to ensure that orders not being enforced through the IV-D agency will include in them the authority necessary to permit wage withholding to be initiated by someone other than the IV-D agency (e.g., a private attorney).

The specific requirements for applying wage withholding that are set out for IV-D cases do not apply to wage withholding that ensues solely from the inclusion of a wage withholding clause in an order. States are free to establish the conditions and procedures to be applied for wage of withholding for cases not being enforced through the IV-D agency. It is likely that most States will conform these conditions and procedures to those required to be used for IV-D cases. Should the conditions and provisions of the two required procedures differ, however, the procedures required to be used for IV-D cases must be applied in IV-D cases. For example, if an order calls for withholding to begin when the arrearage amount equals the amount payable for two months in accordance with the State's procedure for orders not being enforced under title IV-D, withholding must still begin after one month's arrearage accrues in accordance with the State procedure that applies to all IV-D cases, if that order is now being enforced under the States IV-D plan.

We propose implementing new sections 466(a)(1) and (8) and (b) of the Act which provide for withholding of income or wages of individuals who owe overdue support by adding a new section 45 CFR 303.100, Procedures for wage or income withholding. To implement section 466(b)(1) of the Act, the proposed § 303.100(a)(1) requires that States must ensure that in the case of each absent parent subject to a support order in the State which is being enforced under the State plan, so much of his or her wages must be withheld as is necessary to comply with the order. In addition to withholding the amount due for current support, proposed paragraph (a)(2) requires the State to withhold an additional amount of wages to be applied toward liquidation of arrearages. Proposed paragraph (a)(3) limits the total amount withheld for support and other purposes to an amount not to exceed the maximum permitted under section 303(b) of the Consumer Credit Protection Act (15 U.S.C. 1673(b)).

In accordance with section 466(b)(2) of the Act, proposed § 303.100(a)(4) requires that the State law be designed so that, in the case of a support order being enforced under the State plan, withholding occurs without the need for any amendment to the support order involved or any further action by the court or entity that issued it. This blanket provision of State law must apply to both existing and new support orders.

Section 466(a)(8) of the Act and § 303.100(h), which implements the second required State procedure discussed above, provide that new or modified support orders established after the effective date of the new law must have a specific provision for withholding. As stated earlier, this is to ensure that withholding as a means of collecting support is available if arrearages occur without the necessity of applying for IV–D services. Notwithstanding, if a new or modified support order does not include a provision for withholding and the order is being enforced by the IV–D agency, withholding must occur as required in § 303.100 (a) through (g).

To implement the requirements under section 466(b)(3) of the Act for triggering withholding, proposed § 303.100(a)(4) requires that the State take steps to begin withholding on the date on which the parent fails to make payments in an amount equal to one month's support obligation. This does not mean that the individual must miss paying the support obligation for one month. Any combination of unpaid support totalling one month's accrued arrearages would trigger a withholding. Paragraph (a)(4) would also permit the State to take steps to implement the withholding at any earlier time that is in accordance with State law or that the absent parent may request. This means that a State could use withholding to collect support in all cases if it chose to do so.

Section 466(b)(4) of the Act and proposed § 300.100(a)(5) require that withholding be carried out in full compliance with all procedural due process requirements under the State's laws. Section 300.100(a)(6) requires States to have procedures for terminating the withholding promptly, in accordance with section 466(b)(10 of the Act. For instance, a State would terminate a withholding when there is no further support obligation or when the whereabouts of the child and custodial parent are unknown preventing the forwarding of payments. In paragraph (a)(7), we propose to require States to have procedures for promptly refunding to individuals monies that have been improperly withheld.

Under section 466(b)(4), States must provide notice to an individual before notifying the individual's employer concerning a withholding. The notice must inform the individual of the intent to withhold and of the procedures to follow to contest the withholding. An individual may contest the withholding only on the basis of a mistake of fact. If the individual contests the proposed withholding, the State must determine whether or not the withholding will occur and, if so, notify the individual, within no more than 45 days after the provision of the advance notice, of the timeframe within which the withholding is the begin. To implement these requirements, § 303.100 (b) and (c) set forth the criteria that States must meet in giving advance notice and providing an opportunity to contest the withholding. In proposed paragraph (b)(1), States must provide advance notice to the absent parent of the delinquency of support payments and the potential withholding. The notice must inform individuals: (1) of the amount to be withheld; (2) that the withholding applies to current and subsequent periods of employment; (3) of the methods available for contesting the withholding on the grounds that the withholding is not proper because of mistakes of fact; (4) of the period within which the State must be contacted in order to contest the withholding and that failure to contact the State within the specified time limit will result in the State notifying the employer to begin the withholding; and (5) of the actions the State will take if the individual contests the withholding. Although we are not specifying a period of time within which an individual must notify the State to contest the withholding, States should establish a standard time period (for example, 10 days) that would allow them to complete all required action within the statutory 45-day limit contained in paragraph (c).

As specified in section 466(b)(4) of the Act, proposed paragraph (b)(2) exempts from the advance notice requirements any State which has a withholding system in effect as of August 16, 1984, if the system provides, on that date and afterwards, any other procedures necessary to meet the State's procedural due process requirements.

Paragraph (c) would require that States establish procedures for use when an absent parent contests a withholding. At a minimum, the procedures must provide that the State, within 45 days of giving advance notice to the individual, will: (1) Give the individual an opportunity to present his or her case; (2) decide if the withholding will occur based on an evaluation of the facts; and (3) notify the individual whether or not the withholding is to occur and if so, include in the notice the timeframe within which withholding will begin and the information provided to the employer in the notice required in paragraph (d).

When the absent parent does not contest the withholding or has exhausted all procedures established by the State in accordance with paragraph (c), the State must give notice of the withholding to the employer, in accordance with section 466(b)(6)(A) of the Act and § 303.100(d). Clear Congressional intent in the Conference report indicates that Federal employees are subject to the withholding provisions of the new statute. Therefore, in cases involving Federal employees and members of the uniformed services, the notice to the employer must be directed to the appropriate designated official identified in: Appendix A of 5 CFR Part 581 for Federal employees; 32 CFR 54.6(g) of proposed regulations issued October 18, 1982 (47 FR 46297) for members of the military; 42 CFR 21.74 for members of the Public Health Service; and 33 CFR 54.07 for members of the Coast Guard. In cases involving members of the uniformed services, requests for withholding must meet the requirements in the above regulations.

Section 466(b)(6) of the Act sets forth specific requirements with repect to notice to the employer as well as responsibilities of the employer and the State in withholding wages. To meet these requirements, the notice to the employer must contain the elements listed in the proposed § 303.100(d)(1). Under paragraph (d)(1)(i) the notice would require the employer to withhold the amount specified in the notice (and include a statement that the amount acutally withheld for support and for other purposes may not be in excess of the amount allowed under section 303(b) of the Consumer Credit Protection Act.) Under paragraph (d)(1)(ii), the notice would instruct the employer to pay the amount to the State (or other individual or entity that the State designates) at the same time the employee is paid. Under paragraph (d)(1)(iii), the State may allow the employer to deduct a fee established by the State and specified in the notice for the administrative costs of each withholding. Under this provision, the State must specify that the fee be withheld from the absent parent's wages in addition to the amount to be withheld to satisfy support.

Under proposed paragraph (d)(1)(iv), the notice must state that the withholding is binding on the employer until further notice by the State. In addition, proposed paragraph (d)(1)(v) requires the notice to specify that the employer is subject to a fine for discharging, refusing to employ or taking disciplinary action against an individual because of a withholding. Proposed paragraph (d)(1)(iv) requires the notice to specify that, if the employer fails to withhold wages, the employer is liable for any amounts up to the accumulated amount the employer should have withheld. In the proposed paragraph (d)(1)(vii), the withholding would have priority over any other legal process under State law against the same wages as required by section 466(b)(7) of the Act. This means that an employer must withhold amounts for support before complying with any other legal process imposed in accordance with State law. In proposed paragraph (d)(1)(viii), employers may combine withheld amounts in a single payment for each appropriate agency requesting withholding and separately identify the portion of the payment which is attributable to each individual employee, in accordance with section 466(b)(6)(B) of the Act.

In § 303.100 (d)(1)(ix) to (d)(1)(xi) and (d)(2), we propose requirements that are not specified in the statute. Therefore, we are using the authority granted to the Secretary under section 1102 of the Act to propose some general requirements to facilitate withholding. Section 1102 authorizes the Secretary of HHS to publish regulations not inconsistent with the Act which may be necessary to efficiently administer the Secretary's functions under the Act.

The proposed paragraph (d)(1)(ix) would require that in cases where there is more than one order for withholding against a single employee under § 303.100 the employer must comply on a "first-come-first served" basis and must honor all withholdings to the extent that the total amount withheld from the absent parent's wages does not exceed the limits under seaction 303(b) of the Consumer Credit Protection Act (15 U.S. C. 1673(b)). Paragraph (d)(1)(x) would require the employer to implement the withholding no later than the first period that occurs after 14 days from the mailing date on the notice. In paragraph (d)(1)(xi), we propose that employers must notify the State promptly of the termination of the individual's employment and provide the individual's last known address and the name and address of the individual's new employer, if known. We believe these requirements will ensure the proper implementation of withholding.

Paragraph (d)(2) would require that, if the absent parent changes employment within the State while the withholding is in effect, the State must notify the new employer, in accordance with the requirements of paragraph (d)(1), that the withholding is binding on the new employer.

Section 303.100(e) of the proposed rule outlines the procedures for the administration of withholding as provided by section 466(b)(5) of the Act. Under proposed § 303.100(e)(1), a State must designate a public agency to administer withholding in accordance with procedures specified by the State for keeping adequate records to document, track and monitor support payments or establish or permit the establishment of alternative procedures for the collection and distribution of amounts withheld by an entity other than a designated public agency. Proposed paragraph (e)(2) requires the State disignee under (e)(1) to distribute amounts withheld promptly in accordance with section 457 of the Act and related regulations. A State may contract with private firms for the collection and distribution of withheld amounts. If a State contracts with a private firm, the State must reduce its IV–D expenditures by any interest earned by the firm on withheld amounts in the same manner as it would for interest earned on any other IV–D transactions. This is in accordance with section 455 of the Act. Under this requirement, a State may allow the firm to keep interest earned as payment for services provided, but the interest amount must be deducted from the State's IV–D expenditures.

The new section 466(b)(8) gives a State the option to expand its withholding system to include withholding from forms of income other than wages in order to ensure that support owed by absent parents will be collected regardless of the nature of their income-producing activities. Proposed § 303.100(f) implements this optional provision.

Under proposed § 303.100(g)(1), we are implementing the requirement in section 466(b)(9) that States extend their withholding systems to include withholding in cases where the support orders wher issued in other States. As specified in the statute, this provision is necessary to ensure that support owed to children and their custodial parents will be collected without regard to the residence of the absent parent.

Although the requirements contained in proposed §303.100 (g)(2) through (g)(7) are not specifically required by the statute, we believe they are necessary for the proper implementation of the statute and to clarify the responsibilities of each State involved in an interstate withholding. We are, therefore, using the authority granted to us under section 1102 of the Act to impose these requirements.

In paragraph (g)(2), we propose to require that the State law require employers within the State's jurisdiction to comply with a withholding notice. Under paragraph (g)(3), we are proposing to require that once withholding in a particular case is required, the VI–D agency of a State where a support order is entered must notify the VI–D agency of any other State in which the absent parent is employed in order to ensure interstate withholding. We would require this notification to contain all the information necessary to carry out the withholding, including the amount to be withheld. Paragraph (g)(4) would require the State in which the individual is employed to implement withholding promptly upon receipt of the notice to withhold from the State where the order is entered.

Since the State where the absent parent is employed must carry out the withholding with the employer, in paragraph (g)(5) we propose to require that State to provide the advance notice to the absent parent, the opportunity to contest the withholding and the notice to the employer. In addition, under paragraph (g)(5), when an absent parent terminates employment within the State, that State must notify the State where the support order was entered that the absent parent is no longer employed in the State and provide the name and address of the absent parent and new employer, if known. This will allow the State where the support order was entered to notify the new State where the absent parent is currently employed to implement withholding. Under paragraph (g)(6), all procedural due process requirements of the State where the absent parent is employed would apply. Finally, paragraph (g)(7) would provide that, except for specifying when the withholding shall apply and the amount to be withheld, the law and procedures of the State where the absent parent is employed shall apply.

Expedited Processes

We propose to implement the requirements of the new section 466(a)(2) by adding a new 45 CFR 303.101, Expedited processes. In this proposed section we require States to have in effect and use expedited

processes for the establishment and enforcement of support orders. Paragraph (a) of § 303.101 defines a number of terms applicable to the section.

To implement the specific requirements of section 466(a)(2) of the Act, proposed paragraph (b)(1) requires States to have in effect and use either administrative or quasi-judicial processes to establish and enforce support orders. The State may use expedited processes for paternity establishmnent as well. A State may not simply enact a law authorizing the use of expedited process but must in fact use it in lieu of full judicial process to ensure speedier processing of support establishment and enforcement actions. Under proposed paragraph (b)(2), use of a State's generally applicable full judicial process is limited to appellate review of actions taken under expedited process. Proposed paragraph (b)(3) specifies requirements for notice to the absent parent. In paragraph (b)(4), we are proposing that under expedited process orders must have the same force and effect under State law as orders established by full judicial process. Under proposed paragraph (b)(5), the State's processes must ensure that the rights of the individuals involved are protected. And in paragraph (b)(6), we propose that a State must use expedited processes for cases from its own State and from other States.

Paragraph (c) contains proposed requirements for administrative process. Under these requirements a State must use the formula for setting support order amounts required for administrative process under § 302.53 and have and use certification procedures for hearing officers. Paragraph (c)(3) requires the administrative agency to use the State's generally applicable administrative procedures and paragraph (c)(4) requires the administrative agency to provide the absent parent with a copy of the order.

Paragraph (d) contains our proposals regarding quasi-judical processes. We provide that judge surrogates must be used in a system of quasi-judicial process and that their delegated authority must include, at a minimum, the following functions: taking testimony and establishing a record; evaluating evidence and making initial decisions or recommendations; and accepting a voluntary acknowledgment of support liability and approving stipulated agreements to pay child support. The experience of States which use some form of expedited process has shown that judge surrogates must have authority to perform at least these functions. States may expand the authority of judge surrogates to include enforcement of support obligations and issuance of default judgments or may delegate more authority to the surrogates based on their particular needs. For example, where a high percentage of absent parents fail to appear for hearings, as State might delegate the authority to issue bench warrants or default orders to judge surrogates. A State must delegate enough authority to judge surrogates to allow them to perform in a truly expedited manner.

Under proposed § 303.10(e), in accordance with the statute, a State would be granted an exemption from the requirements of § 303.101 for a political subdivision on the basis of the political subdivision's effectiveness and timeliness of support order issuance and enforcement in the same manner that States would be granted exemptions from required procedures in accordance with § 302.70(c).

State Income Tax Refund Offset

We are implementing the new section 466(a)(3) by adding a new 45 CFR 303.102 which sets out the criteria for implementing State income tax refund offset procedures. The offset process is mandatory for all appropriate IV–D cases, including AFDC, non-AFDC and foster care maintenance cases regardless of whether they are intrastate cases or interstate cases referred from other States.

Section 303.102(a) specifies which overdue support qualifies for offset. Paragraph (a)(1) would clarify that overdue support in all IV–D cases qualifies for State income tax offset. Paragraph (a)(2) specifies that overdue support qualifies for offset if the State does not determine that the case is inappropriate for use of this procedure using guidelines it may develop which are generally available in the State. We have given States maximum flexibility to set which overdue support qualifies for offset to permit each State to establish the most effective and efficient procedures for offsetting State income tax refunds. We recognize that one set of criteria in Federal regulations will not be suitable for all States.

Paragraph (b)(1) would require the IV–D agency to establish procedures to ensure that amounts referred for offset have been verified and are accurate. The proposed regulations do not specify the procedures States must use to ensure accuracy, since procedures may vary from State to State. Paragraph (b)(2) would require the IV–D agency to notify the appropriate State office or agency of any significant reductions in amounts referred for offset.

Under § 302.102(c), a State must inform non-AFDC individuals in advance that the State may first use any offset amount to satisfy any unreimbursed AFDC or foster care maintenance payments. This is in accordance with current policy which allows States to use overdue support collected in non-AFDC cases either to satisfy unreimbursed assistance or to pay non-AFDC individuals.

In accordance with section 466(a)(3)(A) of the Act, proposed § 303.102(d) requires States to send advance notice to the absent parent of the referral for offset and provide an opportunity to contest it. Section 303.102(e)(1) would require States to establish procedures for contesting the referral for offset. Paragraph (e)(2) would require States to have a mechanism for promptly reimbursing the absent parent if the offset amount is found to be in error or to exceed the amount of overdue support. Paragraph (e)(3) would require States to establish procedures, with respect to joint refunds, for ensuring that the absent parent's spouse has an opportunity to request a share of the refund, if appropriate, in accordance with State law.

Section 303.102(f) allows a State to deduct from the amount collected in a non-AFDC IV–D case a reasonable fee to cover the cost of collecting overdue support using State income tax refund offset, in accordance with section 466(a)(3)(B) of the Act

Section 303.102(g) sets forth the requirements specified in section 466(a)(3)(B) of the Act for distribution of amounts offset. Paragraph (g)(1) requires States to distribute amounts collected from State tax refund offsets in a timely manner as overdue support. This paragraph also requires the State to credit amounts offset on individual IV–D payments records. In AFDC or foster care maintenance cases, distribution procedures at §§ 302.51(b) (4) and (5) or 302.52(b)(3), respectively, are applicable because the State must treat amounts collected under the State tax refund offset as past-due support. Under § 302.51(b)(4), amounts collected in an AFDC case are retained by the State as reimbursement for past assistance payments. Section 302.51(b)(5) provides that any excess amounts remaining after the State is reimbursed in an AFDC case shall be paid to the family. Under §302.52(b)(3), which governs distribution in foster care maintenance cases, the distribution is the same as for AFDC cases. Under § 303.102(g)(2), if the amount collected is in excess of amounts required to be distributed, the

excess amount must be refunded to the absent parent within a reasonable period.

Section 303.102(h) requires the State IV–D agency to request that notice of the absent parent's home address and social security number or numbers be sent by the State agency responsible for processing State income tax refunds to the State IV–D agency that requested the offset and the State IV–D agency enforcing the support order. This provision is required by the new statute in section 466(a)(3)(C).

Imposition of Liens

We are implementing the new section 466(a)(4) by adding a new 45 CFR 303.103, Procedures for the imposition of liens against real and personal property. In accordance with the new statute under paragraph (a) of this section must have in effect and use procedures for the imposition of liens against the real and personal property of an absent parent who owes overdue support and who resides or owns property in the State. Under paragraph (b), this procedure is applicable for cases not deemed inappropriate under guidelines that may be developed by the State made generally available.

Posting Security, Bonds or Guarantees

We are proposing to implement the requirements of the new section 466(a)(6) by adding a new 45 CFR 303.104, Procedures for posting security, bond or guarantee to secure payment of overdue support. In proposed § 303.104(a), States must have in effect and use procedures under which absent parents must post security, bond, or give some other guarantee to secure payment of overdue support. This procedure is applicable for cases not considered inappropriate under the State's generally available guidelines. Examples of appropriate cases might be those in which the absent parent is self-employed or realizes income from commissions or other irregular payments, unless the income realized is so small that it would be counter-productive to require security because the cost of meeting the security would preclude payment of the support obigation. States should screen cases for use of this procedure very carefully in order to use it to its fullest advantage.

In accordance with the new statute, proposed paragraph (b) requires a State to give the absent parent advance notice, in full compliance with the State's procedural due process requirements, of the requirement to post security, bond or give some other guarantee and of the methods to use to contest the action. Under proposed paragraph (c), this procedure is applicable for cases not deemed inappropriate under guidelines that may be developed by the State and made generally available.

Making Information Available to Consumer Reporting Agencies

We propose to implement the requirement of the new section 466(a)(7) by adding a new 45 CFR 303.105, Procedures for making information available to consumer reporting agencies. Under § 303.105(a), we define "consumer reporting agency" to mean any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports. This definition is mandated by the statute and found in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)).

Under proposed paragraph (b), in accordance with section 466(a)(7) of the Act, States must use this procedure when an absent parent is more than $1,000 in arrears and information regarding the amount of overdue support owed by these absent parents is requested by such agencies. The cases in which information is sent to the consumer reporting agency may be further limited by the State under generally available guidelines used to determine cases inappropriate for this procedure.

The use of such procedures is optional to the State in cases where the absent parent is less than $1,000 in arrears. Under proposed paragraph (c), in accordance with the statute, States would have the option to charge the agency a fee for providing this information. Any fee charged would be limited to the actual cost of providing the information. Under this requirement, a State may establish a uniform fee to be applied in all cases or develop a fee schedule based on the volume of requests. Paragraph (d) requires the State to provide the absent parent an advance notice and an opportunity to contest the accuracy of the information. Paragraph (e) requires the State to comply with all applicable procedural due process requirements of the State before releasing the information. The requirements imposed in paragraph (d) and (e) are required by the statute.

The requirements of this section do not preclude a State from obtaining information from consumer reporting agencies.

Distribution

We are revising 45 CFR 302.51(a) to provide a paragraph (a)(1) that the date of collection in interstate cases is the date the collection is received by the responding State, except as provided in paragraph (a)(2). Under the current § 302.51(a), the date of collection is the date the initiating State receives the collection.

Under paragraph (a)(2), we are proposing to make the date of collection date for amounts withheld by employers under withholding procedures the date the employer withholds the absent parent's wages to meet the support obligation. We are making these changes under the authority of section 1102 of the Act in order to distribute payments as current support in interstate cases and in cases where multiple withholding payments are submitted in a lump sum to the IV–D agency. Thus, the IV–D agency will be able to distribute these payments as intended by the statute and to avoid possible inequities resulting from delays in forwarding payments by employers or responding States in interstate cases.

Incentive Payments

Under current section 458 of the Act, States and political subdivisions that enforce and collect support are eligible to receive as an incentive 12 percent of collections made on behalf of AFDC families. States deduct the incentive payment from the Federal share of collections before reimbursing the Federal government for its contribution toward the AFDC assistance payment. The incentive payment is thus set at a fixed rate of the support collection.

The fixed incentive payment rewards States for collections made in AFDC cases, but it does not encourage States to improve program efficiency and effectiveness. The great variance in the efficiency and effectiveness of Child Support Enforcement programs operated by States has become a matter of increasing concern. This disparity has led to a search for ways in which Federal funding might be used to encourage improvement in the performance of State Child Support Enforcement programs.

To encourage and reward States that operate Child Support Enforcement programs in an efficient and effective manner and to stimulate collections, Congress added a new section 454(22) and revised section 458 of the Act. Effective October 1, 1985, section 458 will replace the current incentives

system with a new system under which States will receive a minimum incentive payment based on amounts collected on behalf of AFDC families and on behalf of non-AFDC families. States could also receive additional amounts above the minimum payment if their performance meets the criteria established by Congress and promulgated in this document. In addition, section 454(22) requires the State to pass through an appropriate share of its incentive payment to those political subdivisions within the State that financially participate in the program. Since the emphasis of the new system is on program performance, we believe that States will be encouraged to select and develop more effective and efficient methods of operating their programs.

Section 5(c)(2)(A) of the new statute provides that through FY 1985, States will receive incentives on AFDC collections made, including the first $50 collected which is returned to the family in accordance with section 457(b) of the Act as amended by section 2640(b) of the Deficit Reduction Act of 1984. Prior to this provision, incentives were paid only on collections retained to reduce or repay assistance payments.

Revised section 458(b)(4) provides for a transition between the current funding system (12 percent incentives and 70 percent Federal matching rate) and the new system which becomes effective October 1, 1985. Under the transition provision, in FY 1986 and FY 1987, States will be paid an amount equal to the greater of the amount they qualify for under the new incentive and Federal matching rate system or 80 percent of the amount that they would have received under the 12 percent incentive payment (as amended by the new statute to allow incentives to be paid on amounts collected, including the $50 which is passed through to the family under the Deficit Reduction Act of 1984 (P.L. 98–369)) and 70 percent matching rate system, had they remained in effect as they were in effect for FY 1985.

We proposed to implement the new section 454(22) and the revised section 458 of the Act by adding a new § 302.55 and revising § 303.52, Incentive payments to States and political subdivisions. In accordance with the new State plan requirement in section 454(22), the proposed § 302.55 would require the State plan to provide that, in order for the State to be eligible to receive incentive payments under § 303.52, if one or more political subdivisions participate in the cost of carrying out the IV–D program, those subdivisions shall be intitled to receive an appropriate share of any incentive payment made to the State for the period, as determined by the State in accordance with § 303.52(d), taking into account the efficiency and effectiveness of the political subdivision in carrying out its activities under the IV–D State plan. For example, the State may determine the appropriate share of each locality that participates in the costs of the program using a formula such as the one specified in statute and contained in this document at § 303.52(b). We strongly recommend that if States use that formula, they supplement each locality's share, if necessary, so that localities receive the total incentive payment which would be computed for their performance with respect to the criteria in § 303.52(d).

The revised section 458 of the Act is implemented by revising the current § 303.52. Paragraph (a) of the proposed § 303.52 contains four definitions. The definition of "political subdivision" is unchanged from the current § 303.52. To clarify the use of the terms "AFDC collections," "non-AFDC collections" and "total IV–D administrative costs," we added definitions of these terms to the proposed § 303.52(a). The definitions of AFDC and non-AFDC collections reflect the provision in section 458(b) which allows States to count collections made in foster care maintenance cases as AFDC collections for purposes of calculating incentive payments.

Proposed paragraph (b) provides that OCSE will pay an incentive payment to a State for each fiscal year in recognition of AFDC collections and of non-AFDC collections. Under paragraph (b)(1), a portion of the State's incentive payment would be computed as a percentage of its AFDC collections, and a portion of its incentive payment would be computed as a percentage of its non-AFDC collections. The percentage, determined separately for AFDC and non-AFDC incentives, is based on the ratio of the State's AFDC and non-AFDC collections to the State's total IV–D administrative costs, in accordance with section 458(c) of the Act. The percent of collections payable as an incentive to a State in a given fiscal year is specified in the schedule contained in paragraph (b)(1). To implement section 458(b) of the Act, each State will receive an incentive payment of at least six percent of its AFDC and non-AFDC collections. The schedule also sets forth increased incentive payments equal to 6.5 percent of each type of collection if the ratio of AFDC or non-AFDC collections to total IV–D administrative costs equals at least 1.4. An additional incentive of one-half of one percent of AFDC and non-AFDC collections, up to a limit of 10 percent, will be paid for each full two-tenths by which the ratio exceeds 1.4. These two provisions governing increased incentive payments implement section 458(c) of the Act.

Under § 303.52(b)(2), we propose that the ratios of the State's AFDC and non-AFDC collections to total IV–D administrative costs would be truncated at one decimal place, since rounding is not permitted under the statute. For example, a State would receive an incentive of seven percent of its AFDC collections if the ratio of AFDC collections to total IV–D administrative costs was 1.79, because in order to receive an incentive of 7.5 percent, the ratio must be at least 1.8

As provided under section 458(b), paragraph (b)(3) provides that the portion of the incentive payment paid to a State for non-AFDC collections may not exceed the portion paid the State for AFDC collections in FY 1986 and 1987. However, in FY 1988, the non-AFDC portion of the incentive may equal 105 percent of the AFDC portion of the incentive; in FY 1989, the non-AFDC portion may equal 110 percent of the AFDC portion of the incentive; and in FY 1990 and thereafter, it may equal 115 percent of the AFDC portion of the State's incentive payment.

Under the proposed paragraph (b)(4), we have listed conditions that apply in the calculation of incentive payments. In paragraph (b)(4)(i), we would specify that collection distributed and expenditures claimed by a State in a specifici fiscal year will be those used to calculate the ratio under the proposed paragraph (b)(1).

In proposed paragraph (b)(4)(ii), both the responding State and the initiating State receive credit for collections made interestate cases. This provision, which implements section 458(d), is designed to encourage State to work interestate cases. It also represents a significant change from current law under which only the responding State receives the incentive payment.

In paragraph (b)(4)(iii), we would exclude fees paid by individuals, recovered costs and program income such as interest earned on collections from IV–D expenditures when computing incentives. Excluding these amounts from IV–D expenditures is provided for in section 455(a) of the Act. Section 455(a) requires the Secretary, in determining the total amount expended by a State during a quarter, to exclude the total amount of any fees collected or other income resulting from services provided for both AFDC and non-AFDC cases under the title IV–D State plan. As provided for in section 458(c), proposed

paragraph (b)(4)(iv) allows States to exclude laboratory costs incurred in determining paternity from their total IV–D administrative costs when computing incentives. Congress provided this option in an effort to encourage States to pursue paternity cases which may not be cost-effective initially but which may pay off over a longer period of time and which also benefit the child. Lastly, under the proposed paragraph (b)(4)(v), States must add amounts expended by the State in carrying out specific interestate projects which are provided for under section 455(e) of the Act to their IV–D administrative expenditures when computing incentives. This is in accordance with section 455(e)(4) of the Act.

Under the proposed § 303.52(c)(1), we would estimate the amount of the incentive payment to be received by a State for the upcoming year, in accordance with section 458(e) which requires the Secretary to estimate the incentive payment due a State based on the best information available. In order to obtain this information, however, the reports currently submitted by the State must be revised. A revision is currently in process and will be submitted separately to the Office of Management and Budget (OMB) for review in accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511).

In paragraph (c)(2), we are proposing that States include one-quarter of the estimated annual incentive payment amount in their quarterly collection report which will result in a reduction to the Federal share of AFDC collections reported for that quarter. We are making this proposal because section 458(e) of the Act provides that estimated incentive be paid quarterly and because this practice is being used currently by States to obtain the 12 percent fixed incentive. Adjustments for any overpayments or underpayments which might have been made in prior quarters would be made in the following fiscal year. Thus, States will know in advance an estimate of the incentive playment they can expect to receive for a year which will allow them to budget for their title IV–D programs with some degree of certainty.

The proposed paragraph (c)(3) provides that OCSE would calculate the State's actual incentive payment for the fiscal year after the end of the current fiscal year based on State performance data. If adjustments to the estimate made at the beginning of the fiscal year are necessary, the State's IV–A grant award would be reduced or increased to ensure that the State receives the appropriate incentive payment.

Proposed paragraphs (c) (4) and (5) contain the special conditions relating to the payment of incentives during FY 1985, FY 1986, and FY 1987 which are specified in section 458(b)(4) of the Act and section 5(c)(2)(A) of the Child Support Enforcement Amendments of 1984, and described earlier in this preamble.

In accordance with section 454(22) of the Act, proposed § 303.52(d) would require States to calculate and promptly pay incentive payments to political subdivisions that participate in the costs of the IV–D program. Under the proposed paragraph (d)(1), we would require the State to develop a standard methodology for passing through an appropriate share of its incentive payment to political subdivisions that participate in the costs of the IV–D program, taking into account the efficiency and effectiveness of the activities carried out under the State plan by the political subdivisions. Since many localities perform a substantial amount of work in the enforcement and collection of support, Congress specified in section 454(22) that they must receive an appropriate share of the State's incentive payment, if they participate in program costs. Therefore, under proposed paragraph (d)(1) States must develop a standard methodolgy that best fits their needs.

The proposed paragraph (d)(2) would require the State to seek local participation in the development of its standard methodology. We are proposing this requirement because we believe that local participation will ensure that the metholdogy is both fair and equitable. To comply with this requirement, States may use whatever rulemaking process that inludes an opportunity for review and comment that is available under State law or submit a draft methodology to participation localities for review and comment.

Lastly, in § 303.52(e) we propose to require that States continue to use the time frame for the transmission of interstate collections and the codes required under the current § 303.52. Thererfore, responding jurisdictions would be required to forward collections to the intitiating State within 10 days and include the code identifying the collecting State or political subdivision as defined by the Federal Information Processing Standards Publication or in the Worldwide Geographical Location Codes.

Reduction in the Federal Matching Rate

Federal funding is available to States for administrative costs incurred pursuant to a State plan for child support enforcement approved under title IV–D of the Act. This funding is authorized by section 455(a)(1) of the Act. Revised section 455(a)(1) reduces the Federal funding rate from 70 to 66 percent over a three-year period beginning in FY 1988.

Federal funding at the 70 percent rate would be available for FY 1983 through FY 1987. The rate of 68 percent applies to FY 1988 and FY 1989. Each fiscal year thereafter the matching rate will be 66 percent. We are implementing this change by defining the term "applicable matching rate" in 45 CFR Part 301 and substituting that phrase for the phrase "70 percent rate" wherever it appears in 45 CFR Parts 304 and 307. Also, we are making a conforming change to § 305.22, State financial participation, to specify that the State share in funding the administrative costs of the program will increase from 30 to 34 percent over the same period.

Collection of Past-Due Support From Federal Income Tax Refunds

Revised section 464 of the Act provides for the use of Federal income tax refund offsets to collect past-due support owed in non-AFDC and foster care cases, as well as AFDC cases. Previously, this means of collection was available for AFDC cases only. The statutory amendments apply with respect to refunds payable under section 6402 of the Internal Revenue Code of 1954 after December 31, 1985 and before January 1, 1991.

The proposed regulations would implement revised sections 454 and 464 of the Act by amending § 303.72, the current regulation governing the use of Federal income tax refund offset. The proposed regulations do not amend § 302.60, the State plan requirement section, because § 302.60 is written broadly enough to cover submittal of AFDC, foster care maintenance and non-AFDC cases for refund offset.

Current § 303.72(a) defines "past-due support." We have moved the definition to § 301.1 because it applies to all sections in the regulations governing Federal tax refund offset. We also added a sentence to the definition which, in non-AFDC cases, limits past-due support which may be referred for Federal income tax refund offset to support due a minor child. Spousal support due in non-AFDC cases may not be referred for Federal tax refund offset. Section 303.72(b) contains the criteria

for determining which past-due support qualifies for Federal tax refund offset. Current § 303.72(b)(1) states, in part, that past-due support qualifies for offset if the support has been assigned to the State making the referral. The proposed regulations would implement revised section 464(a) of the Act by redesignating that portion of § 303.72(b)(1) as § 303.72(a)(1) and revising it to permit States to refer amounts for offset if there has been an assignment under § 232.11 or section 471(a)(17) of the Act or an application for IV–D services under § 302.33 filed with the State IV–D agency. The remainder of current § 303.72(b)(1) which requires States to make reasonable efforts to collect the amount of an obligation using methods available under State law is moved to a new paragraph (a)(2) under the proposed regulations. This paragraph would be revised to provide that the IV–D agency, the client, or the client's representative must have made reasonable efforts to collect the amount of the obligation, using methods available under State law, as appropriate. This is necessary to prevent the IRS from becoming the collector of first resort.

The proposed regulations at § 303.72(a)(3) require the amount referred for offset in AFDC and foster care maintenance cases to be at least $150 as specified in current regulations for AFDC cases. The proposed regulations redesignate current § 303.72(b) (3) through (5) as § 303.72(a) (3)(ii), (5) and (6). These paragraphs require any past-due support referred for offset in AFDC and foster care maintenance cases to have been delinquent for three months or longer, require the State to verify the accuracy of the name, social security number and arrearage amount in all cases and provide that the IRS must have received notification of liability for past-due support in all cases.

Proposed § 303.72(a)(4) requires, in non-AFDC cases: that the support is due to or on behalf of a minor; that the State which refers the past-due support for offset has a support order; that the amount of past-due support is at least $500; at State option, that the amount has accrued since the State IV–D agency began to enforce the support order; and the State has checked its records to determine if an AFDC or foster care maintenance assigned arrearage exists with respect to the non-AFDC individual or family. Section 464(c) limits the amount referred for offset in non-AFDC cases to support due to or on behalf of a minor. Spousal support owed in non-AFDC cases may not be referred for Federal income tax refund offset. Section 464(b)(2) of the Act imposes the $500 minimum amount to be referred for offset in non-AFDC cases and allows States to limit amounts referred to those accrued since the State began to enforce the order.

We have proposed the requirement that there be a support order in the State that refers the past-due support for offset in a non-AFDC case, using the Secretary's authority under section 1102 of the Act, to ensure, to the extent possible, that amounts referred for offset are accurate and that disputes can be resolved. In many non-AFDC cases, direct payments will have been made to the family and there may be equitable defenses asserted (e.g., denial of visitation, acquiescence, payments in king) that would not be available in an AFDC case. Since a State which has a support order will have personal jurisdiction over the absent parent, and will be accustomed to dealing with these various defenses, that State is in the best position to resolve any problems concerning the collection of past-due support. We are interested in receiving comments on this requirement and, in particular would like to know whether States and other interested parties find it unnecessarily restrictive for non-AFDC cases or would prefer to extend the requirement to AFDC cases as well.

We have also used the Secretary's authority section 1102 of the Act to require States to check their records for assigned AFDC or foster care maintenance arrearages in non-AFDC cases. It is possible that a non-AFDC individual who has applied for IV–D services and is seeking Federal tax refund offset to satisfy past-due support may provide, locate or other information which the State previously lacked and therefore was unable to collect assigned arrearages which accrued when the non-AFDC individual was receiving AFDC or foster care maintenance payments.

Current § 303.72(c) sets forth requirements for notification to OCSE of liability for past-due support. Paragraph (c)(1), which requires IV–D agencies to submit to OCSE, by October 1 of each year, a notification on magnetic tape of liability for past-due support, is redesignated as paragraph (b)(1) and would be revised by subsituting the October 1 submittal data with the date specified by OCSE in instructions. Paragraph (c)(2), redesignated as paragraph (b)(2), would be revised by adding a paragraph (b)(2)(v) to require the notification of liability for past-due support to indicate for each delinquency whether the past-due support is due a non-AFDC individual who applies for services under § 302.33. Therefore, the State must certify for offset separately amounts to satisfy assigned AFDC and foster care arrearages and other arrearages due in non-AFDC case. Paragaph (b)(3) contains the current provision in paragraph (c)(3) concerning additional information a State may include in the notification of liability for past-due support.

Current § 303.72(d), governing review of requests for offset is redesignated as § 303.72(c) and paragraph (d)(2), redesignated as paragraph (c)(2), would be revised by deleting "December 1." Current § 303.72(e), governing notification of changes in case status, is redesignated as § 303.72(d) and minor editorial changes would be made for consistency.

Current § 303.72(f) redesignated as § 303.72(e), requires OCSE or the State IV–D agency to send a pre-offset notice. Section 464(a)(3) of the Act specifies that the notice must include a statement informing the absent parent of the steps which may be taken to contest the State's determination that past-due support is owed or the amount of past-due support and the procedures to be followed in the case of a joint return to protect the share of the refund which is payable to another person. Section 303.72(e) implements the requirement for advance notice to the absent parent, including the procedures and deadlines for responding to the notice. These requirements provide the absent parent with an opportunity to be heard if he or she does not agree that past-due support is owed or that the amount being referred for offset is accurate. In addition, § 303.72(e)(1) would require the State or OCSE to include a statement in the notice that, in the case of a joint return, the IRS will contact the absent parent's spouse at the time of offset regarding the steps to take to protect the share of the refund which may be payable to that spouse. Section 464(a) (1) and (2) of the Act specify that the IRS will notify the taxpayer that the withholding has been made. The IRS will also notify any individual who filed a joint return with the absent parent of the steps to take in order to secure his or her proper share of the refund. Determination of the proper share of a refund depends on the community property laws of the jurisdiction where the absent parent and spouse reside. Proposed § 303.72(e)(2) sets forth IRS procedures with respect to notice at the time of offset.

The proposed regulations revise paragraph (g)(1) (redesignated as paragraph (f)(1)) to require States to take steps to investigate any complaint

concerning a tax refund which may be or has already been offset. The time frames for contesting the action must be specified in the notice required in § 303.72(e)(1). This paragraph currently requires only that the IV–D agency investigate any complaint from an absent parent concerning a tax refund which has been offset. We proposed the revision because the State IV–D agency is required to notify the absent parent in the pre-offset notice of the right to contest the State's determination that past-due support is owed or the amount of past-due support. Since the IV–D agency will be responsible for accurately submitting amounts to be collected by refund offset, it is important for the State to give the absent parent an opportunity to furnish as much information as possible to avoid making incorrect submittals. It there is an opportunity to contest the offset action within a specified time, any errors can be corrected before amounts are paid to the family. Accuracy is essential for States in the Federal, as well as State, income tax refund offset process.

OMB Circular A–87 (Cost Principles for State and Local Governments) Attachment B, Section D(1), precludes Federal funding for "any loss arising from uncollectable accounts and other claims, and related costs." In addition section 1102 of the Act requires the Secretary to establish rules necessary for efficient administration of the program. Therefore, costs incurred by States as a result of tax refund offset payments to individuals which are subsequently determined to be erroneous and which the State in unable to recoup from the individual may not be claimed as administrative costs under the VI–D program as these are not appropriate expenditures for which Federal funding is available.

Current paragraph(h)(1) is redesignated as paragraph (g)(1) and would be amended to require that collections made as a result of refund offset in AFDC and non-AFDC cases shall be distributed as past-due support under § 303.51(b) (4) and (5). A new paragraph (g)(2) would require that collections made as a result of refund offset where there has been an assignment of this support obligation in a foster care maintenance case under section 471(a)(17) of the Act be distributed under the proposed § 302.52(b)(3). Under these provisions, a State must apply amounts offset to AFDC and foster care assigned arrearages first and only pay the non-AFDC family any amounts offset which have not been assigned. Although this distribution order is not specifically mandated in the Act, amended section 6402(c) of the Internal Revenue Code 1954 requires the IRS apply amounts offset first to satisfy past-due support assigned to the State in AFDC and foster care maintenance cases. We believe Congress intended this distribution order to be followed by States. Therefore, under the authority granted to the Secretary in section 1102 of the Act, we propose to require States to apply amounts offset first to past-due support assigned to the State. These regulations would add a new paragraph (g)(3) to require States to inform individuals who apply for non-AFDC offset services how the amounts offset will be distributed.

Section 464(a)(3)(D) of the Act requires a State, in any case in which an amount is offset and the State subsequently determines that the amount certified for offset was in excess of the amount owed at the time of offset, to pay the excess to the absent parent or, in the case of amounts withheld on the basis of a joint return, jointly to the parties filing the return. We would revise § 303.72(h)(2), redesignated as § 302.72(g)(4), to require IV–D agencies to repay excess amounts offset to the absent parent or the parties filing a joint return within a reasonable period in accordance with State law.

Section 464(a)(3)(B) of the Act provides that, when the Secretary of the Treasury offsets a refund that is based on a joint return, the Secretary of the Treasury shall notify the State that the offset is being made from a refund based upon a joint return and shall furnish the State with the names and addresses of each taxpayer filing the joint return. In the case of an offset made to satisfy past-due support in a non-AFDC case, the State may delay distribution of the offset amount until the State is notified that the other person filing the joint return has received his or her proper share of the refund, but the delay may not exceed six months. Section 464(a)(3)(C) of the Act provides that, when an offset is made, if the absent parent's spouse filing the joint return takes appropriate action to secure his or her proper share of the refund that was offset, the Secretary of the Treasury will pay the spouse his or her share of the refund and deduct that amount from amounts payable to the State agency.

To implement section 464(a)(3)(B), proposed § 302.72(g)(5) permits States to delay distribution in non-AFDC cases for a period not to exceed six months from the date the State is informed that an offset is being made from a refund based on a joint return. States may wish to send absent parents a second notice at the time of offset to inform them that, unless the absent parent contacts the State within a certain period of time to contest the offset, the State will distribute the amount offset to the family. This may encourage prompt filing of amended returns.

The proposed regulations would redesignate § 303.72(h)(3), which requires that offset amounts be applied only to satisfy arrearages specified in the advance notice to the absent parent, as § 303.72(g)(6), with minor editorial changes for consistency.

In accordance with section 464(b)(2)(B) of the Act, the proposed regulations revise § 303.72(i), redesignated as § 303.72(h)(1), to permit the Secretary of the Treasury to impose a fee on the IV–D agency not to exceed $25 for each non-AFDC case submitted. Amended section 464(b)(1) of the Act provides that any fee paid to the Secretary of the Treasury may be used to reimburse appropriations which bore all or part of the cost of applying offset procedures. Section 454(6)(C) of the Act permits the State to impose a fee of not more than $25 in any case where the State requests offset from a Fedral income tax refund to satisfy non-AFDC past-due support. To implement section 454(6)(C), proposed § 303.72(h)(2) requires the State to inform any individual who applies for services under § 302.33 of the amount of any non-AFDC user's fee charged for submitting past-due support for Federal tax refund offset, if the State IV–D agency chooses to charge a fee. The fee may not exceed $25.

Under the authority in section 1102 of the Act, we are proposing the requirements in § 303.72(i) to clarify treatment of interstate non-AFDC cases in which past-due support is referred for offset. Paragraph (i)(1) would require a State without a support order in a non-AFDC case in which support otherwise qualifying for referral for offset is owed, to request a State where there is a court or an administrative order ro refer that amount for offset. Paragraph (i)(2) would require the State which receives such a request to determine if there is past-due support qualifying for offset, to notify OCSE of liability for past-due support and changes in case status, to notify the absent parent (and spouse, if appropriate) in advance of the referral for offset, to provide the absent parent with an opportunity to contest the referral, to forward amounts offset to the State where the custodial parent applied for IV–D services after the 6-month delay, if appropriate, to refund excess offset amounts to the absent parent, and to notify the State

requesting the referral for offset of the amount of any adjustment made by IRS to the amount offset. The State which refers the past-due support for offset must also pay the fee imposed by the IRS.

The State where the custodial parent applied for IV–D services may charge the fee for referral for offset and must forward the amount collected to the State submitting the case for offset, and must pay amounts offset to the custodial parent. The State where the custodial parent resides would be liable to the State which referred the case to IRS for the amount of any adjustments. We believe that the State which takes the custodial parent's application is in the best position to recover these funds, and that the State with the support order is in the best position to verify arrears, handle complaints, and make prompt refunds to the taxpayer. The proposed rule also requires each State to comply with instructions issued by the Office governing the necessary action and responsibilities of each State.

Under the new provisions for incentives, beginning October 1, 1985, both States in an interstate case would receive incentives on these non-AFDC collections.

We are particularly interested in receiving comments on these requirements and any suggestions for processing these cases that would ensure access to this enforcement technique for those entitled to it, while minimizing administrative burdens on States and ensuring that the rights of absent parents are protected.

In accordance with section 464(a)(2)(B) of the Act, proposed § 303.72(j) limits offset of Federal tax refunds to satisfy past-due support in non-AFDC cases to refunds payable under section 6402 of the Internal Revenue Code of 1954 after December 31, 1985, and before January 1, 1991.

Collection and Distribution of Support in Foster Care Maintenance Cases

Pub. L. 96–272, the Adoption Assistance and Child Welfare Act of 1980, transferred the AFDC foster care program from title IV–A of the Act to a new title IV–E and authorized Federal matching funds for this newly designated program. Because the foster care program was no longer funded or administered under title IV–A, the provision for assignment of support rights by recipients of AFDC required by section 402(a)(26) of the Act was no longer applicable for foster care cases. This meant that title IV–D child support services were not available to title IV–E foster care cases except as non-AFDC cases. In order to receive IV–D services as a non-AFDC case, the child's parent, legal guardian or the entity given custody of the foster child by judicial determination had to apply to the IV–D agency in accordance with section 454(6) of the Act. To remedy this problem, Congress, effective October 1, 1984, added a new section 471(a)(17) of the Act to require States to take all steps, where appropriate, to secure an assignment of support rights on behalf of a child receiving foster care maintenance payments under title IV–E of the Act and amended sections 454(4)(B), 456(a), 457 and 464(a) of the Act to require IV–D agencies to collect and distribute child support for IV–E foster care maintenance cases.

We propose to implement the provisions of the new section 457(d) which generally parallels the distribution patterns specified for other IV–D collections by amending a number of sections of the IV–D program regulations and adding a new § 302.52, Distribution of support collected in title IV–E foster care maintenance cases. Under proposed § 302.52(a), a State plan for child support must provide that the support collections in foster care maintenance cases must be distributed in accordance with § 302.51(a). The provisions of § 302.51(a) are general procedures applicable to distribution of support collected in AFDC cases. They require amounts collected to be treated first as payment on the required support obligation for the month in which the support is collected and, if there is excess over the monthly support obligation, it must be treated as payment on the required support obligation for previous months. Section 301.51(a) allows States the option of rounding off converted amounts to whole dollars for distribution purposes. As amended by these proposed regulations, it would also provide that the collection date is the date the collection is received by the IV–D agency or the legal entity of the State or political subdivision making the collection on behalf of the IV–D agency, except that, in the case of a wage withholding, the date of collection is the date the employer withholds the wage and, in an interstate cases, the date of collection is the date the responding State receives the collection.

We believe that distribution of collections in fosters care maintenance cases would be facilitated by following the above requirements. Therefore, under the authority granted to the Secretary by section 1102 of the Act, we propose the general requirements of § 302.51(a) be applied to support collection made in foster care maintenance cases.

In accordance with section 457(d) of the Act, § 302.52(b) contains procedures specific to the distribution of support collections in foster care maintenance cases. Under proposed paragraph (b)(1), amounts paid on required support obligations on behalf of children for whom foster care maintenance payments are being made under title IV–E must be retained by the State to reimburse it for foster care maintenance payments. The IV–D agency would be required to determine the Federal share of these collections so that the State could reimburse the Federal government to the extent of its participation in financing the foster care maintenance payments.

Under proposed paragraph (b)(2), if the amount collected is in excess of the monthly amount of the foster care maintenance payment but not the monthly support obligation, the State must pay the excess to the State agency responsible for supervising the child's placement and care. The State agency must then use the excess in a manner it determines to be in the best interests of the child. Although we believe the State agency should have wide latitude in determining how this amount might be used in the child's best interest, we have included the two options which are included in the statute: (1) Setting aside such amounts for the child's future needs; or (2) making all or part of the money available to the person responsible for meeting the child's day-to-day needs to be used for the child's benefit.

Under proposed paragraph (b)(3), if the amount collected exceeds the amount required to be distributed under paragraphs (b) (1) and (2), the State must retain the excess to reimburse itself for past unreimbursed foster care maintenance payments made under title IV–E or past unreimbursed assistance rendered by the AFDC program under title IV–A. The IV–D agency would be required to determine the Fedral share of these collections so that the State could reimburse the Federal government to the extent of its participation in the assistance payments under title IV–A and foster care maintenance payments under title IV–E. Proposed paragraph (b)(4) requires that any balance after the satisfaction of any unreimbursed payments must be paid to the State agency responsible for supervising the child's placement and care to be used in the child's best interests.

In paragraph (b)(5), we proposed to require that no payment can be considered a future payment unless the absent parent's assigned support obligations under sections 402(a)(26)

and 471(a)(17) of the Act are fully satisfied. This is necessary for the proper implementation of the distribution procedures required by section 457(d) of the Act.

We are proposing in § 302.52(c)(1) to give State IV–D agencies the option of continuing to collect child support in IV–E foster care maintenance cases for up to five months after the child has been terminated from the foster care program and returned to the family. Prior to the enactment of title IV–E of the Act, a large portion of these cases would have been AFDC foster care cases which would have been eligible for continued IV–D services. We, therefore, believe that it would be consistent to continue IV–D services for up to five months after foster care termination unless the custodial parent refuses the services. Consequently, we are using the authority granted to the Secretary by section 1102 of the Act to give States this option. Under § 302.52(c)(2), after the five-month period the IV–D agency could, upon request of the individual, continue to collect support and pay any amount collected to the family in accordance with the requirements for nonAFDC cases under § 302.33. Section 302.52(c)(3) clarifies that amounts collected during the period specified in paragraph (c) must be reported an non-AFDC collections.

Lastly, in § 302.52(d), we are proposing that, after the termination of the assignment made under section 471(a)(17) of the Act, States are required to attempt to collect amounts of accrued unpaid support which have been assigned. Amounts collected must be distributed as past-due support in accordance with paragraph (b)(3) and a State must give priority to collection of current support in this type of cases. This requirements is consistent with the distribution process in section 457 of the Act.

We also propose to amend § 302.31(a)(1) to require States to establish paternity of a child born out of wedlock with respect to whom there is an assignment under section 471(a)(17) of the Act. Although establishment of paternity in foster care maintenance cases is not specifically mandated in the amendments to the statute, we believe Congress intended that all IV–D services be available in foster care maintenances cases, as was the case prior to enactment of title IV–E of the Act. We are also making a similar technical change to § 305.5. Since establishment of paternity is a necessary prerequisite to securing support, we are using the Secretary's authority under section 1102 of the Act to include these provisions.

In order to implement the State plan requirement in the revised section 454(4)(B) of the Act, we are proposing to amend § 302.31(a)(2) to require a State plan for child support to provide that a State IV–D agency must undertake to secure support in cases where there is an assignment under section 471(a)(17) of the Act.

We propose to delete § 302.31(b)(1), which now provides that the IV–D agency will not undertake to establish paternity or secure support in any case for which it has received notice from the IV–A agency that there has been a finding of good cause for failure to cooperate pursuant to section 402(a)(26)(B) of the Act, except as provided under paragraph (c). We believe paragraphs (b)(1) and (c), discussed below, are redundant.

Section 454(4)(B) was also amended to exempt States from securing support in foster care maintenance cases if the IV–A or IV–E agency determines that it is against the best interests of the child to do so. Consistent with this statutory requirement, we propose to amend § 302.31(b)(2) to require that, upon receiving notice from the IV–A or IV–E agency that there has been a claim of good cause, the IV–D agency will suspend all activities to establish paternity or secure support in a foster care case until notified of a final determination by the IV–A or IV–E agency. Paragraph (b)(2) has been redesignated as paragraph (b). Further, under paragraph (c), we propose that a IV–D agency will not undertake to establish paternity or secure support in a foster care case for which it has received notice from the IV–A or IV–E agency that there has been a finding of good cause, unless there has been a determination by a State or local IV–A or IV–E agency that support enforcement could proceed without the participation of the relative.

To implement the revised section 456(a) of the Act, 45 CFR 302.50(a) is amended to provide that support rights assigned to the State under section 471(a)(17) of the Act constitute an obligation owed to the State by the individual responsible for providing the support. Changes to the regulations necessary to authorize offset of Federal income tax refunds to satisfy past-due support in foster care maintenance cases are discussed under the section of the preamble entitled "Collection of Past-Due Support from Federal Income Tax Refunds."

To ensure that required standards for program operations under 45 CFR Part 303 are established for foster care maintenance cases, we propose to expand the applicability of §§ 302.2 through 303.5 by deleting references to cases referred to the IV–D agency "pursuant to § 235.70 of this title." Since § 235.70 applies only to AFDC cases, by deleting reference to it in the introductory language of these sections, we have expanded the applicability of these sections to all cases referred to the IV–D agency, i.e., AFDC, non-AFDC, foster care maintenance and interstate cases.

Since the collection and distribution of child support in foster care cases will be undertaken as a part of a State's IV–D State plan, we propose to amend § 304.20, Availability and rate of Federal financial participation, by revising paragraph (a)(1) to provide that Federal financial participation is available for necessary expenditures under a State title IV–D plan for the support enforcement services and activities provided in foster care cases where there is an assignment under section 471(a)(17) of the Act. We propose to revise § 304.20(b)(1)(viii)(D) to include the procedures used to transfer collections from the IV–D agency to the IV–E agency.

Finally, we propose to amend §§ 305.25, 305.27 and 305.38 to include foster care maintenance cases in the program audit.

Computerized Support Enforcement Systems

We propose to revise 45 CFR Part 307, published in the **Federal Register** on August 22, 1984 (49 FR 33255) to implement the amendments made by section 6 of Pub. L. 98–378. Effective October 1, 1984, section 454(16) of the Act permits States to use computerized support enforcement systems to facilitate the development and improvement of the procedures to improve program effectiveness required under section 466(a) of the Act. Currently, § 307.10 requires each CSES funded at the 90 percent rate to: (1) Be planned, designed, developed, installed or enhanced in accordance with an APD approved under § 307.15; and (2) control, account for, and monitor all the factors in the support collection and paternity determination process under the plan. To implement revised section 454(16) of the Act, the proposed new § 307.10(b) permits a CSES established under § 307.10(a) to facilitate the development and improvement of the income withholding and other procedures required under section 466(a) of the Act through: (1) The monitoring of support payments; (2) the maintenance of accurate records on support payments; and (3) the prompt notice to appropriate

officials of any support arrearages. We encourge States to develop or enhance statewide CSESs that encompass the procedures referred to above because the automation of such procedures will contribute to efficient and effective program operations. (See the discussion below regarding the availablity of Federal funding at the 90 percent rate for these activities.)

The revised section 455(a)(3) of the Act (redesignated as section 455(a)(1)(B) of the Act) allows 90 percent Federal funding to expand the CSES to cover the procedures to improve program effectiveness required under section 466(a) of the Act. Currently, § 307.30(a) provides that 90 percent Federal funding is available for the planning, design, development, installation or enhancement of a CSES that meets the requirements specified in § 307.10. This requirement has been redesignated as the proposed § 307.30 (a)(2) and § 307.10 has been redesignated at § 307.10 (a). To implement revised section 455(a)(1)(B) of the Act, we have added to § 307.30(a)(2) that Federal funding at the 90 percent rate is also available for the optional expansion of the system as discussed above.

Currently, § 307.30(b) provides that 90 percent Federal funding is only available in expenditures for the rental or purchase of hardware or proprietary software used for the planning, dsign, development, installation or enhancement of a CSES described in § 307.10. Ninety percent Federal funding is not available in expenditures for hardware incurred during the operation of a CSES. Revised section 455(a)(1)(B) of the Act allows 90 percent Federal funding in expenditures incurred for the full cost of the hardware components of a system that meets the requirements prescribed in section 454(16) of the Act. Therefore, we are proposing in § 307.30(b) to make Federal funding available at the 90 percent rate in expenditures for the rental or purchase of hardware for the operation of a CSES as described in § 307.10 (a) or § 307.10 (a) and (b). We believe that this change will encourage States to develop statewide CSESs. Ninety percent Federal funding is available in expenditures for hardware as described above incurred on or after October 1, 1984.

The revised section 455(a)(1)(B) of the Act and the proposed § 307.30(b) are silent regarding the availability of Federal funding at the 90 percent rate in expenditures for the rental or purchase of proprietary software. Nonetheless, we believe that enhanced Federal funding should be available for the rental or purchase of proprietary software used for the planning, design, development, installation, enhancement or operation of a CSES to the extent the software is use to operate hardware related to the CSES. Traditionally, the Department has issued instructions that prescribe the availability and rate of Federal funding for systems-related costs. We plan to revise our instructions to the States regarding the availability of Federal funding for CSESs to address the availability of 90 percent Federal funding for the rental or purchase of proprietary software.

We propose to make the following technical changes to the CSES regulations to conform with the changes discussed above. We propose to revise § 307.15, Approval of advance planning documents for computerized support enforcement systems eligible for 90 percent FFP, by amending paragraphs (a), (a)(2) and (a)(5) to indicate that an APD must address the requirements in § 307.10(a) and the optional provision in § 307.10(b) when the State elects to meet such provisions. These changes reflect the proposed § 307.10. We also propose to amend § 307.15 by redesignating the citation "§ 307.10" as § 307.10(a) in paragraph (b)(7) of the section. This change also reflects the proposed amendments to § 307.10

We are proposing to amend § 307.25, Review of computerized support enforcement systems eligible for 90 percent FFP, by revising paragraph (b) to indicate that the review of a CSES will include the optional provision prescribed in the proposed § 307.10(b) when a State has elected to meet that provision. Lastly, we are proposing to amend § 307.35, Federal financial participation at the 70 percent rate for computerized support enforcement systems, by revising the title and paragraph (a) to indicate that Federal funding is available at the applicable matching rate for the operation of systems that encompass the optional provision prescribed in § 307.10(b).

Publicizing Support Enforcement Services

Effective October 1, 1985, new section 454(23) of the Act requires States to regularly and frequently publicize through public service announcements the availability of support enforcement services. To implement this State plan requirement, proposed § 302.30 requires States to publicize support enforcement services available under the IV-D State plan through public service announcements on a regular and frequent basis. In accordance with section 454(23), announcements must include information concerning any application fees and a telephone number or address for obtaining further information. This proposed regulation would not require IV-D agencies to conduct extensive or costly public relations or advertising campaigns. A number of States have already developed imaginative and effective public service announcements for television and radio which inform the public that title IV-D services are available to those who need them. The publicity required by these regulations would increase public awareness of available support enforcement services in all States. Federal matching funds would be available for these expenditures.

Mandatory Collection of Spousal Support

Effective October 1, 1985, section 454(4)(B) and 454(6) of the Act require States to collect spousal support if a support order has been established, the child and spouse are living in the same household, and the support obligation established with respect to the child is being enforced under the State's IV-D plan. This amendment clarifies that spousal support must be collected only where child support is being collected along with spousal support. Prior to this amendment, collection of spousal support was optional for States.

Sections 302.17 and 302.31 would be revised to require States to collect spousal support when it is part of the support order. References to collecting spousal support at State option would be deleted from current regulations. In addition, minor editorial changes would be made to these sections. No changes are necessary to § 302.33, Individuals not otherwise eligible for paternity and support services, which specifies requirements for non-AFDC cases, because there is no reference to optional collection of spousal support in this section.

Accessing the Federal Parent Locator Service (PLS)

Amended section 453(f) of the Act permits States to access the Federal PLS without first exhausting States parent locator resources, effective August 16, 1984. These proposed regulations would delete § 302.35(d) which requires the State to make efforts to locate an absent parent through State resources before submitting a request to the Federal PLS. However, the State PLS is an important tool for locating absent parents and the State should use this resource and any other locate procedures whenever it is efficient to do so. In some situations, information from State resources may be

more timely and therefore of greater value than Federal PLS information. This regulation provides States with the flexibility to use both the State and Federal PLS to their maximum effectiveness.

Continuing IV–D Services for Families That Lose AFDC Eligibility

Effective October 1, 1984, section 457(c)(1) of the Act requires States to continue to collect support payments for a period not to exceed three months from the month following the month in which the family ceased to receive assistance under the title IV–A program (a total of five months after the final AFDC payment) and pay all amounts collected representing current support to the family. Prior to this amendment, the State had the option to continue to collect support payments for this five-month period. Proposed § 302.51(e) is revised to require (instead of permit) the IV–D agency to collect current support payments during this five-month period. During this period, a State may not recover costs from either parent. An AFDC family will generally benefit from the continuation of title IV–D enforcement services after they cease to receive AFDC payments. For example, continuing enforcement by the State IV–D agency will help prevent collections from lapsing and the family from returning to the AFDC rolls.

Revised section 457(c)(2) of the Act and § 302.51(e)(2) of the regulations address State action after the five-month collection period described above. Under current regulations at § 302.51(e)(2), if the IV–D agency is authorized by the individual on whose behalf the collection will be made to continue to collect current support payments from the absent parent, the IV–D agency collects such support amounts and pays the net amount collected to the family after deducting, at State option, any costs incurred in making the collection from the amount of any recovery made. Section 454(6)(C) of the Act, as amended by Pub. L. 97–248, permits States to recover costs from either the absent parent or the custodial parent.

In accordance with revised section 457(c)(2) of the Act, proposed § 302.51(e)(2) prohibits States from requiring any formal application or imposing any application fee in cases where the State IV–D agency is authorized to continue to collect and distribute support payments after a family ceases to receive AFDC payments. The proposed regulations would continue to allow States to recover costs incurred in collection of such support from either the absent parent or the custodial parent because revised section 457(c)(2) of the Act specifies that amounts collected be paid to the family on the same basis as they are paid in other non-AFDC IV–D cases. Proposed paragraph (e)(3) requires States to report collections under paragraph (e) as non-AFDC collections.

We also made a technical revision to § 302.32(b) to specify that the IV–D agency will notify the family that it will continue to collect and distribute current child support payments pursuant § 302.51(e)(1). Paragraph (b) currently indicates that the family will be notified if the State will continue to provide services.

Notice of Collection of Assigned Support

Effective October 1, 1985, revised section 454(5) of the Act requires States, at least annually, to provide notice of the amount of assigned support payments collected to current or former AFDC recipients. To implement this State plan requirement, proposed new § 302.54, Notice of collection of assigned support, requires States to provide an annual notice of the amount of support collected during the past year to individuals who has assigned rights to support under § 232.11. This notice must be sent to current AFDC recipients and former AFDC recipients for whom an assignment of support is still effective. We recommend that the notice contain the period for which payments were collected and a telephone number or address for obtaining further information. Under § 302.54(b), we propose that the notice must list separately support payments collected for each absent parent when more than one absent parent owes support to the family and indicate the amount of support collected which was paid to the family.

State Guidelines for Child Support Awards

We propose to implement the new section 467 of the Act by adding a new $302.56, Guidelines for setting child support awards. As required in section 467, proposed § 302.56(a) specifies that, as a condition for approval of its State plan, a State must establish guidelines by law or by judicial or administrative action for amounts of child support obligations set within the State. Section 467 of the Act also requires a State to make these guidelines available to all judges and other officials who have the power to determine child support awards, although the guidelines need not be made binding on them, and to furnish the Secretary with copies of its guidelines. These requirements are implemented by proposed § 302.56 (b) and (c). Although section 467 is not effective until October 1, 1987, States are encourage to begin their consideration of appropriate guidelines as soon as possible. The guidelines developed by the State in accordance with § 302.56 may be used as the formula required under § 302.53. Under § 302.53, when there is no court order covering a support obligation, there must be a formula to be used by the State in determining the amount of the support obligation.

Imposition of Late Payment Fee on Absent Parents Who Owe Overdue Support

Also effective August 16, 1984, new section 454(21) of the Act allows a State IV–D plan to provide for the imposition of late payment fees on individuals who owe overdue support. We propose to implement the new section 454(21) by adding a new § 302.75, Procedures for the imposition of late payment fees on absent parents who owe overdue support. In proposed § 302.75(a), the State plan may provide for imposition of a fee on absent parents who owe overdue support in cases in which the IV–D agency is attempting to collect support. In paragraph (b)(1) if a State opts to impose a fee, in accordance with section 454(21)(A), the fee shall be uniformly applied in an amount equal to at least 3 percent but not more than 6 percent of the amount of overdue support. In paragraph (b)(2), we propose that the fee shall accrue as arrearages accumulate and shall not be reduced upon partial payment of overdue support. Further, the fee may only be collected after the full amount of overdue support is paid (as required by section 454(21)(B)) and after any requirements under State law for notice to the absent parent have been met. In accordance with section 454(21)(B) of the Act, under proposed paragraph (b)(3), collection of the fee may not directly or indirectly reduce the amount of overdue support paid to the individual to whom it is owed. Under proposed paragraph (b)(4), if the State imposes a late payment fee, it must be imposed in foster care, AFDC and non-AFDC cases. In accordance with section 454 of the Act, under proposed paragraph (b)(5), a State may allow fees collected to be retained by the jurisdiction making the collection. Finally, in paragraph (b)(6), States must reduce their IV–D expenditures by any late payments fees collected. Excluding fees collected is required under section 455 of the Act. Only support which becomes overdue for any month

beginning after August 16, 1984 is subject to the late payment fee.

Payment of Support Through the IV–D Agency or Other Entity

We propose to implement the new section 466(c) by a new 45 CFR 302.57. Procedures for the payment of support through the IV–D agency or other entity. In proposed paragraph (a) of the new section, in accordance with the statute, States may have in effect and use procedures for the payment of support through the State IV–D agency or the entity designated by the State to administer the State's withholding system upon the request of either the custodial parent or the absent parent regardless of whether or not arrearages exist or withholding procedures have been instituted. In paragraph (b), we propose that if a State implements these procedures, the State must monitor all amounts paid and dates of payments and record them on individual IV–D payment records, ensure prompt payment to the custodial parent when appropriate, and charge the parent requesting this service an annual fee not to exceed the lesser of $25 or the actual costs incurred by the State, in accordance with the statute.

State Commissions on Child Support

Section 15 of the new law requires the Governor of each State to appoint a State Commission on Child Support. The Commission must include representation from all aspects of the child support system and examine the functioning of the State child support system with regard to securing support and parental involvement for both AFDC and non-AFDC children. The commissions must submit to the Governor and make available to the public, reports on their findings and recommendations no later than October 1, 1985. Costs of operating the commissions are not eligible for Federal matching.

The Secretary may waive the requirement for a commission at the request of a State if it is determined that the State has in place objective standards for child support obligations, has had a commission or council within the last five years, or is making satisfactory progress toward fully effective child support enforcement. This requirement is implemented in § 304.95.

Paperwork Reduction Act

The following sections of these proposed regulations contain information collection requirements which are subject to OMB review under the Paperwork Reduction Act of 1980 Pub. L. 96–511):

§ 302.17
§ 302.30
§ 302.31
§ 302.32(b)
§ 302.50(a)
§ 302.51(a) and (e)
§ 302.52
§ 302.54
§ 302.54(a)
§ 302.55
§ 302.56
§ 302.57
§ 302.70
§ 302.70(d)
§ 302.75
§303.52 (c)(2), (d)(2), and (e)(2)
§303.72 (b), (c)(2) and (4), (d)(1) and (2), (e)(1) and (2), (g)(3), (h)(2) and (i)(1) and (2)(v)
§303.100 (b)(1), (c)(3), (d)(1) and (2) and (g)(3)
§303.101 (b)(3), (c)(4) and (d)(1)(i)
§303.102 (b)(2), (c), (d) and (h)
§303.104 (b)
§303.105 (b) and (d)
304.95 (d) and (f)
307.10 (b)(3)
307.15 (a)(2) and (5)

As required by section 3504(h) of Pub. L. 96–511, we have submitted a coyp of these proposed regulations to OMB for its review of the information collection requirements listed above. Other organizations and individuals desiring to submit comments on the information collection requirements should direct them to the agency official designated for this purpose whose name appears in this preamble, and to the Office of information and Regulatory Affairs, OMB, New Executive Office Building [Room 3208], Washington, D.C. 20503 ATTN: Desk Officer for HHS.

Economic Impact

The Child Support Enforcement program was established under title IV-D of the Act by the Social Services Amendments of 1974, for the purposes of enforcing the support obligations owed by absent parents to their children, locating absent parents, establishing paternity and obtaining child support. The IV-D program collected $2.03 billion in FY 1983–$880 million on behalf of children receiving AFDC and $1.15 billion on behalf of children not receiving AFDC. State and local expenditures amounted to $716 million. Collections for AFDC families are used to offset the costs of assistance payments made to such families. In FY 1983, the program recovered nearly 5.3 percent of the $12 billion paid to AFDC families, and thousands of families were able to leave the welfare rolls.

The intent of the new law, which this rule implements, is to increase the effectiveness of the Child Support Enforcement program by requiring all States to adopt certain procedures that have been found to be successful in several of the States, by emphasizing the need to serve all families and by changing the incentive system for State participation. As discussed below, the statute has broad impacts, affecting Federal, State, and local participants in the program, employers of absent parents, and the families themselves. One immediate result will be lower welfare costs to the taxpayer. Although hard data are not available, it is expected that the mandatory procedures will result in increased collections and decreased administrative costs. But even more important will be the impact on families. As a more effective support collection system is established, parents may be deterred from deserting their families and more children will be spared the finanical effects of family breakup. Neither the extent nor the value of these effects can be measured.

For the most part,the proposed rule merely restates provisions of the new statute and does not result in any cost or other impacts on its own. The principal impacts of the statute are on Federal and State budgets and State operations. Federal and State expenditures are projected to increase by about $100 million over the five-year period FY 1985 to 1989, an average annual impact of $20 million. Savings will result from the increase in child support collections due to the implementation of the required State enforcement procedures and assumed decline in attendant court and other administrative costs. The additional child support collections on behalf of AFDC families are estimated to be about $42 million in FY 1986 and increasing to nearly $70 million in FY 1989. In addition, non-AFDC collections are expected to increase approximately $350 million per year as a result of the new statute.

A number of provisions of the new law are likely to result in a significant increase in the number of non-AFDC families in the program. The number of non-AFDC families participating in the program is expected to double by FY 1989 from the FY 1983 level of 500,000. The costs of providing services for the additional families is projected to be $15–20 million in FY 1985, rising to nearly $150 million by FY 1989. Although the statute requires the States to impose an application fee for non-AFDC families to recover some of these costs, the Department believes that in most cases actual costs will exceed the $25. However, the Department also believes that costs will also be partially offset as

a result of reduced public assistance expenditures for these families, including reductions in Medicaid. (As discussed earlier, the application fee provision will be implemented separately and is not contained in this document.)

Executive Order 12291

The Secretary has determined, in accordance with Executive Order 12291, that this rule does not constitute a "major" rule. A major rule is one that is likely to result in:

—An annual effect on the economy of $100 million or more;
—A major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or
—Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or import markets.

Virtually all of the economic impact discussed above is a direct result of legislative provisions rather than of regulatory provisons. However, in additon to those provisions that are a direct result of the statute, the proposed rule contains several provisons that are included at the discretion of the Secretary.

The proposed § 302.52 gives the States the option of continuing to collect child support in IV–E foster care cases after the child has been terminated from the foster care program and returned to the family. This proposal, which is similar to the mandatory collection provisions for AFDC families in § 302.51(e), is expected to have an insignificant effect on State and Federal expenditures. Since the cost of providing collection services is minimal, additional child support collections are expected to exceed related expenditures.

Regulatory Flexibility Analysis

The Secretary certifies, under 5 U.S.C. 605(b), as enacted by the Regulatory Flexibility Act (Pub. L. 96–354), that these regulations will not result in a significant impact on substantial number of small entities. The primary impact is on State governments and individuals and results from restating the provisions of the statute. Those provisions that have any impact on small entities are discussed below.

As stated above, the proposed § 302.52(c) gives the State the option of continuing to collect child support in IV–E foster care cases after the child has been terminated from the foster care program and returned to the family. We believe that the impact on the legal community of the provision will be minimal because children receiving IV–E services are from low income families. Normally, such families cannot afford private attorney fees.

The proposed § 303.52 prescribes a new incentive system that will award the States and political subdivisions based on AFDC, foster care and non-AFDC collections. The Department estimates that the States and political subdivisions will receive an additional $23 million in incentive payments for FY 1986 increasing to $44 million for FY 1989. A significant portion of the additional incentives will be retained by the States. We cannot determine the amount of additional incentives that will be paid to political subdivisions or the economic effect of such payment on political subdivisions. However, even if there were a significant effect on a substantial number of political subdivisions, that effect is the result of the new law, and not these regulatory provisions.

The proposed § 303.100 requires the employer to withhold from the individual's wages the amount specified in a notice from the State. The proposed regulations further permit, at State option, the employer to charge a reasonable fee, as determined by the State, for administrative costs incurred for each withholding. These regulatory provisions which implement statutory requirements are expected to have a minimal economic impact on employers because the costs of withholding amounts from the wages of employees will in most instances be offset by fees charged by employers to employees subject to wage withholding and because employers are used to withholding employee wages for other purposes.

Private attorneys whose practices are based on a large number of child support cases could possibly be affected by the required State procedures prescribed in the proposed §§ 303.100 through 303.105. These procedures, which implement statutory provisions in section 466 of the Act, may make IV–D services at both the State and local levels more attractive to custodial parents. However, we believe that the impact on private attorneys will be minimal because many custodial parents who avail themselves of IV–D services have small incomes and are unable to afford the fees of private attorneys. In any event, these impacts result from the statutory provisions rather than these proposed rules.

List of Subjects

45 CFR Parts 301, 302, 303, and 304

Child welfare, Grant programs—social programs.

45 CFR Part 305

Child welfare, Grant programs—social programs, Accounting.

45 CFR Part 307

Child welfare, Grant programs—social programs, Computer technology.

PART 301—[AMENDED]

1. 45 CFR 301.1 is amended by inserting the following definition of the term "Applicable matching rate" after the definition of the term "Act" and the definition of the terms "Overdue support" and "Past-due support" after the definition of the term "Office":

§ 301.1 General definitions.

* * * * *

"Applicable matching rate" means the rate of Federal funding of State IV–D programs' administrative costs for the appropriate fiscal year as follows:

FY 1983 through FY 1987, 70 percent
FY 1988 and FY 1989, 68 percent
FY 1990 and thereafter, 66 percent

* * * * *

"Overdue support" means a delinquency pursuant to an obligation determined under a court order, or an order of an administrative process established under State law, for support and maintenance of a minor child, which is owed to or on behalf of the child, or for the absent parent's spouse (or former spouse) with whom the child is living, only if a support obligation has been established with respect to the spouse and the support obligation established with respect to the child is being enforced under State's IV–D plan. At the option of the State, overdue support may include amounts which otherwise meet the definition in the previous sentence but which are owed to or on behalf of a child who is not a minor child. The option to include support owed to children who are not minors applies independently to the four procedures required under § 302.70(a) (3), (4), (6), and (7) of this chapter to which this definition applies.

"Past-due support" means the amount of support determined under a court order or an order of an administrative process established under State law for support and maintenance of a child or of a child and the parent with whom the child is living, which has not been paid. For purposes of referral for Federal income tax refund offset of support due

and individual who has applied for services under § 302.22 of this chapter, "past-due support" is limited to support owed to or on behalf of a minor child.

* * * * *

PARTS 302 THROUGH 305—[AMENDED]

2. 45 CFR Parts 302 through 305 are amended as follows:

A. By revising § 302.17 to read as follows:

§ 302.17 Inclusion of State statutes.

The State plan shall provide a copy of State statutes, or regulations promulgated pursuant to such statutes and having the force of law (including citations of such statutes and regulations), that provide procedures to determine the paternity of a child born out of wedlock, to establish the child support obligation of a responsible parent, and to enforce a support obligation, including spousal support if appropriate.

B. By adding a new § 302.30 to read as follows:

§ 302.30 Publicizing the availability of support enforcement services.

The State plan shall provide that the State will publicize regularly and frequently the availability of support enforcement services under the plan through public service announcements. Publicity must include information on any application fees which may be imposed for such services and a telephone number or postal address where further information may be obtained.

C.1. By revising § 302.31 to read as follows:

§ 302.31 Establishing paternity and securing support.

The State plan shall provide that:

(a) The IV–D agency will undertake:

(1) In the case of a child born out of wedlock with respect to whom an assignment under § 232.11 of this title or section 471(a)(17) of the Act is effective, to establish the paternity of such child; and

(2) In the case of any individual with respect to whom an assignment under § 232.11 of this title or section 471(a)(17) of the Act is effective, to secure support for a child or children from any person who is legally liable for such support, using State laws and reciprocal arrangements adopted with other States when appropriate. This includes securing support for a spouse or former spouse who is living with the child or children, but only if a support obligation has been established for that spouse and the child support obligation is being enforced under the title IV–D State plan.

(b) Upon receiving notice from the IV–A or IV–E agency that there has been a claim of good cause under § 232.40 of this title, the IV–D agency will suspend all activities to establish paternity or secure support until notified of a final determination by the IV–A or IV–E agency.

(c) The IV–D agency will not undertake to establish paternity or secure support in any case for which it has received notice from the IV–A or IV–E agency that there has been a finding of good cause pursuant to §§ 232.40 through 232.49 of this title unless there has been a determination by the State or local IV–A or IV–E agency that support enforcement may proceed without the participation of the caretaker or other relative. If there has been such a determination, the IV–D agency will undertake to establish paternity or secure support but may not involve the caretaker or other relative in such undertaking.

§ 302.32 [Amended]

C.2. By substituting the word "that" for the word "if" in the last sentence of § 302.32(b).

§ 302.35 [Amended]

D. By removing § 302.35(d).

E. By revising § 302.51(a) and (e) to read as follows:

§ 302.51 Distribution of support collections.

The State plan shall provide as follows:

(a) For the purposes of distribution under this section, amounts collected shall be treated first as payment on the required support obligation for the month in which the support was collected and if any amounts are collected which are in excess of such amount, these excess amounts shall be treated as amounts which represent payment on the required support obligation for previous months. (The IV–D agency may round off the converted amount to whole dollar amounts for the purposes of distribution under this section § 302.52 and § 303.52.) The date of collection shall be the date on which the payment is received by the IV–D agency or the legal entity of the State or political subdivision actually making the collection on behalf of the IV–D agency, except that:

(1) For purposes of interstate collections, the date of collection shall be the date on which the payment is recieved by the IV–D agency of the State in which the collection is made, except as provided in paragraph (a)(2).

(2) For purposes of wage withholding, the date of collection shall be the date the employer withholds the wages to meet the support obligation.

* * * * *

(e) Whenever a family for whom support payments have been collected and distributed under the title IV–D State plan ceases to receive assistance under the title IV–A State plan, the IV–D agency must:

(1) Continue to collect current support payments from the absent parent for a period not to exceed three months from the month following the month in which the family ceased to receive assistance under the title IV–A State plan, and pay all amounts so collected to the family;

(2) At the end of the five-month period, if the IV–D agency is authorized to do so by the individual on whose behalf the collection will be made, continue to collect current support payments from the absent parent and pay any amounts collected to the family in accordance with the requirements of § 302.33 of this part, except that the IV–D agency may not require any formal application or impose any application fee; and

(3) Report collections under this paragraph as non-AFDC collections.

* * * * *

§§ 302.50, 304.20, 305.25 and 305.27 [Amended]

F. By inserting the phrase "or section 471(a)(17) of the Act" immediately after the phrase "§ 232.11 of this title" in the following sections: Sections 302.50(a), 304.20(a)(1), 305.25(a)(1) and 305.27(a).

G. By adding a new § 302.52 to read as follows:

§ 302.52 Distribution of support collected in Title IV–E foster care maintenance cases.

The State plan shall provide as follows:

(a) For purposes of distribution under this section, amounts collected in foster care maintenance cases shall be treated in accordance with the provisions of § 302.51(a) of this part.

(b) The amounts collected as support by the IV–D agency under the State plan on behalf of children for whom the State is making foster care maintenance payments under the title IV–E State plan and for whom an assignment under section 471(a)(17) of the Act is effective shall be distributed as follows:

(1) Any amount that is collected in a month which represents payment on the required support obligation for that month shall be retained by the State to reimburse itself for foster care maintenance payments. Of that amount retained by the State as reimbursement

for that month's foster care maintenance payment, the State IV–D agency shall determine the Federal government's share so that the State may reimburse the Federal government to the extent of its participation in financing of the foster care maintenance payment.

(2) If the amount collected is in excess of the monthly amount of the foster care maintenance payment but not more than the monthly support obligation, the State must pay the excess to the State agency responsible for supervising the child's placement and care under section 472(a)(2) of the Act. The State agency must use the money in the manner it determines will serve the best interests of the child including:

(i) Setting aside amounts for the child's future needs; or

(ii) Making all or part of the amount available to the person responsible for meeting the child's daily needs to be used for the child's benefit.

(3) If the amount collected exceeds the amount required to be distributed under paragraphs (b)(1) and (2) of this section, but not the total unreimbursed foster care maintenance payments provided under title IV–E or unreimbursed assistance payments provided under title IV–A, the State shall retain the excess to reimburse itself for these payments. Of the amounts retained by the State, the State IV–D agency shall determine the Federal government's share of the amount so that the State may reimburse the Federal government to the extent of its participation in financing the assistance payments and foster care maintenance payments.

(4) Any balance shall be paid to the State agency responsible for supervising the child's placement and care and shall be used to serve the best interests of the child as specified in paragraph (b)(2) of this section.

(5) If an amount collected as support represents payment on the required support obligation for future months, the amount shall be applied to those future months. However, no amounts shall be applied to future months unless amounts have been collected which fully satisfy the support obligation assigned under § 232.11 of this title and sections 471(a)(17) of the Act for the current month and all past months.

(c) When the State ceases to make foster care maintenance payments under title IV–E for a child for whom the State has collected and distributed support payments under the title IV–D State plan and the child returns to his or her family, the IV–D agency:

(1) May continue to collect current support payments from the absent parent for a period of time not to exceed three months from the month following the month in which the State ceases to make foster care maintenance payments for the child under the title IV–E State plan and pay all amounts so collected to the family;

(2) May continue to collect current support payments from the absent parent after the end of the five-month period, if the IV–D agency is authorized to do so by the individual on whose behalf the collection will be made, and must pay any amount collected to the family in accordance with the requirements of § 302.33 of this part; and

(3) Must report collections under this paragraph as non-AFDC collections.

(d) When a State ceases making foster care maintenance payments under the State's title IV–E State plan, the assignment of support rights under section 471(a)(17) of the Act terminates except for the amount of any unpaid support that has accrued under the assignment. The IV–D agency shall attempt to collect such unpaid support. Under this requirement:

(1) Any collection made by the State under this paragraph must be distributed in accordance with paragraph (b)(3) of this section; and

(2) For those cases in which collections are authorized under paragraph (c) of this section, priority shall be given to collection of current support.

H. By adding a new § 302.54 to read as follows:

§ 302.54 Notice of collection of assigned support.

(a) The State plan shall provide that the IV–D agency, at least annually, must send a notice of the amount of support payments collected during the past year to individuals who have assigned rights to support under § 232.11 of this title.

(b) The notice must list separately payments collected from each absent parent when more than one absent parent owes support to the family and must indicate the amount of support collected which was paid to the family.

I. By adding a new § 302.55 to read as follows:

§ 302.55 Incentive payments to States and political subdivisions.

In order for the State to be eligible to receive any incentive payments under § 303.52 of this chapter, the State plan shall provide that, if one or more political subdivisions of the State participate in the costs of carrying out the activities under the State plan during any period, each such subdivision shall be entitled to receive an appropriate share of any incentive payments made to the State for such period, as determined by the State in accordance with § 303.52(d) of this chapter, taking into account the efficiency and effectiveness of the political subdivision in carrying out the activities under the State plan.

J. By adding a new § 302.56 to read as follows:

§ 302.56 Guidelines for setting child support awards.

(a) Effective October 1, 1987, as a condition for approval of its State plan, the State shall establish guidelines by law or by judicial or administrative action for setting child support award amounts within the State.

(b) The State shall have procedures for making the guidelines available to all persons in the State whose duty it is to set child support award amounts, but the guidelines need not be binding on those persons.

(c) The State must include a copy of the guidelines in its State plan.

K. By adding a new § 302.57 to read as follows:

§ 302.57 Procedures for the payment of support through the IV–D agency or other entity.

(a) The State may have in effect and use procedures for the payment of support through the State IV–D agency or the entity designated by the State to administer the State's withholding system upon the request of either the absent parent or custodial parent, regardless of whether or not arrearages exist or withholding procedures have been instituted.

(b) If the State opts to establish procedures described in paragraph (a) of this section, the State must:

(1) Monitor all amounts paid and the dates of payments and record them on an individual IV–D payment record.

(2) Ensure prompt payment to the custodial parent when appropriate.

(3) Require the requesting parent to pay a fee for the cost of providing the service not to exceed $25 annually and not to exceed State costs.

L. By adding a new § 302.70 to read as follows:

§ 302.70 Required State statutes.

(a) *Required statutes.* The State plan shall provide that, in accordance with sections 454(20) and 466 of the Act, the State has in effect laws providing for and has implemented the following procedures to improve program effectiveness:

(1) Procedures for carrying out a program of withholding under which new or existing support orders are subject to the State law governing withholding so that a portion of the absent parent's wages may be withheld,

in accordance with the requirements set forth in § 303.100 of this chapter;

(2) Expedited process to establish and enforce child support obligations having the same force and effect as those established through full judicial process, in accordance with the requirements set forth in § 303.101 of this chapter;

(3) Procedures for obtaining overdue support from State income tax refunds on behalf of recipients of aid under the State's title IV–A or IV–E plan with respect to whom an assignment under § 232.11 of this title or section 471(a)(17) of the Act is effective, and on behalf of individuals who apply for services under § 302.33 of this part, in accordance with the requirements set forth in § 303.102 of this chapter.

(4) Procedures for the imposition of liens against the real and personal property of absent parents who owe overdue support, in accordance with the requirements set forth in § 303.103 of this chapter;

(5) Procedures for the establishment of paternity for any child at any time prior to the child's 18th birthday;

(6) Procedures which require that an absent parent give security, post a bond, or give some other guarantee to secure payment of support, in accordance with the procedures set forth in § 303.104 of this chapter;

(7) Procedures for making information regarding the amount of overdue support owed by an absent parent available to consumer reporting agencies, in accordance with § 303.105 of this chapter; and

(8) Procedures under which all child support orders which are issued or modified in the State will include provision for withholding from wages, in order to assure that withholding as a means of collecting child support is available if arreareages occur without the necessity of filing application for services under § 302.33 of this part, in accordance with § 303.100(h) of this chapter.

(b) A State need not apply a procedure required under paragraphs (a) (3), (4), (6) or (7) of this section in an individual case if the State determines that it is not appropriate using guidelines generally available in the State which take into account the payment record of the absent parent, the availability of other remedies, and other relevant considerations.

(c) State laws enacted under this section must give States sufficient authority to comply with the requirements of §§ 303.100 through 303.105 of this chapter.

(d)(1) *Exemption.* A State may apply for an exemption from any of the requirements of paragraphs (a) (1) through (8) of this section by the submittal of a request for exemption to the appropriate Regional Office.

(2) *Basis for granting exemption.* The Secretary will grant a State, or political subdivision in the case of paragraph (a)(2), an exemption from any of the requirements of paragraphs (a) (1) through (8) of this section for a period not to exceed three years if the State demonstrates that compliance would not increase the effectiveness and efficiency of its Child Support Enforcement program. Demonstration of the program's efficiency and effectiveness must be shown by actual, or, if actual is not available, estimated data pertaining to caseloads, processing times, administrative costs, and average support collections or such other actual or estimated data as the Office may request. The State must establish a clear case that the program's effectiveness would not improve by using these procedures. Disapproval of a request for exemption is not subject to appeal.

(3) *Review of exemption.* The exemption is subject to continuing review by the Secretary and may be terminated upon a change in circumstances or reduced effectiveness in the State or political subdivision, if the State cannot demonstrate that the changed circumstances continue to warrant an exemption in accordance with this section.

(4) *Request for extension.* The State must request an extension of the exemption by submitting current data in accordance with paragraph (d)(2) of this section 30 days prior to the end of the exemption period granted under paragraph (d)(2) of this section.

M. By adding a new § 302.75 to read as follows:

§ 302.75 Procedures for the imposition of late payment fees on absent parents who owe overdue support.

(a) The State plan may provide for imposition of late payment fees on absent parents who owe overdue support.

(b) If a State opts to impose late payment fees—

(1) The late payment fee must be uniformly applied in an amount not less than 3 percent nor more than 6 percent of the overdue support.

(2) The fee shall accrue as arrearages accumulate and shall not be reduced upon partial payment of arrears. The fee may be collected only after the full amount of overdue support is paid and any requirements under State law for notice to the absent parent have been met.

(3) The collection of the fee must not directly or indirectly reduce the amount of current or overdue support paid to the individual to whom it is owed.

(4) The late payment fee must be imposed in cases where there is an assignment under § 232.11 of this title or section 471(a)(17) of the Act or where an application for services has been filed under § 302.33 of this part.

(5) The State may allow fees collected to be retained by the jurisdiction making the collection.

(6) The State must reduce its expenditures claimed under the Child Support Enforcement program by any fees collected under this section in accordance with section 455 of the Act.

§§ 303.2 through 303.5 [Amended]

N. By removing the phrase "pursuant to § 235.70 of this title" in §§ 303.2 through 303.5.

O. By revising § 303.52 to read as follows:

§ 303.52 Incentive payments to States and political subdivisions.

(a) *Definitions.* For the purposes of this section:

"AFDC collections" means support collections satisfying an assignment support obligation under §323.11 of this title or section 471(a)(17) of the Act, including collections treated in accordance with paragraph (b)(4)(ii) of this section.

"Non-AFDC collections" means support collections satisfying a support obligation which has not been assigned under § 232.11 of this title or section 471(a)(17) of the Act, including collections treated in accordance with paragraph (b)(4)(ii) of this section and collections made under §§ 302.51(e) and 302.52(c) of this chapter.

"Political subdivision" means a legal entity of the State as defined by the State, including a legal entity of the political subdivision so defined, such as a Prosecuting or District Attorney or a Friend of the Court.

"Total IV–D administrative costs" means total IV–D administrative expenditures claimed by a state in a specified fiscal year adjusted in accordance with paragraphs (b)(4)(iii), (b)(4)(iv) and (b)(4)(v) of this section.

(b) *Incentive payments to States.* The Office shall compute incentive payments for States for fiscal year in recognition of AFDC collections and of non-AFDC collections.

(1) A portion of a State's incentive payment shall be computed as a percentage of the State's AFDC collections, and a portion of the incentive payment shall be computed as a percentage of its non-AFDC collections. The percentages are

determined separately for AFDC and non-AFDC portions of the incentive. The percentages are based on the ratio of the State's AFDC collections to the States's total administrative costs and the State's non-AFDC collections to the State total administrative costs and the State's non-AFDC collections to the State's total administrative costs in accordance with the following schedule.

Ratio of collections to total IV-D administrative costs	Percent of collection paid as an incentive
Less than 1.4	6.0
At least 1.4	6.5
At least 1.6	7.0
At least 1.8	7.5
At least 2.0	8.0
At least 2.2	8.5
At least 2.4	9.0
At least 2.6	9.5
At least 2.8	10.0

(2) The ratios of the State's AFDC and non-AFDC collections to total IV–D administrative costs will be truncated at one decimal place.

(3) The portion of the incentive payment paid to a State for a fiscal year in recognition of its non-AFDC collections is limited to the percentage of the portion of the incentive payment paid for that fiscal year in recognition of its AFDC collections, as follows:

(i) 100 percent in fiscal years 1986 and 1987;

(ii) 105 percent in fiscal year 1988;

(iii) 110 percent in fiscal year 1989; and

(iv) 115 percent in fiscal year 1990 and thereafter.

(4) In calculating the amount of incentive payments, the following conditions apply:

(i) Only those AFDC and non-AFDC collections distributed and expenditures claimed by the State in the fiscal year shall be used to determine the incentive payment payable for that fiscal year;

(ii) Support collected by one State on behalf of children or children and parents residing in another State shall be treated as having been collected in full by each State;

(iii) Fees paid by individuals, recovered costs, and program income such as interest earned on collections shall be excluded from total IV–D administrative costs;

(iv) At the option of the State, laboratory costs incurred in determining paternity may be excluded from total IV–D administrative costs; and

(v) Amounts expended by the State in carrying out a special project under section 455 (e) of the Act shall be included in the State's total IV–D administrative costs.

(c) *Payment of incentives.* (1) The Office will estimate the total incentive payment that each State will receive for the upcoming fiscal year.

(2) Each State will include one-quarter of the estimated total payment in its quarterly collection report which will reduce the amount that would otherwise be paid to the Federal government to reimburse its share of assistance payments under §§ 302.51 and 302.52 of this chapter.

(3) Following the end of a fiscal year, the Office will calculate the actual incentive payment the State should have received based on the reports submitted for that fiscal year. If adjustments to the estimate made under paragraph (c)(1) of this section are necessary, the State's IV–A grant award will be reduced or increased because of over- or under-estimates for prior quarters and for other adjustments.

(4) For FY 1985, the Office will calculate a State's incentive payment based on AFDC collections without regard to the $50 disregard provision added by the Deficit Reduction Act of 1984.

(5) For FY 1986 and 1987, a State will receive the higher of the amount due it under the incentive system and Federal matching rate in effect as of FY 1986 or 80 percent of what it would have received under the incentive system and Federal matching rate in effect during FY 1985.

(d) *Pass through of incentives to political subdivisions.* The State must calculate and promptly pay incentives to political subdivisions as follows:

(1) The State IV–D agency must develop a standard methodology for passing through an appropriate share of its incentive payment to those political subdivisions of the State that participate in the costs of the program, taking into account the efficiency and effectiveness of the activities carried out under the State plan by those political subdivisions. In order to reward efficiency and effectiveness, the methodology also may provide for payment of incentives to other political subdivisions of the State that administer the program.

(2) To ensure that the standard methodology developed by the State reflects local participation, the State IV–D agency must submit a draft methodology to participating political subdivisons for review and comment or use the rulemaking process available under State law to receive local input.

(e) *Time frames and use of codes.* (1) A State or political subdivision that makes a collection on behalf of another State, political subdivision of another State or an individual who resides in another State who has applied for IV–D services shall transmit the entire amount of the collection to the location specified by the State where the case originated, no later than 10 days after the end of the month in which the collection was made.

(2) The collecting State or political subdivision forwarding a support collection to another State or political subdivision must include, as appropriate, the code identifying the collecting State or political subdivision as defined in:

(i) The Federal Information Processing Standards Publication (FIPS) issued by the National Bureau of Standards; or

(ii) The Worldwide Geographical Location Codes issued by the General Services Administration.

(3) The State or political subdivision where the case originated shall use the codes to track the collection.

P. By revising § 303.72 to read as follows:

§ 303.72 Requests for collection of past-due support by Federal tax refund offset.

(a) *Past-due support qualifying for offset.* Past-due support qualifies for offset if:

(1) There has been an assignment of the support rights under § 232.11 of this title or section 471(a)(17) of the Act to the State making the request for offset or an application for IV–D services filed with the IV–D agency under § 302.33 of this chapter.

(2) The IV–D agency, the client, or the client's representative has made reasonable efforts to collect the amount of the obligation, using methods available under State law, as appropriate.

(3) For support which has been assigned to the State under § 232.11 of this title or section 471(a)(17) of the Act:

(i) The amount of the support is not less than $150.

(ii) The support has been delinquent for three months or longer.

(4) For support owed in cases where an application for IV–D services is filed with the IV–D agency pursuant to § 302.33 of this chapter:

(i) The support is owed to or on behalf of a minor child;

(ii) There is a support order which has been issued in the State;

(iii) The amount of support is not less than $500;

(iv) At State option, the amount has accrued since the State IV–D agency began to enforce the support order; and

(v) The State has checked its records to determine if an AFDC or foster care maintenance assigned arrearage exists

with respect to the non-AFDC individual or family.

(5) Before submittal, the State IV–D agency has verified the accuracy of the name and social security number of the absent parent and the accuracy of the past-due support amount. If the State IV–D agency has verified this information previously, it need not reverify it.

(6) A notification of liability for past-due support has been received by the Secretary of the Treasury as prescribed by paragraph (c)(2) of this section.

(b) *Notification to OCSE of liability for past-due support.* (1) A State IV–D agency shall submit a notification (or notifications) of liability for past-due support on magnetic tape to the Office by the submittal date specified by the Office in instructions.

(2) The notification of liability for past-due support shall contain with respect to each delinquency:

(i) The name of the taxpayer who owes the past-due support;

(ii) The social security number of that taxpayer;

(iii) The amount of past-due support owed;

(iv) The State codes as contained in the Federal Information Processing Standards (FIPS) publication of the National Bureau of Standards and also promulgated by the General Services Administration in Worldwide Geographical Location Codes.

(v) Whether the past-due support is due an individual who applied for services under § 302.33 of this chapter.

(3) The notification of liability for past-due support may contain with respect to each delinquency the taxpayer's IV–D case number and the FIPS code for the local IV–D agency where the case originated.

(c) *Review of requests by the Office.* (1) The Deputy Director will review each request to determine whether it meets the requirements of this section.

(2) If a request meets all requirements, the Deputy Director will transmit the request to the Secretary of the Treasury and will notify the State IV–D agency in writing of the transmittal.

(3) If a request does not meet all requirements, the Deputy Director will attempt to correct the request in consultation with the State IV–D agency.

(4) If a request cannot be corrected through consultation, the Deputy Director will return it to the State IV–D agency with a written explanation of why the request could not be transmitted to the Secretary of the Treasury.

(d) *Notification of changes in case status.* (1) The State referring past-due support for offset must, in interstate situations, notify any other State involved in enforcing the support order when it submits an interstate case for offset and when it receives the offset amount from the IRS.

(2) The State IV–D agency shall, within timeframes established by the Office in instructions, notify the Deputy Director in writing of any decrease in, or elimination of, an amount referred for collection by Federal tax refund offset if the decrease is significant according to guidelines developed by the State. The notification shall contain the information specified in paragraph (b) of this section.

(e) *Notices of offset.* (1) *Advance.* The Office, or the State IV–D agency if it elects to do so, shall send a written advance notice to inform an absent parent that the amount of his or her past-due support will be referred to the IRS for collection by Federal tax refund offset. The notice must include a statement informing absent parents of their right to contest the State's determination that past-due support is owed or the amount of past-due support and of the procedures and deadlines for responding to the notice. The notice must specify that, in the case of a joint return, the IRS will notify the absent parent's spouse at the time of offset regarding the steps to take to protect the share of the refund which may be payable to that spouse. If the IV–D agency sends the notice, it must meet the conditions specified by the Office in instructions.

(2) *At offset.* The IRS will notify the absent parent that the offset has been made. The IRS will also notify any individual who filed a joint return with the absent parent of the steps to take in order to secure a proper share of the refund.

(f) *Complaint procedure.* (1) Upon receipt of a complaint from an absent parent concerning a tax refund which may be or already has been offset, the State IV–D agency shall take steps to investigate the complaint to determine its validity.

(2) If the complaint from an absent parent concerns a joint tax return, the State IV–D agency shall refer the absent parent to the IRS.

(3) If the offset is found to have exceeded the amount of the past-due support owed, the State IV–D agency shall take steps to refund the excess amount to the absent parent as specified in paragraph (g) of this section in accordance with procedures that include a mechanism for promptly reimbursing the absent parent.

(g) *Distribution of collections.* (1) Collections received by the IV–D agency as a result of refund offset to satisfy AFDC or non-AFDC past-due support shall be distributed as past-due support as required under § 302.51(b) (4) and (5) of this chapter.

(2) Collections received by the IV–D agency in foster care maintenance cases shall be distributed as past-due support under § 302.52(b)(3) of this chapter.

(3) The IV–D agency must inform individuals who apply for services under § 302.33 of this chapter in advance that amounts offset will be applied first to satisfy any past-due support which has been assigned to the State under § 232.11 of this title or section 471(a)(17) of the Act.

(4) If the amount collected is in excess of the amounts required to be distributed under §§ 302.51(b) (4) and (5) or 302.52(b)(3) of this chapter, the IV–D agency must repay the excess to the absent parent whose refund was offset or jointly to the parties filing a joint return within a reasonable period in accordance with State law.

(5) In cases where the Secretary of the Treasury, through OCSE, notifies the State that an offset is being made to satisfy non-AFDC past-due support from a refund based on a joint return, the State may delay distribution for a period not to exceed six months from notification.

(6) Collections from offset may be applied only against the past-due support which was specified in the advance notice described in paragraph (e)(1) of this section.

(h) *Payment of fee.* (1) A refund offset fee, in such amount as the Secretary of the Treasury and the Secretary of Health and Human Services have agreed to be sufficient to reimburse the IRS for the full cost of the offset procedure, shall be billed and collected from the IV–D agency by the Secretary of Health and Human Services or designee and credited to the IRS appropriations which bore all or part of the costs involved in making the collection. The fee which the Secretary of the Treasury may impose with respect to non-AFDC submittals shall not exceed $25 per submittal.

(2) The State IV–D agency may charge an individual who applies for services under § 302.33 of this chapter a fee not to exceed $25 for submitting past-due support for Federal tax refund offset. The State must inform the individual in advance of the amount of any fee charged.

(i) *Offset of Federal tax refunds in interstate non-AFDC cases.*

(1) If a support order has not been issued in a State where support is owed to an individual who has applied for services under § 302.33 of this part, the

State must take the application and corroborating information and must refer the non-AFDC offset request to a State in which there is a support order for referral for offset in accordance with the requirements of this section.

(2) Upon receipt of a request for referral for offset non-AFDC past-due support from a State where the custodial parent has applied for IV–D services, the State in which there is a support order must:

(i) Determine if the support qualifies for offset, in accordance with paragraph (a) of this section;

(ii) Meet the requirements in paragraphs (b), (d), (e)(1), (f) and (g)(4) of this section;

(iii) Forward the amount due the custodial parent to the State where the custodial parent applied for IV–D services, in accordance with paragraphs (g) (5) and (6) of this section;

(iv) Pay the fee required under paragraph (h)(1) of this section; and

(v) Notify the State where the custodial parent applied for IV–D services of the amount of any adjustment to the offset made by IRS.

(3) The State requesting referral for offset:

(i) May charge the individual who applied for IV–D services a fee, in accordance with paragraph (h)(2) of this section, and must forward the amount collected as a fee to the State referring the past-due support for offset;

(ii) Must distribute amounts offset received from the State which referred the past-due support for offset, in accordance with paragraph (g)(1) of this section; and

(iii) Upon receipt of notice under paragraph (i)(2)(v) of this section that the IRS has adjusted an offset amount, is liable to the State which referred the past-due support for offset for any adjustments made by the IRS.

(4) Each State involved in a referral of non-AFDC past-due support for offset must comply with instructions issued by the Office governing this type of referral.

(j) *Limitation of referral for offset of non-AFDC past-due support.* Offset of Federal income tax refunds to satisfy past-due support in non-AFDC cases is limited to refunds payable under section 6402 of the Internal Revenue Code of 1954 after December 31, 1985, and before January 1, 1991.

Q. By adding new §§ 303.100 through 303.106 to read as follows:

§ 303.100 Procedures for wage or income withholding.

(a) *Withholding requirement.* (1) The State must ensure that in the case of each absent parent against whom a support order is or has been issued or modified in the State, and is being enforced under the State plan, so much of his or her wages must be withheld, in accordance with this section, as is necessary to comply with the order.

(2) In addition to the amount to be withheld to pay the current month's obligation, the amount to be withheld must include an amount to be applied toward liquidation of arrearages.

(3) The total amount to be withheld under paragraphs (a) (1) and (2) of this section may not exceed the maximum amount permitted under section 303(b) of the Consumer Credit Protection Act (15 U.S.C. 1673(b)).

(4) In the case of a support order being enforced under the State plan, the withholding must occur without the need for any amendment to the support order involved or any further action by the court or entity that issued it. The State must take steps to implement the withholding and to send the advance notice required under paragraph (c) of this section on the date on which the parent fails to make payments in an amount equal to the support payable for one month, but may take such steps to implement withholding at such earlier date that is in accordance with State law or that the absent parent may request.

(5) The withholding must be carried out in full compliance with all procedural due process requirements of the State.

(6) The State must have procedures for promptly terminating the withholding, for example when there is no longer a support obligation or the whereabouts of the child(ren) and custodial parent are unknown.

(7) The State must have procedures for promptly refunding to absent parents amounts which have been improperly withheld.

(b) *Advance notice to absent parent.* (1) The State must send advance notice to the absent parent regarding the delinquency of support payments and the potential withholding. The notice must inform the absent parent:

(i) Of the amount that will be withheld;

(ii) That the provision for withholding applies to any current or subsequent priod of employment;

(iii) Of the procedures available for contesting the withholding and that the only basis for contesting the withholding is a mistake of fact;

(iv) Of the period within which the absent parent must contact the State in order to contest the withholding and that failure to contact the State within the specified time limit will result in the State notifying the employer to begin withholding; and

(v) Of the actions the State will take if the individual contests the withholding, including the procedures established under paragraph (c) of this section.

(2) The requirement for advance notice to the absent parent does not apply in the case of any State which has a withholding system in effect on August 16, 1984 if the system provides on that date, and continues to provide, any other procedures as may be necessary to meet the procedural due process requirements of State law.

(c) *State procedures when the absent parent contests withholding:* The State must establish procedures for use when an absent parent contests the withholding. Within 45 days of advance notice to the absent parent under paragraph (b) of this section, the State must:

(1) Provide the absent parent an opportunity to present his or her case to the State;

(2) Determine if the withholding shall occur based on an evaluation of the facts, including the absent parent's statement of his or her case; and

(3) Notify the absent parent whether or not the withholding is to occur and if it is to occur, include in the notice the time frames within which the withholding will begin and the information given to the employer in the notice required under paragraph (d) of this section.

(d) *Notice to the employer.* (1) To initiate withholding, the State must send the absent parent's employer a notice which includes the following:

(i) That the amount to be withheld from the absent parent's wages, and a statement that the amount actually withheld for support and other purposes may not be in excess of the maximum amounts permitted under section 303(b) of the Consumer Credit Protection Act (15 U.S.C. 1673(b));

(ii) That the employer must send the amount to the State at the same time the absent parent is paid, unless the State directs that payment be made to another individual or entity;

(iii) That, in addition to the amount withheld under paragraph (d)(1)(i) of this section, the employer may deduct a fee established by the State for administrative costs incurred for each withholding, if the State permits a fee to be deducted;

(iv) That withholding is binding upon the employer until further notice by the State;

(v) That the employer is subject to a fine to be determined under State law for discharging an absent parent from employment, refusing to employ, or taking disciplinary action against any

absent parent because of the withholding;

(vi) That if the employer fails to withhold wages in accordance with the provisions of the notice, the employer is liable for any amount up to the accumulated amount the employer should have withheld from the absent parent's wages;

(vii) That the withholding under this section shall have priority over any other legal process under State law against the same wages;

(viii) That the employer may combine withheld amounts from absent parents' wages in a single payment to each appropriate agency requesting withholding and separately identify the portion of the single payment which is attributable to each individual absent parent;

(ix) That if there is more than one order for withholding against a single absent parent under this section, the employer must comply on a "first-come-first-served" basis and must honor all withholdings to the extent that the total amount withheld from the absent parent's wages does not exceed the limits imposed under section 303(b) of the Consumer Credit Protection Act (15 U.S.C. 1673(b));

(x) That the employer must implement withholding no later than the first pay period that occurs after 14 days following the date the notice was mailed; and

(xi) That the employer must notify the State promptly when the absent parent terminates employment and provide the absent parent's last known address and the name and address of the absent parent's new employer, if known.

(2) If the absent parent changes employment within the State when a withholding is in effect, the State must notify the absent parent's new employer in accordance with the requirements of paragraph (d)(1) of this section that the withholding is binding on the new employer.

(e) *Administration of wage withholding procedures.* (1) The State must designate a public agency, or private entity that is publicly accountable, administer withholding in accordance with procedures specified by the State for keeping adequate records to document, track, and monitor support payments.

(2) The State's designee under paragraph (e)(1) of this section must distribute amounts withheld promptly in accordance with section 457 of the Act and §§ 302.33, 302.51 and 302.52 of this chapter. The State must reduce its IV–D expenditures by any interest earned by the State's designee on withheld amounts.

(f) *Income withholding.* The State may extend its system of withholding to include withholding from forms of income other than wages.

(g) *Interstate withholding.* (1) The State law must provide for procedures to extend the State's withholding system so that the system will include withholding from income or wages derived within the State in cases where the applicable support orders were issued in other States.

(2) The State law must require employers to comply with a withholding notice issued by the State.

(3) When withholding is required in a particular case, the State where the support order was entered must notify the IV–D agency of the State in which the absent parent is employed to ensure interstate withholding. The notice must contain all information necessary to carry out the withholding, including the amount to be withheld.

(4) Withholding must be implemented promptly by the State in which the absent parent is employed upon receipt of the notice required in paragraph (g)(3) of this section.

(5) The State in which the absent parent is employed must:

(i) Provide notice to the absent parent in accordance with the requirements in paragraph (b) of this section;

(ii) Provide the absent parent with an opportunity to contest the withholding in accordance with paragraph (c) of this section; and

(iii) Provide notice to the employer in accordance with the requirements of paragraph (d) of this section.

(iv) Notify the State where the support order was entered when the absent parent terminates employment within the State and provide the name and address of the absent parent and new employer, if known.

(6) The withholding must be carried out in full compliance with all procedural due process requirements of the State in which the absent parent is employed.

(7) Except with respect to when withholding must be implemented and the amount to be withheld, which are controlled by the State where the support order was entered, the law and procedures of the State in which the absent parent is employed shall apply.

(h) *Provision for withholding in new or modified child support orders.* Child support orders issued or modified in the State must have a provision for withholding of wages, in order to ensure that withholding as a means of support is available if arrearages occur without the necessity of filing an application for IV–D services. This requirement does not alter the requirement governing all IV–D cases in paragraph (a)(4) of this section that enforcement under the State plan must proceed without the need for a withholding provision in the order.

§ 303.101 Expedited processes.

(a) *Definitions.* "Administrative agency" means the agency designated by the State to establish and enforce support obligations using administrative process.

"Administrative process" means a statutory system granting authority to an administrative agency to determine paternity and to establish and enforce support orders.

"Default order" means an order issued as a result of the failure of an individual to respond to notice or appear at an administrative or quasi-judicial hearing.

"Expedited process" means an administrative or quasi-judicial process which reduces the processing time of support order establishment and enforcement efforts pursued through full judicial process.

"Hearing officer" means a person granted authority by State statute to preside over administrative hearings and issue administrative orders.

"Judge surrogates" means court masters, referees, court commissioners or others who may be authorized to hold hearings, make decisions, and issue or recommend support orders.

"Order by administrative process" means an order made or entered in writing which has the same force and effect under State law as an order established under judicial process.

"Quasi-judicial" means expedited processes in effect under the State judicial system.

"Stipulated agreement" means an agreement by an individual acknowledging a support obligation and a willingness to meet it, approved by a judge or judge surrogate.

(b) *General provisions.*

(1) The State must have in effect and use either administrative or quasi-judicial processes as specified under this section to establish or modify and enforce support orders. The State may include paternity establishment in the expedited process in effect in the State. If the State has in effect and uses administrative process, it must meet the requirements of paragraphs (b) and (c) of this section. If the State has in effect and uses quasi-judicial process, it must meet the requirements of paragraphs (b) and (d) of this section.

(2) A State's use of its generally applicable judicial processes is limited to appellate review of support orders established or enforcement actions

taken by administrative or quasi-judicial process.

(3) Under administrative or quasi-judicial process, a State must notify the absent parent of the following:

(i) The names of the children for whom support is sought;

(ii) The rights of the absent parent, including the rights to a hearing and to be accompanied by an attorney;

(iii) That a default order can be entered if the absent parent does not respond to the notice;

(iv) That the absent parent must respond within a reasonable period of time specified by the State; and

(v) The right to appeal to a court of competent jurisdiction.

(4) Orders established by administrative or quasi-judicial process must have the same force and effect under State law as orders established by full judicial process within the State.

(5) The State must establish and use expedited processes which ensure that the rights of the absent parents involved are protected.

(6) Under administrative or quasi-judicial process, a State must establish and use processes for the enforcement of support orders from its own State and from other States.

(c) *Administrative process.* If administrative process is used:

(1) The administrative agency must use the formula developed in accordance with § 302.53 of this chapter to establish or modify support orders.

(2) The State must establish and use written procedures for the certification of hearing officers based on qualifications including knowledge, training and experience.

(3) The administrative agency must use the State's generally applicable administrative procedures.

(4) The administrative agency must provide the absent parent with a copy of the administrative order.

(d) *Quasi-judicial process.* If quasi-judicial process is used:

(1) The State must establish and enforce support obligations using judge surrogates whose delegated authority must include at a minimum:

(i) Authority to take testimony and establish a record;

(ii) Authority to evaluate evidence and make initial decisions; and

(iii) Authority to accept voluntary acknowledgement of support liability and to approve stipulated agreements to pay support, and, if the State establishes paternity using quasi-judicial process, authority to accept voluntary acknowledgment of paternity.

(e) *Exemption for political subdivisions.* A State may be granted an exemption from the requirements of this section for a political subdivision on the basis of the effectiveness and timeliness of support order issuance and enforcement within the political subdivision, in accordance with the provisions of § 302.70(d) of this chapter.

§ 303.102 Collection of overdue support by State income tax refund offset.

(a) *Overdue support qualifying for offset.* Overdue support qualifies for State income tax refund offset if:

(1) There has been an assignment of the support obligation under §232.11 of this title or section 471(a)(17) of the Act to State making the request for offset or an application for IV–D services filed with the IV–D agency under § 302.33 of this chapter; and

(2) The State does not determine, using guidelines it may develop which are generally available in the State, that the case is inappropriate for application of this procedure.

(b) *Accuracy of amounts referred for offset.* The IV–D agency must establish procedures to ensure that:

(1) Amounts referred for offset have been verified and are accurate; and

(2) The appropriate State office or agency is notified of any significant reductions in (including an elimination of) an amount referred for collection by State income tax refund offset.

(c) *Notice to custodial parent in non-AFDC cases.* In non-AFDC cases, the State must inform the non-AFDC custodial parent in advance that the State may first use any offset amount to satisfy any unreimbursed AFDC and foster care maintenance payments which have been provided to the family.

(d) *Advance notice to absent parent.* The State must send a written advance notice to inform the absent parent of the referral for State income tax refund offset and of the opportunity to contest the referral.

(e) *Procedures for contesting offset and for reimbusing excess amounts offset.* (1) The State must establish procedures, which are in full compliance with the State's procedural due process requirements, for an absent parent to use to contest the referral of overdue support for State income tax refund offset.

(2) If the offset amount is found to be in error or to exceed the amount of overdue support, the State IV–D agency must take steps to refund the excess amount in accordance with procedures that include a mechanism for promptly reimbursing the absent parent.

(3) The State must establish procedures for ensuring that, in the event of a joint return, the absent parent's spouse can apply for a share of the refund, if appropriate, in accordance with State law.

(f) *Fee for non-AFDC cases.* In non-AFDC cases, the State may deduct from the amount offset a reasonable fee to cover the cost of collecting overdue support using State tax refund offset.

(g) *Distribution of collections.* (1) In a timely manner, and after deducting any fee imposed in a non-AFDC case by the State under paragraph (f) of this section, a State must distribute collections received as a result of State income tax refund offset for an AFDC or non-AFDC case under § 302.51(b) (4) and (5) of this chapter, or for a foster care maintenance case under § 302.52(b)(3) of this chapter, and must credit amounts offset on individual IV–D payment records.

(2) If the amount collected is in excess of the amounts required to be distributed under paragraph (g)(1) of this section, the IV–D agency must repay the excess to the absent parent whose State income tax refund was offset within a reasonable period in accoedance with State law.

(h) *Information to the IV–D agency.* The State IV–D agency must request that notice of the absent parent's home address and social security number or numbers be sent by the State agency responsible for processing the State tax refund offset to the agency that requested the offset and the agency that is enforcing the support order.

§ 303.103 Procedures for the imposition of liens against real and personal property.

(a) The State shall have in effect and use procedures which require that a lien will be imposed against the real and personal property of an absent parent who owes overdue support and who resides or owns property in the State.

(b) The State may develop guidelines which are generally available in the State to determine whether the case is inappropriate for application of this procedure.

§ 303.104 Procedures for posting security, bond or guarantee to secure payment of overdue support.

(a) The State shall have in effect and use procedures which require that absent parents post security, bond or give some other guarantee to secure payment of overdue support.

(b) The State must provide advance notice to the absent parent regarding the deliquency of the support payment and the requirement of posting security, bond or guarantee, and inform the absent parent of his or her rights and the methods available for contesting the impending action, in full compliance

with the State's procedural due process requirements.

(c) The State may develop guidelines which are generally in the State to determine whether the case is inappropriate for application of this procedure.

§ 303.105 Procedures for making information available to consumer reporting agencies.

(a) "Consumer reporting agency" means any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

(b) For cases in which the amount overdue support exceeds $1,000, the IV–D agency must have in effect procedures to make information available to consumer reporting agencies upon their request regarding the amount of overdue support owed by an absent parent. The procedures may include use of guidelines that are generally available in the State to determine whether application of this procedure is inappropriate in a particular case. In cases in which the overdue support is less than $1,000, these procedures are at the option of the State.

(c) The State IV–D agency may charge the agency a fee not to exceed the actual cost of the State of providing the information under paragraph (b) of this section.

(d) The IV–D agency must provide advance notice to the absent parent who owes the support concerning the proposed release of the information to the consumer reporting agency and must inform the absent parent of the methods available for contesting the accuracy of the information.

(e) The IV–D agency must comply with all of the procedural due process requirements of State law before releasing the information.

R. By revising the introductory text of § 304.20 (b), (b)(1), (b)(1)(viii) and (b)(1)(viii)(D) to read as follows:

§ 304.20 Availability and rate of Federal financial participation.

* * * * *

(b) Services and activities for which Federal financial participation will be available shall be those made pursuant to the approved title IV–D State plan which are determined by the Secretary to be necessary expenditures properly attributable to the Child Support Enforcement program, except any expenditure incurred in providing location services to individuals listed in § 302.35(c)(4) of this title, including the following:

(1) The administration of the State Child Support Enforcement program, including but not limited to the following:

* * * * *

(viii) The establishment of agreements with agencies administering the State's title IV–A and IV–E plans in order to establish criteria for:

* * * * *

(D) The procedures to be used to transfer collections from the IV–D agency to the IV–A or IV–E agency before or after the distribution described in § 302.51 or § 302.52, respectively, of this chapter.

S.1. By substituting the phrase "applicable matching rate" for "70 percent rate" wherever it appears in 45 CFR Part 304.

S.2. By adding a new § 304.95 to read as follows:

§ 304.95 State Commissions on Child Support.

(a) As a condition of the State's eligibility for Federal payments under title IV–A or D of the Act for quarters beginning more than 30 days after August 16, 1984, and ending prior to October 1, 1985, the Governor of each State, on or before December 1, 1984, shall appoint a State Commission on Child Support.

(b) Each State Commission appointed under paragraph (a) of this section shall be composed of members appropriately representing all aspects of the child support system, including custodial and non-custodial parents, the IV–D agency, the State judiciary, the executive and legislative branches of the State government, child welfare and social services agencies, and others.

(c) Each State Commission shall examine, investigate, and study the operation of the State's child support system for the primary purpose of determining the extent to which such system has been successful in securing support and parental involvement both for children who are eligible for aid under a State IV–A or D plan and for children who are not eligible for such aid, giving particular attention to such specific problems (among others) as visitation, the establishment of appropriate objective standards for support, the enforcement of interstate obligations, the availability, cost, and effectiveness of services both to children who are eligible for such aid and to children who are not, and the need for additional State or Federal legislation to obtain support for all children.

(d) Each State Commission shall submit to the Governor of the State and make available to the public, no later than October 1, 1985, a full and complete report of its findings and recommendations resulting from the examination, investigation, and study under this section. The Governor shall transmit such report to the Secretary along with the Governor's comments thereon.

(e) None of the costs incurred in the establishment and operation of a State Commission under this section, or incurred by such a Commission in carrying out its functions under paragraphs (c) and (d) of this section, shall be considered as expenditures qualifying for Federal payments under title IV–A and D of the Act or be otherwise payable or reimbursable by the United States or any agency thereof.

(f) A State shall not be required to establish a State Commission under this section and the preceding provisions of this section shall not apply, if the Secretary determines, at the request of any State on the basis of information submitted by the State and such other information as may be available to the Secretary, that such State—

(1) Has placed in effect and is implementing objective standards for the determination and enforcement of child support obligations;

(2) Has established within the five years prior to August 1984 a commission or council with substantially the same functions as the State Commissions provided for under this section; or

(3) Is making satisfactory progress toward fully effective child support enforcement and will continue to do so.

T. By revising § 305.22(a) to read as follows:

§ 305.22 State financial participation.

* * * * *

(a) A State must participate financially by incurring the applicable State share of the program's administrative costs as follows:

FY 1983 through FY 1987—30 percent
FY 1988 and FY 1989—32 percent
FY 1990 and thereafter—34 percent; and

* * * * *

§ 305.28 [Amended]

U. By inserting a comma and the reference "302.52" after the reference "302.51" wherever it appears in § 305.28.

PART 307—[AMENDED]

3. 45 CFR Part 307 is amended as follows:

A. By amending § 307.10 by redesignating the introductory phrase as paragraph (a); paragraphs (a) and (b) as paragraphs (a) (1) and (2); paragraphs (b)(1) through (13) as paragraphs (a)(2)(i) through (xiii); and paragraph (b)(4)(i) through (iv) as paragraphs (a)(2)(iv)(A) through (D); changing the reference to paragraph (b)(1) in the old paragraph (b)(2) to (a)(2)(i); and adding a new paragraph (b) to read as follows:

§ 307.10 Computerized support enforcement programs.

* * * * *

(b) A State computerized support enforcement system established under paragraph (a) of this section may facilitate the development and improvement of the income withholding and other procedures required under section 466(a) of the Act and § 302.70 and §§ 303.100 through 303.105 of this chapter through:

(1) The monitoring of support payments;

(2) The maintenance of accurate records of support payments; and

(3) The prompt notice to appropriate officials of any support arrearages.

B. By amending § 307.15 by substituting the phrase "§ 307.10(a)" for "§ 307.10" wherever it appears in paragraph (b)(7) and revising paragraph (a) and paragraphs (b)(2) and (b)(5) to read as follows:

§ 307.15 Approval of advance planning documents for computerized support enforcement systems eligible for 90 percent FFP.

(a) *Approval of an APD.* The Office shall not approve the initial and annually updated APD unless the document, when implemented, will carry out the requirements of § 307.10(a) of this part and the optional provision in § 307.10(b) of this part when elected by the State. Conditions for APD approval are specified in this section.

(b) * * *

(2) The APD must specify how the objectives of the computerized support enforcement system in § 307.10 will be carried out throughout the State; this includes a projection of how the proposed system will meet the functional requirements of § 301.10(a) and the functional requirements of § 307.10(b) when elected by the State and how the system will encompass all political subdivisions in the State within a reasonable period of time.

* * * * *

(5) The APD must contain a description of each component within the proposed computerized support enforcement system as required by § 307.10(a) and the optional component of § 307.10(b) when elected by the State and must describe information flows, input data, and output reports and uses;

* * * * *

C. By amending § 307.25 by revising paragraph (b) to read as follows. The introductory text of the section is shown for the convenience of the reader and contains no changes.

§ 307.25 Review of computerized support enforcement systems eligible for 90 percent FFP.

The Office will on a continuous basis review, assess and inspect the planning, design, development, installation, enhancement and operation of computerized support enforcement systems developed under § 307.10 of this part to determine the extent to which such systems:

* * * * *

(b) Meet the conditions in § 307.10(a) and the optional provision of § 307.10(b) when elected by the State.

D. By amending § 307.30 by revising paragraphs (a)(2) and (b) to read as follows:

§ 307.30 Federal financial participation at the 90 percent rate for computerized support enforcement systems.

(a) * * *

(2) The Office determines:

(i) The system meets the requirements specified in § 307.10(a); or

(ii) The system meets the requirements specified in § 307.10(a) and the optional provisions in § 307.10(b).

* * * * *

(b) *Reimbursement of hardware.* FFP at the 90 percent rate is available in expenditures for the rental or purchase of hardware for the planning, design, development, installation, enhancement or operation of a computerized support enforcement system as described in § 307.10(a) or § 307.10(a) and (b).

* * * * *

E. By amending § 307.35 by revising the title, the introductory text, and paragraph (a) to read as follows:

§ 307.35 Federal financial participation at the applicable matching rate for computerized support enforcement systems.

Federal financial participation at the applicable matching rate is available only in computerized support enforcement systems expenditures for:

(a) The operation of systems that meet the requirements specified in § 307.10(a) of this part and the optional provision of § 307.10(b) when elected by the State if the conditions for ADP approval in § 307.15 of this part are met;

* * * * *

F. By substituting the phrase "applicable matching rate" for "70 percent rate" wherever it appears in Part 307.

(Sec. 1102 of the Social Security Act) (42 U.S.C. 1302) and secs. 403(h), 404(d), 452(a), 453, 454, 455, 457, 458, 466 and 467 of the Social Security Act (42 U.S.C. 603(h), 604(d), 652(a), 653, 654, 655, 657, 658, 666 and 667)

(Catalog of Federal Domestic Assistance Program No. 13.679, Child Support Enforcement Program)

Dated: August 15, 1984.

Martha A. McSteen,

Director, Office of Child Support Enforcement

Approved: August 24, 1984.

Margaret M. Heckler,

Secretary.

[FR Doc. 84-24746 Filed 9-18-84; 8:45 am]

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Part V

Department of Education

Office of Special Education and Rehabilitative Services

34 CFR Parts 75, 76, and 304

Removal of Architectural Barriers to the Handicapped Program; Notice of Proposed Rulemaking

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

34 CFR Parts 75, 76 and 304

Removal of Architectural Barriers to the Handicapped Program

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary publishes for comment proposed regulations to govern a State formula grant program for the elimination of architectural barriers to handicapped individuals. The Removal of Architectural Barriers to the Handicapped program provides grants to State educational agencies (SEAs) to assist them in making subgrants to local educational agencies (LEAs) and intermediate educational units (IEUs) to alter existing buildings and equipment. These proposed regulations include application requirements, an allocation formula, and funding activities that are allowable under this program.

DATE: Comments must be received on or before November 19, 1984.

ADDRESS: Comments should be addressed to: Dr. David Rostetter, Office of Special Education Programs, Department of Education, 400 Maryland Ave., SW., Switzer Building, Room 3607, Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Ms. Shirley A. Jones, Telephone (202) 732–1128.

SUPPLEMENTARY INFORMATION:

A. Overview of the Program

The Removal of Architectural Barriers to the Handicapped program is authorized by section 607 of the Education of the Handicapped Act (EHA), 20 U.S.C. 1406, as amended by section 5 of the Education of the Handicapped Act Amendments of 1983, Pub. L. 98–199, December 2, 1983. As amended, section 607 provides that:

(a) The Secretary is authorized to make grants and to enter into cooperative agreement with State educational agencies to assist such agencies in making grants to local educational agencies or intermediate educational units to pay part or all of the cost of altering existing buildings and equipment in accordance with standards promulgated under the Act approved August 12, 1968 (Pub. L. 90–480), relating to architectural barriers.

(b) For the purpose of carrying out the provisions of this section, there are authorized to be appropriated such sums as may be necessary.

Pub L. 98–8, commonly referred to as the Emergency Jobs Bill, enacted on March 24, 1983, provides $40 million to carry out the provisons of section 607. The funds will remain available until expended.

The Architectural Barriers Act of 1968 (ABA), Pub. L. 90–480, 42 U.S.C. 4151–4157, requires various Federal agencies—not including the Department of Education—to prescribe such standards for the design, construction, and alteration of certain buildings as may be necessary to ensure that handicapped individuals will have ready access to and use of those buildings. These agencies include the General Services Administration (GSA), the Department of Defense, the Department of Housing and Urban Development, and the United States Postal Service.

Section 607 of the EHA authorizes the alteration of existing buildings and equipment in accordance with standards promulgated under the ABA. The alteration of existing buildings and equipment under this part must be consistent with the standards adopted by the GSA on August 7, 1984 (49 FR 31528) and incorporated by reference at 41 CFR 101–19.603 (49 FR 31625; August 7, 1984). The GSA standards must be modified as appropriate to take into account the age groups of individuals who will benefit under this program.

The Secretary proposes to amend the definition of "State-administered program" in 34 CFR 76.1(b) to "State formula grant program" to more accurately reflect the basis for the distinction between the coverage of Part 75 of EDGAR and Part 76 of EDGAR to the programs of the Department.

The proposed regulations established a State formula grant program. This is consistent with the revisions to Section 607 of the EHA made by the Education of the Handicapped Act Amendments of 1983. As amended, Section 607 authorizes the Secretary to give grants to SEAs for the removal of architectural barriers. SEAs then give subgrants to LEAs and IEUs. In order to establish administration procedures for this program that are consistent with procedures used for the Department's other State formula grant programs, 34 CFR 76.102(x) is redesignated as § 76.102(y), and a new provision is added at 34 CFR 76.102(x).

This new provision adds the application submitted by a State under the Removal of Architectural Barriers to the Handicapped program to the Education Department General Administrative Regulations (EDGAR) definition of "state plan." As a result of this amendment, all the administrative procedures set out in the EDGAR which govern State plans apply to the Removal of Architectural Barriers to the Handicapped program.

The authorizing statute for this program does not include a formula for distributing funds. The Secretary proposes, however, to amend the definitions of "direct grant program" and "State formula grant program" at 34 CFR 75.1(b) and 76.1(b), respectively, to include programs which contain a regulatory formula for distributing funds. In addition, conforming amendments are made to 34 CFR 76.260.

B. Summary of These Proposed Regulations

1. Subpart A—General

Subpart A describes the basic purpose of the Removal of Architectural Barriers to the Handicapped program. This subpart identifies the parties that are eligible to receive grants. Other Federal regulations which apply to this program are also listed. In addition, Subpart A contains definitions of several terms that apply to this program, and commonly-used acronyms. The proposed definition for "alteration" in this subpart is the definition used under 36 CFR 1190.3 (Architectural and Transportation Barriers Compliance Board, Minimum Guidelines for Accessible Design). The definitions of "equipment," "handicapped children," "intermediate educational unit," "related services," and "special education" under section 602 of the EHA are used for this program. The Secretary especially invites comments on the proposed definition of "alteration."

2. Subpart B—How does an SEA Apply for a Grant?

Subpart B sets forth the requirement that an SEA must meet in order to receive a grant under this program, including program assurances and application requirements. Assurances included in this subpart incorporate requirements under section 607 of the EHA, EDGAR, and Pub. L. 98–8. The use of assurances in the program application relieves the paperwork burden on SEAs since they will not need to submit detailed information to demonstrate how applicable statutory and regulatory requirements will be met.

In its application for program funds, each SEA must assure that the quality of the environment will be assessed according to provisions in the National Environmental Policy Act of 1969 and Executive Order 11514. *See* 34 CFR 75.601, as incorporated by 34 CFR 76.600(a). In addition, the SEA must

provide the Secretary with the information required under 34 CFR 75.602(a) (*Preservation of historic sites*). The Secretary will notify SEA's of the date on which they must submit a summary of this information to the Department.

The SEA must also assure that special consideration will be given to projects in areas experiencing high rates of unemployment. The legislative history of Pub. L. 98–8 includes this provision for making section 607 awards under that appropriation. *See* Senate Report No. 98–17 (1983), pp. 33–34. Section 101(c) of Pub. L. 98–8 requires that, to the extent practicable, funds authorized by the Act be used in a manner which maximizes immediate creation of new employment opportunties to individuals who were unemployed at least 15 of the 26 weeks immediately preceding the March 24, 1983, date of its enactment.

In its application, an SEA must describe the general areas to be funded under this program. The SEA need not describe specific projects, nor does it submit blueprints to the Secretary for approval.

3. Subpart C—How Does the Secretary Make a Grant to an SEA?

Section 607 of the EHA does not provide a formula for allocating available funds among eligible States. Section 304.20 of the proposed regulations sets out two alternative formulas for determining the amount of funds each State will receive under the program. The first formula is based on the number of handicapped children in each particpating State, as determined under Part B of the EHA and the State agency program for handicapped children under Section 146 of Title I of the Elemenatary and Secondary Education Act of 1965. The second formula is based on the number of school-age children in each participating State. The Secretary particularly invites comment on the appropriateness of these or other funding formulas.

Section 304.21 describes how excess funds are reallocated.

4. Subpart D—How Does an Applicant Apply to an SEA for a Subgrant?

Subpart D specifies the information which LEAs and IEUs must include in applications for subgrants. Readers should note that the EDGAR definition of "local educational agency" (34 CFR 77.1(c)) is substantively the same as the definition of that term under section 602(a)(8) of the EHA, and includes any public institution having administrative control and direction of a public elementary or secondary school. Consequently, State agencies and other public institutions which are legally responsible for education of handicapped children are eligible for subgrants under this program.

5. Subpart E—How Does an SEA Make a Subgrant?

Subpart E describes the methods an SEA will use to approve or disapprove applications for subgrants from LEAs and IEUs. The proposed regulations permit a State to establish criteria for awarding subgrants. This subpart includes the critiera for determining the amount of subgrants and procedures for reallocating funds.

6. Subpart F—What Conditions Must Be Met by an SEA, LEA, or IEU?

Subpart F describes the provisions with which recipients must comply as a condition of receiving funds under the Removal of Architectural Barriers to the Handicapped program.

The Secretary encourages States to use their funds for activities that will—

(1) Make available to handicapped children the variety of educational programs and services available to non-handicapped children in the area served by the LEA or IEU;

(2) Provide non-academic and extracurricular services and activities in a manner that affords handicapped children opportunity for participation in those services and activities; and

(3) Provide accessibility to handicapped individuals involved in the education of handicapped children or eligible to participate in programs administered by LEAs and IEUs.

The Secretary particularly invites public comment on whether these activities are appropriate priorities for projects, and whether the final regulations should require SEAs to give priority to applications that propose these project activities.

7. Subpart G—What are the Administrative Responsibilities of an SEA?

Subpart G describes the amount of grant funds that the SEA can use for administrative costs including, among other things, technical assistance to, and monitoring of, participating LEAs and IEUs.

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291.

They are classified as non-major because they do not meet the criteria for major regulations established in the Order.

Regulatory Flexibility Act Certification

These regulations authorized assistance to local educational agencies (LEAs) through a State formula grant program that imposes minimal burdens on participating LEAs. The Secretary, therefore, certifies that these proposed regulations will not have a significant economic impact on a substantial number of small entities.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79 (48 FR 29158; June 24, 1983). The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

In accordance with the Order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation To Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations. Written comments and recommendations may be sent to the address given at the beginning of this document. All comments received on or before November 19, 1984 will be considered before the Secretary issues final regulations.

All comments submitted in response to these proposed regulations will be available for public inspection during and after the comment period, in Room 3531, 330 C Street, SW., Washington, D.C., between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

Paperwork Reduction Act

The information collection requirements contained in these proposed rules will be sent to OMB for review under the provisions of section 3504(h) of the Paperwork Reduction Act of 1980 (Pub. L. 96–511).

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, public comment is invited on whether there may be further opportunities to reduce any regulatory burdens found in these regulations.

Comments concerning information collection requirements *only* should be addressed to the Office of Information and Regulatory Affairs, Office of

Management and Budget, New Executive Office Building, Room 3208, 17th and Pennsylvania Avenue, NW., Washington, D.C. 20503. Attention: Desk Officer for the U.S. Department of Education. All other comments regarding these proposed regulations should be sent to the Department of Education at the address given at the beginning of this preamble.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the proposed regulations in this document would require submission of information that is already being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 304

Education, Education of handicapped, Grants program—education, Local educational agency, School, School construction, State educational agencies.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these regulations.

(Catalog of Federal Domestic Assistance No. 84.155; Removal of Architectural Barriers to the Handicapped)

Dated: September 13, 1984.

T. H. Bell,

Secretary of Education.

PART 75—[AMENDED]

The Secretary proposes to amend Parts 75 and 76 and to add a new Part 304 to Title 34 of the Code of Federal Regulations as follows:

1. Section 75.1 is amended by revising paragraph (b) to read as follows:

§ 75.1 Programs to which Part 75 applies.

* * * * *

(b) If a direct grant program does not have implementing regulations, the Secretary implements the program under the authorizing statute and, to the extent consistent with the authorizing statute, under the General Education Provisions Act and the regulations in this part. For the purposes of this part, the term "direct grant program" includes any grant program of the Department other than a program whose authorizing statute or implementing regulations provide a formula for allocating program funds among eligible States.

* * * * *

2. The table following § 75.1 is amended by removing the following language from the list in Section IV.C. Education of the Handicapped Programs:

"Removal of Architectural Barriers to the Handicapped"; "Section 607 of the Education of the Handicapped Act (20 U.S.C. 1406)"; "None"; "None".

PART 76—[AMENDED]

3. Section 76.1 is amended by revising paragraph (b) to read as follows:

§ 76.1 Programs to which Part 76 applies.

* * * * *

(b) If a State formula grant program does not have implementing regulations, the Secretary implements the program under the authorizing statute and, to the extent consistent with the authorizing statute, under the General Education Provisions Act and the regulations in this part. For the purposes of this part, the term "State formula grant program" means a program whose authorizing statute or implementing regulations provide a formula for allocating program funds among eligible States.

* * * * *

4. The table following § 76.1 is amended by adding the following language to the list in Section B. Education of the Handicapped Programs:

"Removal of Architectural Barriers to the Handicapped"; "Section 607 of the Education of the Handicapped Act (20 U.S.C. 1406)"; "Part 304"; "84.155".

* * * * *

5. Section 76.102 is amended by redesignating paragraph (x) as paragraph (y) and adding a new paragraph (x) to read as follows:

§ 76.102 Definition of "State plan" for Part 76.

* * * * *

(x) *Removal of Architectural Barriers to the Handicapped.* The application under Section 607 of the Education of the Handicapped Act.

6. The table following § 76.125 is amended by adding the following language to the list under "Education for the Handicapped Programs": "84.155 Removal of Architectural Barriers to the Handicapped"; "Section 607, Education of the Handicapped Act (20 U.S.C. 1406)"; "304".

7. Section 76.260 is revised to read as follows:

§ 76.260 Allotments are made under program statute or regulations.

(a) The Secretary allots program funds to a State in accordance with the authorizing statute or implementing regulations for the program.

(b) Any reallotment to other States will be made by the Secretary in accordance with the authorizing statute or implementing regulations for that program. (20 U.S.C. 3474(a))

8. A new Part 304 is added to Title 34 of the Code of Federal Regulations, as follows:

PART 304—REMOVAL OF ARCHITECTURAL BARRIERS TO THE HANDICAPPED PROGRAM

Subpart A—General

Sec.

304.1 The Removal of Architectural Barriers to the Handicapped program.
304.2 Applicability of regulations in this part.
304.3 Regulations that apply to the Removal of Architectural Barriers to the Handicapped program.
304.4 Definitions.
304.5 Acronyms that are used.
304.6–304.9 [Reserved]

Subpart B—How Does an SEA Apply for A Grant?

304.10 Submission of an SEA application.
304.11 Content of SEA application.
304.12–304.19 [Reserved]

Subpart C—How Does the Secretary Make a Grant to an SEA?

304.20 Amount of an SEA's grant.
304.21 Reallocation of excess funds.
304.22–304.29 [Reserved]

Subpart D—How Does an LEA or IEU Apply to an SEA for a Subgrant?

304.30 Submission of an application to the SEA.
304.31 LEA and IEU applications.
304.32–304.39 [Reserved]

Subpart E—How Does an SEA Make a Subgrant?

304.40 Amount of a subgrant to an LEA or IEU.
304.41 Reallocation of excess funds.
304.42–304.49 [Reserved]

Subpart F—What Conditions Must be Met by an SEA, LEA, or IEU?

304.50 Standards for the removal of architectural barriers.
304.51 Project priorities.
304.52 Project requirements.
304.53–304.59 [Reserved]

Subpart G—What are the Administrative Responsibilities of an SEA?

304.60 Amount available for SEA administration.
304.61 Administrative responsibilities and allowable costs.
304.62–304.69 [Reserved]

Authority: Sec. 607, Education of the Handicapped Act (20 U.S.C. 1406); sec. 101(c), Pub. L. 98–8, 97 Stat. 31–32 (1983), unless otherwise noted.

Subpart A—General

§ 304.1 The Removal of Architectural Barriers to the Handicapped program.

The purpose of this part is to provide financial assistance to State educational agencies and, through them, to local educational agencies and intermediate educational units to remove architectural barriers to the handicapped.

(20 U.S.C. 1406)

§ 304.2 Applicability of regulations in this part.

This part applies to assistance under section 607 of the Education of the Handicapped Act.

(20 U.S.C. 1406)

§ 304.3 Regulations that apply to the Removal of Architectural Barriers to the Handicapped program.

The following regulations apply to assistance under the Removal of Architectural Barriers to the Handicapped program:

(a) The regulations in this Part 304.

(b) The Education Department General Administrative Regulations (EDGAR) set out in the following parts of Title 34 of the Code of Federal Regulations—

(1) Part 74 (Administration of Grants);

(2) Part 76 (State-administered Programs);

(3) Part 77 (Definitions);

(4) Part 78 (Education Appeal Board); and

(5) Part 79 (Intergovernmental Review).

(20 U.S.C. 1406; 20 U.S.C. 3474(a))

§ 304.4 Definitions.

(a) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR 77.1:

Application
EDGAR
Fiscal year
Grant
Local education agency
Project
Public
Secretary
State
State educational agency
Subgrant

(U.S.C. 3474(a))

(b) *Definitions in 34 CFR Part 300.* The following terms used in this part are defined in 34 CFR 300.5(a), 300.7, 300.13, and 300.14:

Handicapped children
Intermediate educational unit
Related services
Special education

(20 U.S.C. 1401(a)(1), (16), (17), (22))

(c) *Other definitions that apply to this part.* In addition to the definitions referred to in paragraphs (a) and (b), the following definitions apply to this part:

(1) "Alteration" means any change in a building or facility or its permanent fixtures or equipment. It includes, but is not limited to, remodeling, renovation, rehabilitation, reconstruction, changes or rearrangement in structural repairs. It does not include normal maintenance, reroofing, or changes to mechanical systems.

(36 CFR 1190.3)

(2) "Equipment" includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture, printed, published, and audio-visual instructional materials, telecommunications, sensory, and other technological aids and devices, and books, periodicals, documents, and other related materials.

(20 U.S.C. 1401(a)(5), 1406)

§ 304.5 Acronyms that are used.

The following acronyms are used in this part:

"IEU" stands for intermediate educational unit.

"LEA" stands for local educational agency.

"SEA" stands for State educational agency.

(20 U.S.C. 1406)

§§ 304.6–304.9 [Reserved]

Subpart B—How Does an SEA Apply for a Grant?

§ 304.10 Submission of an SEA application.

In order to receive funds under this part, an SEA must submit an application to the Secretary for review and approval.

(20 U.S.C. 1406)

§ 304.11 Content of SEA application.

(a) Each SEA shall include in its application assurances that—

(1) Funds received under this part will be used to pay the costs of altering existing buildings and equipment in accordance with the standards in § 304.50;

(2) In using funds appropriated under Pub. L. 98–8, special consideration will be given to projects in areas experiencing high rates of unemployment; and

(Pub. L. 98–8, "Education for the Handicapped", 97 Stat. 27 (1983); S. Rep. No. 17, 98th Cong., 1st Sess. 33–34 (1983))

(3) Funds provided under this part that are appropriated under Pub. L. 98–8 will, to the extent practicable, be utilized in manner which maximizes immediate creation of new employment opportunities to individuals who were unemployed at least 15 of the 26 weeks immediately preceding March 24, 1983 (the date of enactment of Pub. L. 98–8).

(Pub. L. 98–8, section 101(c); 97 Stat. 31–32 (1983))

(b) Each SEA application must also include the following information:

(1) A description of the goals and objectives to be supported by the grant in sufficient detail for the Secretary to determine what will be achieved with the grant.

(2) The estimated number of LEAs and IEUs that will receive subgrants, and a description of the procedures and criteria the SEA will use to award subgrants to LEAs and IEUs, including any priorities established by the SEA under § 304.51(b) (*see* § 304.40 and Subpart F, "What Conditions Must Be Met by an SEA, LEA, or IEU?").

(20 U.S.C. 1406)

§§ 304.12–304.19 [Reserved]

Subpart C—How Does the Secretary Make a Grant to an SEA?

§ 304.20 Amount of an SEA's grant.

[Option 1]

(a) The amount of an SEA's grant under this part is determined by—

(1) Dividing the number of handicapped children in that State by the total number of handicapped children in all States submitting approvable applications under this part; and

(2) Multiplying that fraction by the amount of funds available for grants under this part.

(b) For the purpose of this section, the term "handicapped children" means the number of handicapped children determined by the Secretary—

(1) Under section 611 of the Act, to be receiving special education and related services; or

(2) In average daily attendance at schools for handicapped children operated or supported by a State agency within the meaning of section 146 of Title I of the Elementary and Secondary Education Act of 1965.

[Option 2]

The Secretary awards to each State submitting an approvable application an

amount which bears the same ratio to the amount of available funds as the school-age population of that State bears to the school-age population of all States submitting approvable applications.

(20 U.S.C. 1406)

§ 304.21 Reallocation of excess funds.

The Secretary may reallocate funds—or portions of those funds—made available to an SEA under this part if the Secretary determines that the SEA cannot use the funds in a manner consistent with the requirements of applicable statutes or this part. Any reallocation is made on the same basis as grants are determined under § 304.20.

(20 U.S.C. 1406)

§§ 304.22-304.29 [Reserved]

Subpart D—How Does an LEA or IEU Apply to an SEA for a Subgrant?

§ 304.30 Submission of an application to the SEA.

In order to receive funds under this part for any fiscal year, an LEA or IEU shall submit an application for a subgrant to the appropriate SEA.

(20 U.S.C. 1406, 3474(a))

§ 304.31 LEA and IEU applications.

An LEA or IEU shall include in its application any information that is required by the SEA in order to fulfill its responsibilities under this part.

(20 U.S.C. 1406, 3474(a))

§§ 304.32-304.39 [Reserved]

Subpart E—How Does an SEA Make a Subgrant?

§ 304.40 Amount of a subgrant to an LEA or IEU.

(a) The SEA shall determine the amount of a subgrant to an LEA or IEU based on—

(1) The size, scope, and quality of the proposed project; and

(2) Any other relevant criteria developed by the SEA and included in the SEA application approved by the Secretary.

(b) The SEA may establish minimum and maximum amounts for subgrants.

(20 U.S.C. 1406)

§ 304.41 Reallocation of excess funds.

(a) The SEA may reallocate funds provided for subgrants under this part if an LEA or IEU cannot use the funds in a manner consistent with the requirements of section 607 of the Education of the Handicapped Act and requirements in this part.

(b) The SEA shall reallocate funds in accordance with the criteria and priorities for approving subgrants in its approved application.

(20 U.S.C. 1406)

§§ 304.42-304.49 [Reserved]

Subpart F—What Conditions Must Be Met by an SEA, LEA, or IEU?

§ 304.50 Standards for the removal of architectural barriers.

The alteration of existing buildings and equipment under this part must be done consistently with standards adopted by the General Services Administration (GSA) under Pub. L. 90-480, the Architectural Barriers Act of 1968. However, the dimensions set out in those standards must be modified as appropriate considering the age groups of the individuals who will use the buildings or equipment.

Note.—On August 7, 1984, the GSA adopted new standards under the Architectural Barriers Act (49 FR 31528) and incorporated them by reference at 41 CFR 101-19.603 (49 FR 31625).

(20 U.S.C. 1406)

§ 304.51 Project priorities.

An SEA may establish priorities for the use of funds made available under this part. The SEA may, for example, give special consideration to projects that will meet the special needs of urban or rural locations, or that will facilitate the transition of handicapped children and individuals from school to work.

(20 U.S.C. 1406)

§ 304.52 Project requirements.

To the extent practicable, funds made available under this part that are appropriated under Pub. L. 98-8 must be utilized to create new employment opportunities for the unemployed, as required by Pub. L. 98-8, section 101(c).

(Pub. L. 98-8, sec. 101(c); 97 Stat. 31-32 (1983))

§§ 304.53-304.59 [Reserved]

Subpart G—What Are the Administrative Responsibilities of an SEA?

§ 304.60 Amount available for SEA administration.

An SEA may use up to five percent of its grant for the cost of administering funds provided under this part.

(20 U.S.C. 1406)

§ 304.61 Administrative responsibilities and allowable costs.

Administrative costs under this part include—

(a) Approval, supervision, monitoring, and evaluation by an SEA of the effectiveness of projects assisted by funds made available under this part; and

(b) Technical assistance that an SEA provides to LEAs and IEUs with respect to the requirements of this part.

(20 U.S.C. 1406)

§§ 304.62-304.69 [Reserved]

[FR Doc. 84-24726 Filed 9-18-84; 8:45 am]

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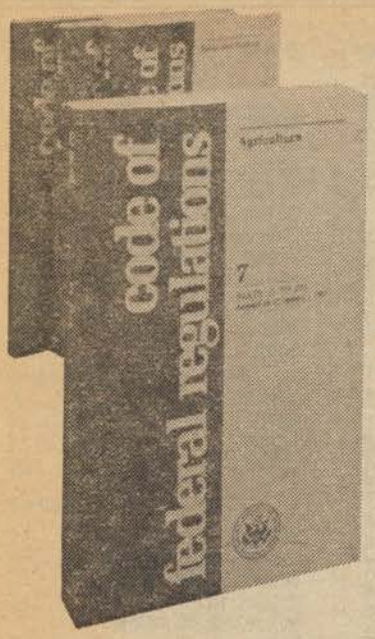
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